

By the Committee on Rules, Ethics & Elections and
Representative Goodlette

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, 395.4045,
8 395.602, 395.7015, 400.0091, 400.022, 400.023,
9 400.141, 400.408, 400.464, 400.980, 402.166,
10 402.28, 402.50, 403.031, 403.714, 403.718,
11 403.7191, 403.7192, 408.02, 408.0361, 409.145,
12 409.1685, 409.908, 409.912, 409.946, 414.105,
13 418.302, 420.506, 420.507, 435.03, 435.05,
14 435.07, 440.15, 440.381, 440.4416, 443.1715,
15 445.024, 446.50, 456.025, 456.039, 458.3135,
16 458.319, and 460.403, F.S.; reenacting ss.
17 370.021(2), 375.045, 397.405, 409.9122(1),
18 445.003(6)(b), 445.009(7)(c), 467.001, 467.002,
19 467.004, 467.011, 467.0125, 467.014, 467.015,
20 467.016, 467.017, 467.201, 467.203, 467.205,
21 467.207, and 468.354(3)(b), F.S.; and repealing
22 ss. 373.4593(2)(a)-(c), 381.0045(3),
23 383.0112(2)(g), 411.01(9)(c), 421.37, 421.38,
24 421.39, 421.40, 421.41, 421.42, 421.43, 421.44,
25 421.45, 427.0159(2), and 464.0045, F.S.,
26 pursuant to s. 11.242, F.S.; deleting
27 provisions which have expired, have become
28 obsolete, have had their effect, have served
29 their purpose, or have been impliedly repealed
30 or superseded; replacing incorrect
31 cross-references and citations; correcting

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

10

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

12

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

15 370.021 Administration; rules, publications, records;
16 penalties; injunctions.--

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

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

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

30 (c) For a violation involving the taking or harvesting
31 of oysters from nonapproved areas or the taking or possession

1 of unculled oysters, an additional penalty of \$10 for each
2 bushel of illegal oysters.

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

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

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

21
22 an additional penalty of \$100 for each unit of marine life or
23 part thereof.

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

28 (g) For any violation involving the taking,
29 harvesting, or possession of more than 1,000 pounds of any
30 illegal finfish, an additional penalty equivalent to the
31 wholesale value of the illegal finfish.

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

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

13 1. Upon a first conviction for a major violation, for
14 up to 30 calendar days.

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

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

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

24 (j) Upon the arrest and conviction for a major
25 violation involving stone crabs, the licenseholder must show
26 just cause why his or her license should not be suspended or
27 revoked. For the purposes of this paragraph, a "major
28 violation" means a major violation as prescribed for illegal
29 stone crabs; any single violation involving possession of more
30 than 25 stone crabs during the closed season or possession of
31 25 or more whole-bodied or egg-bearing stone crabs; any

1 violation for trap molestation, trap robbing, or pulling traps
2 at night; or any combination of violations in any
3 3-consecutive-year period wherein more than 75 illegal stone
4 crabs in the aggregate are involved.

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

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

29 (m) Upon the conviction for a major violation
30 involving finfish, the licenseholder must show just cause why
31 his or her saltwater products license should not be suspended

1 or revoked. For the purposes of this paragraph, a major
2 violation is prescribed for the taking and harvesting of
3 illegal finfish, any single violation involving the possession
4 of more than 100 pounds of illegal finfish, or any combination
5 of violations in any 3-consecutive-year period wherein more
6 than 200 pounds of illegal finfish in the aggregate are
7 involved.

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

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

23
24 Notwithstanding the provisions of s. 948.01, no court may
25 suspend, defer, or withhold adjudication of guilt or
26 imposition of sentence for any major violation prescribed in
27 this subsection.

28
29 Reviser's note.--Section 36, ch. 2000-364, Laws
30 of Florida, amended paragraphs (2)(b) and (i)
31 and added paragraph (2)(o), but failed to

1 republish the flush left language at the end of
2 the subsection. In the absence of affirmative
3 evidence that the Legislature intended to
4 repeal the flush left language, subsection (2)
5 is reenacted to confirm that the omission was
6 not intended.

7
8 Section 2. Subsection (3) of section 370.0603, Florida
9 Statutes, is amended to read:

10 370.0603 Marine Resources Conservation Trust Fund;
11 purposes.--

12 (3) Funds provided to the Marine Resources
13 Conservation Trust Fund from taxes distributed under s.
14 201.15(8)~~201.15(9)~~ shall be used for the following purposes:

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

31

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

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

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

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

19
20 Section 3. Subsections (3) and (4) of section 370.092,
21 Florida Statutes, are amended to read:

22 370.092 Carriage of proscribed nets across Florida
23 waters.--

24 (3) Notwithstanding subsections (1) and (2), unless
25 authorized by rule of the Fish and Wildlife Conservation
26 Commission, it is a major violation under this section,
27 punishable as provided in s. 370.021(3)~~subsection (4)~~, for
28 any person, firm, or corporation to possess any gill or
29 entangling net, or any seine net larger than 500 square feet
30 in mesh area, on any airboat or on any other vessel less than
31 22 feet in length and on any vessel less than 25 feet if

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

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

21
22 Reviser's note.--Amended to conform to the
23 current location of the referenced material.
24 The language in s. 370.021(3), enacted by s. 2,
25 ch. 98-227, Laws of Florida, is substantively
26 the same as former s. 370.092(4), which was
27 repealed by s. 13, ch. 98-227.

28
29 Section 4. Subsection (5) of section 370.093, Florida
30 Statutes, is amended to read:

31 370.093 Illegal use of nets.--

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

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

10
11 Section 5. Subsection (3) of section 370.12, Florida
12 Statutes, is amended to read:

13 370.12 Marine animals; regulation.--

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

19
20 Reviser's note.--Amended to facilitate correct
21 interpretation.

22
23 Section 6. Subsection (1) of section 372.5712, Florida
24 Statutes, is amended to read:

25 372.5712 Florida waterfowl permit revenues.--

26 (1) The commission shall expend the revenues generated
27 from the sale of the Florida waterfowl permit as provided in
28 s. 372.57(4)(a) or that pro rata portion of any license that
29 includes waterfowl hunting privileges, as provided in s.
30 372.57(2)(k) and (14)(b)~~372.57(2)(i) and (14)(b)~~ as follows:
31 A maximum of 5 percent of the gross revenues shall be expended

1 for administrative costs; a maximum of 25 percent of the gross
2 revenues shall be expended for waterfowl research approved by
3 the commission; and a maximum of 70 percent of the gross
4 revenues shall be expended for projects approved by the
5 commission, in consultation with the Waterfowl Advisory
6 Council, for the purpose of protecting and propagating
7 migratory waterfowl and for the development, restoration,
8 maintenance, and preservation of wetlands within the state.

9

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

13

14 Section 7. Subsection (1) of section 372.5715, Florida
15 Statutes, is amended to read:

16 372.5715 Florida wild turkey permit revenues.--

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

23

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

27

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

30 373.4135 Mitigation banks and offsite regional
31 mitigation.--

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

22
23 Reviser's note.--Amended to correct an apparent
24 error. Subsection (7) is not divided into
25 paragraphs.

26
27 Section 9. Paragraphs (a), (b), and (c) of subsection
28 (2) of section 373.4593, Florida Statutes, are repealed.

29
30 Reviser's note.--Repealed to delete language
31 that is obsolete; paragraphs (2)(a) and (b)

1 provide that by June 1, 1994, the South Florida
2 Water Management District must request the
3 Federal Government to become a joint sponsor
4 and take all action to expedite or waive
5 necessary federal approvals needed to implement
6 an emergency interim plan to restore Florida
7 Bay. Paragraph (2)(c) provides that by July 1,
8 1994, the South Florida Water Management
9 District must file for any necessary federal
10 approvals.

11
12 Section 10. Subsection (1) of section 375.021, Florida
13 Statutes, is amended to read:

14 375.021 Comprehensive multipurpose outdoor recreation
15 plan.--

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

24
25 Reviser's note.--Amended to conform to the
26 repeal of s. 20.17, creating the Department of
27 Commerce, by s. 3, ch. 96-320, Laws of Florida,
28 and the assumption of its obligations regarding
29 the comprehensive multipurpose outdoor
30 recreation plan by the Florida Commission on
31 Tourism.

1 Section 11. Section 375.045, Florida Statutes, is
2 reenacted to read:

3 375.045 Florida Preservation 2000 Trust Fund.--

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

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

24 (3) Any agency or district which acquires lands using
25 Preservation 2000 funds, as distributed pursuant to this
26 section and s. 259.101(3), shall manage the lands to make them
27 available for public recreational use, provided that the
28 recreational use does not interfere with the protection of
29 natural resource values. Any such agency or district may enter
30 into agreements with the Department of Environmental
31 Protection or other appropriate state agencies to transfer

1 management authority to or to lease to such agencies lands
2 purchased with Preservation 2000 funds, for the purpose of
3 managing the lands to make them available for public
4 recreational use. The water management districts and the
5 Department of Environmental Protection shall take action to
6 control the growth of nonnative invasive plant species on
7 lands they manage which are purchased with Preservation 2000
8 funds.

9 (4) The Department of Environmental Protection shall
10 ensure that the proceeds from the sale of revenue bonds issued
11 pursuant to s. 375.051 and payable from moneys transferred to
12 the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a)
13 shall be administered and expended in a manner that ensures
14 compliance of each issue of revenue bonds that are issued on
15 the basis that interest thereon will be excluded from gross
16 income for federal income tax purposes, with the applicable
17 provisions of the United States Internal Revenue Code and the
18 regulations promulgated thereunder, to the extent necessary to
19 preserve the exclusion of interest on such revenue bonds from
20 gross income for federal income tax purposes. The Department
21 of Environmental Protection shall have the authority to
22 administer the use and disbursement of the proceeds of such
23 revenue bonds or require that the use and disbursement thereof
24 be administered in such a manner as shall be necessary to
25 implement strategies to maximize any available benefits under
26 the applicable provisions of the United States Internal
27 Revenue Code or regulations promulgated thereunder, to the
28 extent not inconsistent with the purposes identified in s.
29 259.101(3).

30
31

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

10

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

19

20 Section 12. Subsection (7) of section 376.30713,
21 Florida Statutes, is repealed, and subsection (2) of that
22 section is amended to read:

23

376.30713 Preapproved advanced cleanup.--

24

(2) ~~Beginning January 1, 1997,~~The department is
25 authorized to approve an application for preapproved advanced
26 cleanup at eligible sites, prior to funding based on the
27 site's priority ranking established pursuant to s.
28 376.3071(5)(a), in accordance with the provisions of this
29 section. Persons who qualify as an applicant under the
30 provisions of this section shall only include the facility

31

1 owner or operator or the person otherwise responsible for site
2 rehabilitation.

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

10 1. A commitment to pay no less than 25 percent of the
11 total cleanup cost deemed recoverable under the provisions of
12 this section along with proof of the ability to pay the cost
13 share.

14 2. A nonrefundable review fee of \$250 to cover the
15 administrative costs associated with the department's review
16 of the application.

17 3. A limited contamination assessment report.

18 4. A proposed course of action.

19

20 The limited contamination assessment report shall be
21 sufficient to support the proposed course of action and to
22 estimate the cost of the proposed course of action. Any costs
23 incurred related to conducting the limited contamination
24 assessment report are not refundable from the Inland
25 Protection Trust Fund. Site eligibility under this subsection,
26 or any other provision of this section, shall not constitute
27 an entitlement to preapproved advanced cleanup or continued
28 restoration funding. The applicant shall certify to the
29 department that the applicant has the prerequisite authority
30 to enter into a preapproved advanced cleanup contract with the
31

1 department. This certification shall be submitted with the
2 application.

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

19
20 Reviser's note.--Subsection (2) is amended to
21 delete obsolete references to past dates.
22 Subsection (7), requiring legislative review of
23 s. 376.30713 prior to March 1, 2001, is
24 repealed.

25
26 Section 13. Paragraph (h) of subsection (3) of section
27 377.703, Florida Statutes, is amended to read:

28 377.703 Additional functions of the Department of
29 Community Affairs; energy emergency contingency plan; federal
30 and state conservation programs.--

31

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

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

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

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

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

22 4. In cooperation with the Department of
23 Transportation, Enterprise Florida, Inc.~~the Department of~~
24 ~~Commerce~~, the Florida Solar Energy Center, and the Florida
25 Solar Energy Industries Association, investigating
26 opportunities, pursuant to the National Energy Policy Act of
27 1992 and the Housing and Community Development Act of 1992,
28 for solar electric vehicles and other solar energy
29 manufacturing, distribution, installation, and financing
30 efforts which will enhance this state's position as the leader
31 in solar energy research, development, and use.

1 5. Undertaking other initiatives to advance the
2 development and use of renewable energy resources in this
3 state.

4
5 In the exercise of its responsibilities under this paragraph,
6 the department shall seek the assistance of the solar energy
7 industry in this state and other interested parties and is
8 authorized to enter into contracts, retain professional
9 consulting services, and expend funds appropriated by the
10 Legislature for such purposes.

11
12 Reviser's note.--Amended to conform to the
13 repeal of s. 20.17, which created the
14 Department of Commerce, by s. 3, ch. 96-320,
15 Laws of Florida, and the replacement of the
16 department with Enterprise Florida, Inc., for
17 purposes of providing assistance in the area of
18 solar energy pursuant to s. 288.041.

19
20 Section 14. Section 380.012, Florida Statutes, is
21 amended to read:

22 380.012 Short title.--Sections 380.012, 380.021,
23 380.031, 380.04, 380.05, 380.06, 380.07, and 380.08
24 ~~380.012-380.10~~ shall be known and may be cited as "The Florida
25 Environmental Land and Water Management Act of 1972."

26
27 Reviser's note.--Amended to conform to the
28 current sections comprising the referenced act
29 as enacted by ch. 72-317, Laws of Florida.

1 Section 15. Paragraph (f) of subsection (10) of
2 section 380.0555, Florida Statutes, is repealed, and
3 paragraphs (c), (d), and (g) of subsection (10) of that
4 section are amended to read:

5 380.0555 Apalachicola Bay Area; protection and
6 designation as area of critical state concern.--

7 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

8 (c)1. The Department of Health shall survey all septic
9 tank soil-absorption systems in the Apalachicola Bay Area to
10 determine their suitability as onsite sewage treatment
11 systems. Within 6 months from June 18, 1985, Franklin County
12 and the municipalities within it, after consultation with the
13 Department of Health and the Department of Environmental
14 Protection Regulation, shall develop a program designed to
15 correct any onsite sewage treatment systems that might
16 endanger the water quality of the bay.

17 2. Franklin County and the municipalities within it
18 shall, within 9 months from June 18, 1985, enact by ordinance
19 procedures implementing this program. These procedures shall
20 include notification to owners of unacceptable septic tanks
21 and procedures for correcting unacceptable septic tanks.
22 These ordinances shall not be effective until approved by the
23 Department of Health and the Department of Environmental
24 Protection Regulation.

25 (d) Franklin County and the municipalities within it
26 shall, within 12 months from June 18, 1985, establish by
27 ordinance a map of "pollution-sensitive segments of the
28 critical shoreline" within the Apalachicola Bay Area, which
29 ordinance shall not be effective until approved by the
30 Department of Health and the Department of Environmental
31 Protection Regulation. Franklin County and the municipalities

1 within it, after the effective date of these ordinances, shall
2 no longer grant permits for onsite wastewater disposal systems
3 in pollution-sensitive segments of the critical shoreline,
4 except for those onsite wastewater systems that will not
5 degrade water quality in the river or bay. These ordinances
6 shall not become effective until approved by the resource
7 planning and management committee. Until such ordinances
8 become effective, the Franklin County Health Department shall
9 not give a favorable recommendation to the granting of a
10 septic tank variance pursuant to section (1) of Ordinance
11 79-8, adopted on June 22, 1979, by the Franklin County Board
12 of County Commissioners and filed with the Secretary of State
13 on June 27, 1979, or issue a permit for a septic tank or
14 alternative waste disposal system pursuant to Ordinance 81-5,
15 adopted on June 22, 1981, by the Franklin County Board of
16 County Commissioners and filed with the Secretary of State on
17 June 30, 1981, as amended as set forth in subparagraph
18 (8)(a)2., unless the Franklin County Health Department
19 certifies, in writing, that the use of such system will be
20 consistent with paragraph (7)(f) and subsection (8).

21 (f)~~(g)~~ Franklin County and the municipalities within
22 it shall, beginning 12 months from June 18, 1985, prepare
23 semiannual reports on the implementation of paragraphs (b)-(e)
24 ~~(b)-(f)~~ on the environmental status of the Apalachicola Bay
25 Area. The state land planning agency may prescribe additional
26 detailed information required to be reported. Each report
27 shall be delivered to the resource planning and management
28 committee and the state land planning agency for review and
29 recommendations. The state land planning agency shall review
30 each report and consider such reports when making
31

1 recommendations to the Administration Commission pursuant to
2 subsection (9).

3
4 Reviser's note.--Paragraph (10)(f), which
5 related to a report to be submitted within 12
6 months from June 18, 1985, is repealed because
7 it has served its purpose. Paragraphs (10)(c)
8 and (d) are amended to conform to the transfer
9 of all legal authority and action of the
10 Department of Environmental Regulation to the
11 Department of Environmental Protection by s. 3,
12 ch. 93-213, Laws of Florida. Paragraph (10)(g)
13 is amended to conform to the repeal of
14 paragraph (10)(f).

15
16 Section 16. Paragraph (e) of subsection (1) of section
17 381.003, Florida Statutes, is amended to read:

18 381.003 Communicable disease and AIDS prevention and
19 control.--

20 (1) The department shall conduct a communicable
21 disease prevention and control program as part of fulfilling
22 its public health mission. A communicable disease is any
23 disease caused by transmission of a specific infectious agent,
24 or its toxic products, from an infected person, an infected
25 animal, or the environment to a susceptible host, either
26 directly or indirectly. The communicable disease program must
27 include, but need not be limited to:

28 (e) Programs for the prevention and control of
29 vaccine-preventable diseases, including programs to immunize
30 school children as required by s. 232.032 and the development
31 of an automated, electronic, and centralized database or

1 registry of immunizations. The department shall ensure that
2 all children in this state are immunized against
3 vaccine-preventable diseases. The immunization registry shall
4 allow the department to enhance current immunization
5 activities for the purpose of improving the immunization of
6 all children in this state.

7 1. Except as provided in subparagraph 2., the
8 department shall include all children born in this state in
9 the immunization registry by using the birth records from the
10 Office of Vital Statistics. The department shall add other
11 children to the registry as immunization services are
12 provided.

13 2. The parent or guardian of a child may refuse to
14 have the child included in the immunization registry by
15 signing a form obtained from the department, or from the
16 health care practitioner or entity that provides the
17 immunization, which indicates that the parent or guardian does
18 not wish to have the child included in the immunization
19 registry. The decision to not participate in the immunization
20 registry must be noted in the registry.

21 3. The immunization registry shall allow for
22 immunization records to be electronically transferred to
23 entities that are required by law to have such records,
24 including schools, licensed child care facilities, and any
25 other entity that is required by law to obtain proof of a
26 child's immunizations.

27 4. Any health care practitioner licensed under chapter
28 458, chapter 459, or chapter 464 in this state who complies
29 with rules adopted by the department to access the
30 immunization registry may, through the immunization registry,
31 directly access immunization records and update a child's

1 immunization history or exchange immunization information with
2 another authorized practitioner, entity, or agency involved in
3 a child's care. The information included in the immunization
4 registry must include the child's name, date of birth,
5 address, and any other unique identifier necessary to
6 correctly identify the child; the immunization record,
7 including the date, type of administered vaccine, and vaccine
8 lot number; and the presence or absence of any adverse
9 reaction or contraindication related to the immunization.
10 Information received by the department for the immunization
11 registry retains its status as confidential medical
12 information and the department must maintain the
13 confidentiality of that information as otherwise required by
14 law. A health care practitioner or other agency that obtains
15 information from the immunization registry must maintain the
16 confidentiality of any medical records in accordance with s.
17 456.057 ~~455.667~~ or as otherwise required by law.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of s. 455.667 as s. 456.057 by s.
21 79, ch. 2000-160, Laws of Florida.

22
23 Section 17. Paragraph (e) of subsection (3) of section
24 381.004, Florida Statutes, is amended to read:

25 381.004 HIV testing.--

26 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
27 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

28 (e) Except as provided in this section, the identity
29 of any person upon whom a test has been performed and test
30 results are confidential and exempt from the provisions of s.
31 119.07(1). No person who has obtained or has knowledge of a

1 test result pursuant to this section may disclose or be
2 compelled to disclose the identity of any person upon whom a
3 test is performed, or the results of such a test in a manner
4 which permits identification of the subject of the test,
5 except to the following persons:

6 1. The subject of the test or the subject's legally
7 authorized representative.

8 2. Any person, including third-party payors,
9 designated in a legally effective release of the test results
10 executed prior to or after the test by the subject of the test
11 or the subject's legally authorized representative. The test
12 subject may in writing authorize the disclosure of the test
13 subject's HIV test results to third party payors, who need not
14 be specifically identified, and to other persons to whom the
15 test subject subsequently issues a general release of medical
16 information. A general release without such prior written
17 authorization is not sufficient to release HIV test results.

18 3. An authorized agent or employee of a health
19 facility or health care provider if the health facility or
20 health care provider itself is authorized to obtain the test
21 results, the agent or employee participates in the
22 administration or provision of patient care or handles or
23 processes specimens of body fluids or tissues, and the agent
24 or employee has a need to know such information. The
25 department shall adopt a rule defining which persons have a
26 need to know pursuant to this subparagraph.

27 4. Health care providers consulting between themselves
28 or with health care facilities to determine diagnosis and
29 treatment. For purposes of this subparagraph, health care
30 providers shall include licensed health care professionals
31 employed by or associated with state, county, or municipal

1 detention facilities when such health care professionals are
2 acting exclusively for the purpose of providing diagnoses or
3 treatment of persons in the custody of such facilities.

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

7 6. A health facility or health care provider which
8 procures, processes, distributes, or uses:

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

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

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

16 8. Authorized medical or epidemiological researchers
17 who may not further disclose any identifying characteristics
18 or information.

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

21 a. No court of this state shall issue such order
22 unless the court finds that the person seeking the test
23 results has demonstrated a compelling need for the test
24 results which cannot be accommodated by other means. In
25 assessing compelling need, the court shall weigh the need for
26 disclosure against the privacy interest of the test subject
27 and the public interest which may be disserved by disclosure
28 which deters blood, organ, and semen donation and future human
29 immunodeficiency virus-related testing or which may lead to
30 discrimination. This paragraph shall not apply to blood bank
31 donor records.

1 b. Pleadings pertaining to disclosure of test results
2 shall substitute a pseudonym for the true name of the subject
3 of the test. The disclosure to the parties of the subject's
4 true name shall be communicated confidentially in documents
5 not filed with the court.

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

10 d. Court proceedings as to disclosure of test results
11 shall be conducted in camera, unless the subject of the test
12 agrees to a hearing in open court or unless the court
13 determines that a public hearing is necessary to the public
14 interest and the proper administration of justice.

15 e. Upon the issuance of an order to disclose test
16 results, the court shall impose appropriate safeguards against
17 unauthorized disclosure which shall specify the persons who
18 may have access to the information, the purposes for which the
19 information shall be used, and appropriate prohibitions on
20 future disclosure.

21 10. A person allowed access by order of a judge of
22 compensation claims of the Division of Workers' Compensation
23 of the Department of Labor and Employment Security. A judge
24 of compensation claims shall not issue such order unless he or
25 she finds that the person seeking the test results has
26 demonstrated a compelling need for the test results which
27 cannot be accommodated by other means.

28 11. Those employees of the department or of
29 child-placing or child-caring agencies or of family foster
30 homes, licensed pursuant to s. 409.175, who are directly
31 involved in the placement, care, control, or custody of such

1 test subject and who have a need to know such information;
2 adoptive parents of such test subject; or any adult custodian,
3 any adult relative, or any person responsible for the child's
4 welfare, if the test subject was not tested under subparagraph
5 (b)2. and if a reasonable attempt has been made to locate and
6 inform the legal guardian of a test result. The department
7 shall adopt a rule to implement this subparagraph.

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

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

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

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

24
25 Reviser's note.--Amended to correct an apparent
26 error and facilitate correct interpretation.

27 Subparagraph (3)(h)12. references significant
28 exposure; subparagraph (3)(h)13. does not.

29
30 Section 18. Subsection (3) of section 381.0045,
31 Florida Statutes, is repealed.

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

5
6 Section 19. Paragraph (t) of subsection (4) of section
7 381.0065, Florida Statutes, is amended to read:

8 381.0065 Onsite sewage treatment and disposal systems;
9 regulation.--

10 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
11 may not construct, repair, modify, abandon, or operate an
12 onsite sewage treatment and disposal system without first
13 obtaining a permit approved by the department. The department
14 may issue permits to carry out this section, but shall not
15 make the issuance of such permits contingent upon prior
16 approval by the Department of Environmental Protection. A
17 construction permit is valid for 18 months from the issuance
18 date and may be extended by the department for one 90-day
19 period under rules adopted by the department. A repair permit
20 is valid for 90 days from the date of issuance. An operating
21 permit must be obtained prior to the use of any aerobic
22 treatment unit or if the establishment generates commercial
23 waste. Buildings or establishments that use an aerobic
24 treatment unit or generate commercial waste shall be inspected
25 by the department at least annually to assure compliance with
26 the terms of the operating permit. The operating permit is
27 valid for 1 year from the date of issuance and must be renewed
28 annually. If all information pertaining to the siting,
29 location, and installation conditions or repair of an onsite
30 sewage treatment and disposal system remains the same, a
31 construction or repair permit for the onsite sewage treatment

1 and disposal system may be transferred to another person, if
2 the transferee files, within 60 days after the transfer of
3 ownership, an amended application providing all corrected
4 information and proof of ownership of the property. There is
5 no fee associated with the processing of this supplemental
6 information. A person may not contract to construct, modify,
7 alter, repair, service, abandon, or maintain any portion of an
8 onsite sewage treatment and disposal system without being
9 registered under part III of chapter 489. A property owner
10 who personally performs construction, maintenance, or repairs
11 to a system serving his or her own owner-occupied
12 single-family residence is exempt from registration
13 requirements for performing such construction, maintenance, or
14 repairs on that residence, but is subject to all permitting
15 requirements. A municipality or political subdivision of the
16 state may not issue a building or plumbing permit for any
17 building that requires the use of an onsite sewage treatment
18 and disposal system unless the owner or builder has received a
19 construction permit for such system from the department. A
20 building or structure may not be occupied and a municipality,
21 political subdivision, or any state or federal agency may not
22 authorize occupancy until the department approves the final
23 installation of the onsite sewage treatment and disposal
24 system. A municipality or political subdivision of the state
25 may not approve any change in occupancy or tenancy of a
26 building that uses an onsite sewage treatment and disposal
27 system until the department has reviewed the use of the system
28 with the proposed change, approved the change, and amended the
29 operating permit.

30 (t) Notwithstanding the provisions of subparagraph
31 (g)1.(f)1.~~1.~~, onsite sewage treatment and disposal systems

1 located in floodways of the Suwannee and Aucilla Rivers must
2 adhere to the following requirements:

3 1. The absorption surface of the drainfield shall not
4 be subject to flooding based on 10-year flood elevations.
5 Provided, however, for lots or parcels created by the
6 subdivision of land in accordance with applicable local
7 government regulations prior to January 17, 1990, if an
8 applicant cannot construct a drainfield system with the
9 absorption surface of the drainfield at an elevation equal to
10 or above 10-year flood elevation, the department shall issue a
11 permit for an onsite sewage treatment and disposal system
12 within the 10-year floodplain of rivers, streams, and other
13 bodies of flowing water if all of the following criteria are
14 met:

15 a. The lot is at least one-half acre in size;
16 b. The bottom of the drainfield is at least 36 inches
17 above the 2-year flood elevation; and
18 c. The applicant installs either: a waterless,
19 incinerating, or organic waste composting toilet and a
20 graywater system and drainfield in accordance with department
21 rules; an aerobic treatment unit and drainfield in accordance
22 with department rules; a system approved by the State Health
23 Office that is capable of reducing effluent nitrate by at
24 least 50 percent; or a system approved by the county health
25 department pursuant to department rule other than a system
26 using alternative drainfield materials. The United States
27 Department of Agriculture Soil Conservation Service soil maps,
28 State of Florida Water Management District data, and Federal
29 Emergency Management Agency Flood Insurance maps are resources
30 that shall be used to identify flood-prone areas.
31

1 2. The use of fill or mounding to elevate a drainfield
2 system out of the 10-year floodplain of rivers, streams, or
3 other bodies of flowing water shall not be permitted if such a
4 system lies within a regulatory floodway of the Suwannee and
5 Aucilla Rivers. In cases where the 10-year flood elevation
6 does not coincide with the boundaries of the regulatory
7 floodway, the regulatory floodway will be considered for the
8 purposes of this subsection to extend at a minimum to the
9 10-year flood elevation.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of paragraphs of subsection (4)
13 by s. 1, ch. 99-395, Laws of Florida.

14
15 Section 20. Subsections (1) and (3), paragraph (a) of
16 subsection (5), and subsection (7) of section 381.0303,
17 Florida Statutes, are amended to read:

18 381.0303 Health practitioner recruitment for special
19 needs shelters.--

20 (1) PURPOSE.--The purpose of this section is to
21 designate the Department of Health, through its county health
22 departments, as the lead agency for coordination of the
23 recruitment of health care practitioners, as defined in s.
24 456.001(4)~~455.501(4)~~, to staff special needs shelters in
25 times of emergency or disaster and to provide resources to the
26 department to carry out this responsibility. However, nothing
27 in this section prohibits a county health department from
28 entering into an agreement with a local emergency management
29 agency to assume the lead responsibility for recruiting health
30 care practitioners.

1 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.--The
2 Department of Health shall reimburse, subject to the
3 availability of funds for this purpose, health care
4 practitioners, as defined in s. 456.001 ~~455.501~~, provided the
5 practitioner is not providing care to a patient under an
6 existing contract, and emergency medical technicians and
7 paramedics licensed pursuant to chapter 401 for medical care
8 provided at the request of the department in special needs
9 shelters or at other locations during times of emergency or
10 major disaster. Reimbursement for health care practitioners,
11 except for physicians licensed pursuant to chapter 458 or
12 chapter 459, shall be based on the average hourly rate that
13 such practitioners were paid according to the most recent
14 survey of Florida hospitals conducted by the Florida Hospital
15 Association. Reimbursement shall be requested on forms
16 prepared by the Department of Health. If a Presidential
17 Disaster Declaration has been made, and the Federal Government
18 makes funds available, the department shall use such funds for
19 reimbursement of eligible expenditures. In other situations,
20 or if federal funds do not fully compensate the department for
21 reimbursement made pursuant to this section, the department
22 shall submit to the Cabinet or Legislature, as appropriate, a
23 budget amendment to obtain reimbursement from the working
24 capital fund. Travel expense and per diem costs shall be
25 reimbursed pursuant to s. 112.061.

26 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
27 Department of Health may establish a special needs shelter
28 interagency committee, to be chaired and staffed by the
29 department. The committee shall resolve problems related to
30 special needs shelters not addressed in the state
31 comprehensive emergency medical plan and shall serve as an

1 oversight committee to monitor the planning and operation of
2 special needs shelters.
3 (a) The committee may:
4 ~~1. On or before January 1, 2001, resolve questions~~
5 ~~concerning the roles and responsibilities of state agencies~~
6 ~~and other organizations that are necessary to implement the~~
7 ~~program.~~
8 ~~2. On or before January 1, 2001, identify any issues~~
9 ~~requiring additional legislation and funding.~~
10 1.3. Develop and negotiate any necessary interagency
11 agreements.
12 2.4. Undertake other such activities as the department
13 deems necessary to facilitate the implementation of this
14 section.
15 3.5. Submit recommendations to the Legislature as
16 necessary.
17 (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--The
18 submission of emergency management plans to county health
19 departments by home health agencies pursuant to s.
20 400.497(8)(c) and (d)~~400.497(11)(c) and (d)~~and by nurse
21 registries pursuant to s. 400.506(16)(e) and by hospice
22 programs pursuant to s. 400.610(1)(b) is conditional upon the
23 receipt of an appropriation by the department to establish
24 medical services disaster coordinator positions in county
25 health departments unless the secretary of the department and
26 a local county commission jointly determine to require such
27 plans to be submitted based on a determination that there is a
28 special need to protect public health in the local area during
29 an emergency.
30
31

1 Reviser's note.--Subsections (1) and (3) are
2 amended to conform to the redesignation of s.
3 455.501 as s. 456.001 by s. 36, ch. 2000-160,
4 Laws of Florida. Paragraph (5)(a) is amended to
5 delete provisions that have served their
6 purpose. Subsection (7) is amended to conform
7 to the redesignation of s. 400.497(11)(c) and
8 (d) as s. 400.497(8)(c) and (d) to conform to
9 s. 13, ch. 2000-140, Laws of Florida, and s.
10 160, ch. 2000-318, Laws of Florida.

11
12 Section 21. Subsection (4) and paragraph (c) of
13 subsection (7) of section 381.90, Florida Statutes, are
14 amended to read:

15 381.90 Health Information Systems Council; legislative
16 intent; creation, appointment, duties.--

17 (4) Members of the council who are appointed by the
18 Governor shall serve 2-year terms beginning January 1 through
19 December 31, ~~except that their initial term shall be July 1,~~
20 ~~1997, through December 31, 1998.~~ A member may be removed by
21 the Governor for cause or if such member is absent from three
22 consecutive meetings. Any member appointed to fill a vacancy
23 shall serve for the unexpired term of his or her predecessor.

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

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

1 Reviser's note.--Amended to delete obsolete
2 provisions.

3
4 Section 22. Paragraph (g) of subsection (2) of section
5 383.0112, Florida Statutes, is repealed.

6
7 Reviser's note.--The cited paragraph relates to
8 a statewide symposium on responsible fatherhood
9 to be held no later than December 1996.

10
11 Section 23. Subsection (7) of section 383.50, Florida
12 Statutes, is amended to read:

13 383.50 Treatment of abandoned newborn infant.--
14 (7) Upon admitting a newborn infant under this
15 section, the hospital shall immediately contact a local
16 licensed child-placing agency or alternatively contact the
17 statewide central abuse hotline for the name of a licensed
18 child-placing agency for purposes of transferring physical
19 custody of the newborn infant. The hospital shall notify the
20 licensed child-placing agency that a newborn infant has been
21 left with the hospital and approximately when the licensed
22 child-placing agency can take physical custody of the child.
23 In cases where there is actual or suspected child abuse or
24 neglect, the hospital or any of its licensed health care
25 professionals shall report the actual or suspected child abuse
26 or neglect in accordance with ss. 39.201 ~~39.1023~~ and 395.1023
27 in lieu of contacting a licensed child-placing agency.

28
29 Reviser's note.--Amended to correct an apparent
30 error and conform to the correct citation of
31

1 the referenced material; there is no s.
2 39.1023.

3
4 Section 24. Paragraph (d) of subsection (1) of section
5 384.29, Florida Statutes, is amended to read:

6 384.29 Confidentiality.--

7 (1) All information and records held by the department
8 or its authorized representatives relating to known or
9 suspected cases of sexually transmissible diseases are
10 strictly confidential and exempt from the provisions of s.
11 119.07(1). Such information shall not be released or made
12 public by the department or its authorized representatives, or
13 by a court or parties to a lawsuit upon revelation by
14 subpoena, except under the following circumstances:

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

19
20 Reviser's note.--Amended to delete an obsolete
21 reference. Section 796.08(6) was repealed by s.
22 2, ch. 94-205, Laws of Florida.

23
24 Section 25. Subsection (1) of section 393.0641,
25 Florida Statutes, is amended to read:

26 393.0641 Program for the prevention and treatment of
27 severe self-injurious behavior.--

28 (1) ~~Effective July 1, 1990, and~~ Contingent upon
29 specific appropriations, there is created a diagnostic,
30 treatment, training, and research program for clients

31

1 exhibiting severe self-injurious behavior. This program
2 shall:

3 (a) Serve as a resource center for information,
4 training, and program development.

5 (b) Research the diagnosis and treatment of severe
6 self-injurious behavior, and related disorders, and develop
7 methods of prevention and treatment of self-injurious
8 behavior.

9 (c) Identify individuals in critical need.

10 (d) Develop treatment programs which are meaningful to
11 individuals with developmental disabilities, in critical need,
12 while safeguarding and respecting the legal and human rights
13 of the individuals.

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

16 (f) Collect data on the type, severity, incidence, and
17 demographics of individuals with severe self-injurious
18 behavior, and disseminate the data.

19

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

22

23 Section 26. Subsection (12) of section 394.875,
24 Florida Statutes, is amended to read:

25 394.875 Crisis stabilization units, residential
26 treatment facilities, and residential treatment centers for
27 children and adolescents; authorized services; license
28 required; penalties.--

29 (12) Notwithstanding the other provisions of this
30 section, any facility licensed under former chapter ~~chapters~~
31 396 and chapter 397 for detoxification, residential level I

1 care, and outpatient treatment may elect to license
2 concurrently all of the beds at such facility both for that
3 purpose and as a long-term residential treatment facility
4 pursuant to this section, if all of the following conditions
5 are met:

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

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

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

15 (d) The number of beds to be licensed under this
16 chapter is equal to or less than the number of beds licensed
17 under former chapter ~~chapters~~ 396 and chapter 397 as of
18 January 1, 1993.

19 (e) The licensee agrees in writing to a condition
20 placed upon the license that the facility will limit its
21 treatment exclusively to law enforcement personnel and their
22 immediate families who are seeking admission on a voluntary
23 basis and who are exhibiting symptoms of posttraumatic stress
24 disorder or other mental health problems, including drug or
25 alcohol abuse, which are directly related to law enforcement
26 work and which are amenable to verbal treatment therapies; the
27 licensee agrees to coordinate the provision of appropriate
28 postresidential care for discharged individuals; and the
29 licensee further agrees in writing that a failure to meet any
30 condition specified in this paragraph shall constitute grounds
31

1 for a revocation of the facility's license as a residential
2 treatment facility.

3 (f) The licensee agrees that the facility will meet
4 all licensure requirements for a residential treatment
5 facility, including minimum standards for compliance with
6 lifesafety requirements, except those licensure requirements
7 which are in express conflict with the conditions and other
8 provisions specified in this subsection.

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

12

13 Any facility licensed under this subsection is not required to
14 provide any services to any persons except those included in
15 the specified conditions of licensure, and is exempt from any
16 requirements related to the 60-day or greater average length
17 of stay imposed on community-based residential treatment
18 facilities otherwise licensed under this chapter.

19

20 Reviser's note.--Amended to conform to the
21 repeal of chapter 396 by s. 48, ch. 93-39, Laws
22 of Florida.

23

24 Section 27. Effective July 1, 2001, paragraph (a) of
25 subsection (1) of section 395.0163, Florida Statutes, as
26 amended by section 21 of chapter 2000-141, Laws of Florida, is
27 amended to read:

28 395.0163 Construction inspections; plan submission and
29 approval; fees.--

30 (1)(a) The design, construction, erection, alteration,
31 modification, repair, and demolition of all public and private

1 health care facilities are governed by the Florida Building
2 Code and the Florida Fire Prevention Code under ss. 553.73 and
3 633.022 ~~663.022~~. In addition to the requirements of ss. 553.79
4 and 553.80, the agency shall review facility plans and survey
5 the construction of any facility licensed under this chapter.
6 The agency shall make, or cause to be made, such construction
7 inspections and investigations as it deems necessary. The
8 agency may prescribe by rule that any licensee or applicant
9 desiring to make specified types of alterations or additions
10 to its facilities or to construct new facilities shall, before
11 commencing such alteration, addition, or new construction,
12 submit plans and specifications therefor to the agency for
13 preliminary inspection and approval or recommendation with
14 respect to compliance with applicable provisions of the
15 Florida Building Code or agency rules and standards. The
16 agency shall approve or disapprove the plans and
17 specifications within 60 days after receipt of the fee for
18 review of plans as required in subsection (2). The agency may
19 be granted one 15-day extension for the review period if the
20 director of the agency approves the extension. If the agency
21 fails to act within the specified time, it shall be deemed to
22 have approved the plans and specifications. When the agency
23 disapproves plans and specifications, it shall set forth in
24 writing the reasons for its disapproval. Conferences and
25 consultations may be provided as necessary.

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Reviser's note.--Amended to correct an apparent
error and facilitate correct interpretation.
Section 663.022 does not exist. Section 633.022
relates to uniform firesafety standards.

1 Section 28. Subsection (4) of section 395.4045,
2 Florida Statutes, is amended to read:

3 395.4045 Emergency medical service providers; trauma
4 transport protocols; transport of trauma alert victims to
5 trauma centers; interfacility transfer.--

6 (4) The department shall specify by rule the subjects
7 and the minimum criteria related to prehospital trauma
8 transport, trauma center or hospital destination
9 determinations, and interfacility trauma transfer transport by
10 an emergency medical services provider to be included in a
11 trauma agency's or emergency medical service provider's trauma
12 transport protocol and shall approve or disapprove each such
13 protocol. Trauma transport protocol rules pertaining to the
14 air transportation of trauma victims shall be consistent with,
15 but not limited to, applicable Federal Aviation Administration
16 regulation. Emergency medical services licensees and trauma
17 agencies shall be subject to monitoring by the department,
18 under ss. 395.401(3)~~395.401(4)~~ and 402.31(1) for compliance
19 with requirements, as applicable, regarding trauma transport
20 protocols and the transport of trauma victims.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 395.401(4) as s. 395.401(3)
24 by s. 2, ch. 2000-189, Laws of Florida.

25
26 Section 29. Paragraphs (c) and (g) of subsection (2)
27 of section 395.602, Florida Statutes, are amended to read:

28 395.602 Rural hospitals.--

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

30 (c) "Inactive rural hospital bed" means a licensed
31 acute care hospital bed, as defined in s. 395.002(14)

1 ~~395.002(12)~~, that is inactive in that it cannot be occupied by
2 acute care inpatients.

3 (g) "Swing-bed" means a bed which can be used
4 interchangeably as either a hospital, skilled nursing facility
5 (SNF), or intermediate care facility (ICF) bed pursuant to 42
6 C.F.R. ~~the Code of Federal Regulations~~, parts 405, 435, 440,
7 442, and 447.

8
9 Reviser's note.--Paragraph (2)(c) is amended to
10 conform to the redesignation of subunits of s.
11 395.002 to conform to s. 23, ch. 98-89, Laws of
12 Florida, and s. 37, ch. 98-171, Laws of
13 Florida. Paragraph (2)(g) is amended to conform
14 to the correct citation to the referenced
15 material.

16
17 Section 30. Paragraph (b) of subsection (2) of section
18 395.7015, Florida Statutes, is amended to read:

19 395.7015 Annual assessment on health care entities.--

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

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

24 1. Ambulatory surgical centers and mobile surgical
25 facilities licensed under s. 395.003. This subsection shall
26 only apply to mobile surgical facilities operating under
27 contracts entered into on or after July 1, 1998.

28 2. Clinical laboratories licensed under s. 483.091,
29 excluding any hospital laboratory defined under s. 483.041(6)
30 ~~483.041(5)~~, any clinical laboratory operated by the state or a
31 political subdivision of the state, any clinical laboratory

1 which qualifies as an exempt organization under s. 501(c)(3)
2 of the Internal Revenue Code of 1986, as amended, and which
3 receives 70 percent or more of its gross revenues from
4 services to charity patients or Medicaid patients, and any
5 blood, plasma, or tissue bank procuring, storing, or
6 distributing blood, plasma, or tissue either for future
7 manufacture or research or distributed on a nonprofit basis,
8 and further excluding any clinical laboratory which is wholly
9 owned and operated by 6 or fewer physicians who are licensed
10 pursuant to chapter 458 or chapter 459 and who practice in the
11 same group practice, and at which no clinical laboratory work
12 is performed for patients referred by any health care provider
13 who is not a member of the same group.

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

1 in the same medical specialties; and such other sophisticated
2 radiological services, excluding mammography, as adopted in
3 rule by the board.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 483.041(5) as s. 483.041(6)
7 by s. 144, ch. 99-397, Laws of Florida.

8
9 Section 31. Section 397.405, Florida Statutes, is
10 reenacted to read:

11 397.405 Exemptions from licensure.--The following are
12 exempt from the licensing provisions of this chapter:

13 (1) A hospital or hospital-based component licensed
14 under chapter 395.

15 (2) A nursing home facility as defined in s.
16 400.021(12).

17 (3) A substance abuse education program established
18 pursuant to s. 233.061.

19 (4) A facility or institution operated by the Federal
20 Government.

21 (5) A physician licensed under chapter 458 or chapter
22 459.

23 (6) A psychologist licensed under chapter 490.

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

26 (8) An established and legally cognizable church or
27 nonprofit religious organization, denomination, or sect
28 providing substance abuse services, including prevention
29 services, which are exclusively religious, spiritual, or
30 ecclesiastical in nature. A church or nonprofit religious
31 organization, denomination, or sect providing any of the

1 licensable service components itemized under s. 397.311(19) is
2 not exempt for purposes of its provision of such licensable
3 service components but retains its exemption with respect to
4 all services which are exclusively religious, spiritual, or
5 ecclesiastical in nature.

6 (9) Facilities licensed under s. 393.063(8) that, in
7 addition to providing services to persons who are
8 developmentally disabled as defined therein, also provide
9 services to persons developmentally at risk as a consequence
10 of exposure to alcohol or other legal or illegal drugs while
11 in utero.

12 (10) DUI education and screening services required to
13 be attended pursuant to ss. 316.192, 316.193, 322.095,
14 322.271, and 322.291 are exempt from licensure under this
15 chapter. Treatment programs must continue to be licensed
16 under this chapter.

17
18 The exemptions from licensure in this section do not apply to
19 any facility or entity which receives an appropriation, grant,
20 or contract from the state to operate as a service provider as
21 defined in this chapter or to any substance abuse program
22 regulated pursuant to s. 397.406. No provision of this
23 chapter shall be construed to limit the practice of a
24 physician licensed under chapter 458 or chapter 459, a
25 psychologist licensed under chapter 490, or a psychotherapist
26 licensed under chapter 491, providing outpatient or inpatient
27 substance abuse treatment to a voluntary patient, so long as
28 the physician, psychologist, or psychotherapist does not
29 represent to the public that he or she is a licensed service
30 provider under this act. Failure to comply with any
31 requirement necessary to maintain an exempt status under this

1 section is a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3
4 Reviser's note.--Section 9, ch. 2000-350, Laws
5 of Florida, purported to amend subsection (2),
6 but failed to republish the flush left language
7 at the end of the section. In the absence of
8 affirmative evidence that the Legislature
9 intended to repeal the flush left language, s.
10 397.405 is reenacted to confirm that the
11 omission was not intended.

12
13 Section 32. Section 400.0091, Florida Statutes, is
14 amended to read:

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

28
29 Reviser's note.--Amended to delete a provision
30 that has served its purpose.

31

1 Section 33. Subsection (3) of section 400.022, Florida
2 Statutes, is amended to read:

3 400.022 Residents' rights.--

4 (3) Any violation of the resident's rights set forth
5 in this section shall constitute grounds for action by the
6 agency under the provisions of s. 400.102. In order to
7 determine whether the licensee is adequately protecting
8 residents' rights, the annual inspection of the facility shall
9 include private informal conversations with a sample of
10 residents to discuss residents' experiences within the
11 facility with respect to rights specified in this section and
12 general compliance with standards, and consultation with the
13 ombudsman council in the local planning and service area of
14 the Department of Elderly Affairs in which the nursing home is
15 located.

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

19
20 Section 34. Subsection (4) of section 400.023, Florida
21 Statutes, is amended to read:

22 400.023 Civil enforcement.--

23 (4) Claimants alleging a deprivation or infringement
24 of adequate and appropriate health care pursuant to s.
25 400.022(1)(l)~~400.022(1)(k)~~ which resulted in personal injury
26 to or the death of a resident shall conduct an investigation
27 which shall include a review by a licensed physician or
28 registered nurse familiar with the standard of nursing care
29 for nursing home residents pursuant to this part. Any
30 complaint alleging such a deprivation or infringement shall be
31 accompanied by a verified statement from the reviewer that

1 there exists reason to believe that a deprivation or
2 infringement occurred during the resident's stay at the
3 nursing home. Such opinion shall be based on records or other
4 information available at the time that suit is filed. Failure
5 to provide records in accordance with the requirements of this
6 chapter shall waive the requirement of the verified statement.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 400.022(1)(k) as s.
10 400.022(1)(l) by s. 3, ch. 93-217, Laws of
11 Florida.

12
13 Section 35. Section 400.141, Florida Statutes, is
14 amended to read:

15 400.141 Administration and management of nursing home
16 facilities.--Every licensed facility shall comply with all
17 applicable standards and rules of the agency and shall:

18 (1) Be under the administrative direction and charge
19 of a licensed administrator.

20 (2) Appoint a medical director licensed pursuant to
21 chapter 458 or chapter 459. The agency may establish by rule
22 more specific criteria for the appointment of a medical
23 director.

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

26 (4) Provide for resident use of a community pharmacy
27 as specified in s. 400.022(1)(q). Any other law to the
28 contrary notwithstanding, a registered pharmacist licensed in
29 Florida, that is under contract with a facility licensed under
30 this chapter, shall repackage a nursing facility resident's
31 bulk prescription medication which has been packaged by

1 another pharmacist licensed in any state in the United States
2 into a unit dose system compatible with the system used by the
3 nursing facility, if the pharmacist is requested to offer such
4 service. In order to be eligible for the repackaging, a
5 resident or the resident's spouse must receive prescription
6 medication benefits provided through a former employer as part
7 of his or her retirement benefits a qualified pension plan as
8 specified in s. 4972 of the Internal Revenue Code, a federal
9 retirement program as specified under 5 C.F.R. s. 831, or a
10 long-term care policy as defined in s. 627.9404(1). A
11 pharmacist who correctly repackages and relabels the
12 medication and the nursing facility which correctly
13 administers such repackaged medication under the provisions of
14 this subsection shall not be held liable in any civil or
15 administrative action arising from the repackaging. In order
16 to be eligible for the repackaging, a nursing facility
17 resident for whom the medication is to be repackaged shall
18 sign an informed consent form provided by the facility which
19 includes an explanation of the repackaging process and which
20 notifies the resident of the immunities from liability
21 provided herein. A pharmacist who repackages and relabels
22 prescription medications, as authorized under this subsection,
23 may charge a reasonable fee for costs resulting from the
24 implementation of this provision.

25 (5) Provide for the access of the facility residents
26 to dental and other health-related services, recreational
27 services, rehabilitative services, and social work services
28 appropriate to their needs and conditions and not directly
29 furnished by the licensee. When a geriatric outpatient nurse
30 clinic is conducted in accordance with rules adopted by the
31 agency, outpatients attending such clinic shall not be counted

1 as part of the general resident population of the nursing home
2 facility, nor shall the nursing staff of the geriatric
3 outpatient clinic be counted as part of the nursing staff of
4 the facility, until the outpatient clinic load exceeds 15 a
5 day.

6 (6) Be allowed and encouraged by the agency to provide
7 other needed services under certain conditions. If the
8 facility has a standard licensure status, and has had no class
9 I or class II deficiencies during the past 2 years or has been
10 awarded a Gold Seal under the program established in s.
11 400.235, it may be encouraged by the agency to provide
12 services, including, but not limited to, respite and adult day
13 services, which enable individuals to move in and out of the
14 facility. A facility is not subject to any additional
15 licensure requirements for providing these services. Respite
16 care may be offered to persons in need of short-term or
17 temporary nursing home services. Respite care must be provided
18 in accordance with this part and rules adopted by the agency.
19 However, the agency shall, by rule, adopt modified
20 requirements for resident assessment, resident care plans,
21 resident contracts, physician orders, and other provisions, as
22 appropriate, for short-term or temporary nursing home
23 services. The agency shall allow for shared programming and
24 staff in a facility which meets minimum standards and offers
25 services pursuant to this subsection, but, if the facility is
26 cited for deficiencies in patient care, may require additional
27 staff and programs appropriate to the needs of service
28 recipients. A person who receives respite care may not be
29 counted as a resident of the facility for purposes of the
30 facility's licensed capacity unless that person receives
31 24-hour respite care. A person receiving either respite care

1 for 24 hours or longer or adult day services must be included
2 when calculating minimum staffing for the facility. Any costs
3 and revenues generated by a nursing home facility from
4 nonresidential programs or services shall be excluded from the
5 calculations of Medicaid per diems for nursing home
6 institutional care reimbursement.

7 (7) If the facility has a standard licensure status or
8 is a Gold Seal facility, exceeds minimum staffing standards,
9 and is part of a retirement community that offers other
10 services pursuant to part III, part IV, or part V, be allowed
11 to share programming and staff. At the time of relicensure, a
12 retirement community that uses this option must demonstrate
13 through staffing records that minimum staffing requirements
14 for the facility were exceeded.

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

17 (9) If the licensee furnishes food service, provide a
18 wholesome and nourishing diet sufficient to meet generally
19 accepted standards of proper nutrition for its residents and
20 provide such therapeutic diets as may be prescribed by
21 attending physicians. In making rules to implement this
22 subsection, the agency shall be guided by standards
23 recommended by nationally recognized professional groups and
24 associations with knowledge of dietetics.

25 (10) Keep full records of resident admissions and
26 discharges; medical and general health status, including
27 medical records, personal and social history, and identity and
28 address of next of kin or other persons who may have
29 responsibility for the affairs of the residents; and
30 individual resident care plans including, but not limited to,
31 prescribed services, service frequency and duration, and

1 service goals. The records shall be open to inspection by the
2 agency.

3 (11) Keep such fiscal records of its operations and
4 conditions as may be necessary to provide information pursuant
5 to this part.

6 (12) Furnish copies of personnel records for employees
7 affiliated with such facility, to any other facility licensed
8 by this state requesting this information pursuant to this
9 part. Such information contained in the records may include,
10 but is not limited to, disciplinary matters and any reason for
11 termination. Any facility releasing such records pursuant to
12 this part shall be considered to be acting in good faith and
13 may not be held liable for information contained in such
14 records, absent a showing that the facility maliciously
15 falsified such records.

16 (13) Publicly display a poster provided by the agency
17 containing the names, addresses, and telephone numbers for the
18 state's abuse hotline, the State Long-Term Care Ombudsman, the
19 Agency for Health Care Administration consumer hotline, the
20 Advocacy Center for Persons with Disabilities, the Florida
21 Statewide Advocacy Council, and the Medicaid Fraud Control
22 Unit, with a clear description of the assistance to be
23 expected from each.

24
25 Facilities that have been awarded a Gold Seal under the
26 program established in s. 400.235 may develop a plan to
27 provide certified nursing assistant training as prescribed by
28 federal regulations and state rules and may apply to the
29 agency for approval of their ~~its~~ program.

30
31

1 Reviser's note.--Amended to improve clarity and
2 facilitate correct interpretation.

3
4 Section 36. Paragraph (a) of subsection (2) of section
5 400.408, Florida Statutes, is amended to read:

6 400.408 Unlicensed facilities; referral of person for
7 residency to unlicensed facility; penalties; verification of
8 licensure status.--

9 (2) It is unlawful to knowingly refer a person for
10 residency to an unlicensed assisted living facility; to an
11 assisted living facility the license of which is under denial
12 or has been suspended or revoked; or to an assisted living
13 facility that has a moratorium on admissions. Any person who
14 violates this subsection commits a noncriminal violation,
15 punishable by a fine not exceeding \$500 as provided in s.
16 775.083.

17 (a) Any health care practitioner, as defined in s.
18 456.001 ~~455.501~~, which is aware of the operation of an
19 unlicensed facility shall report that facility to the agency.
20 Failure to report a facility that the practitioner knows or
21 has reasonable cause to suspect is unlicensed shall be
22 reported to the practitioner's licensing board.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of s. 455.501 as s. 456.001 by s.
26 36, ch. 2000-160, Laws of Florida.

27
28 Section 37. Paragraph (b) of subsection (5) of section
29 400.464, Florida Statutes, is amended to read:

30 400.464 Home health agencies to be licensed;
31 expiration of license; exemptions; unlawful acts; penalties.--

1 (5) The following are exempt from the licensure
2 requirements of this part:

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

5 1. The Department of Elderly Affairs.

6 2. The Department of Health, a community health
7 center, or a rural health network that furnishes home visits
8 for the purpose of providing environmental assessments, case
9 management, health education, personal care services, family
10 planning, or followup treatment, or for the purpose of
11 monitoring and tracking disease.

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

14 4. Companion and sitter organizations that were
15 registered under s. 400.509(1) on January 1, 1999, and were
16 authorized to provide personal services under s. 393.063(33)
17 under a developmental services provider certificate on January
18 1, 1999, may continue to provide such services to past,
19 present, and future clients of the organization who need such
20 services, notwithstanding the provisions of this act.

21 5. The Department of Children and Family Services.
22

23 Reviser's note.--Amended to conform to the
24 redesignation of subunits of s. 393.063 by s.
25 23, ch. 98-171, Laws of Florida.
26

27 Section 38. Paragraph (d) of subsection (12) of
28 section 400.980, Florida Statutes, is amended to read:

29 400.980 Health care services pools.--

30 (12)
31

1 (d) If financial responsibility requirements are met
2 by maintaining an escrow account or letter of credit, as
3 provided in this section, upon the entry of an adverse final
4 judgment arising from a medical malpractice arbitration award
5 from a claim of medical malpractice either in contract or
6 tort, or from noncompliance with the terms of a settlement
7 agreement arising from a claim of medical malpractice either
8 in contract or tort, the financial institution holding the
9 escrow account or the letter of credit shall pay directly to
10 the claimant the entire amount of the judgment together with
11 all accrued interest or the amount maintained in the escrow
12 account or letter of credit as required by this section,
13 whichever is less, within 60 days after the date such judgment
14 became final and subject to execution, unless otherwise
15 mutually agreed to in writing by the parties. If timely
16 payment is not made, the agency shall suspend the registration
17 of the pool pursuant to procedures set forth by the agency
18 ~~department~~ through rule. Nothing in this paragraph shall
19 abrogate a judgment debtor's obligation to satisfy the entire
20 amount of any judgment.

21
22 Reviser's note.--Amended to improve clarity and
23 facilitate correct interpretation. Rulemaking
24 authority relating to suspension of
25 registration is granted to the Agency for
26 Health Care Administration in s. 400.980(13).

27
28 Section 39. Subsection (2) of section 402.166, Florida
29 Statutes, is amended to read:

30 402.166 Florida local advocacy councils; confidential
31 records and meetings.--

1 (2) Each local council shall have no fewer than 7
2 members and no more than 15 members, no more than 4 of whom
3 are or have been recipients of one or more client services
4 within the last 4 years, except that one member of this group
5 may be an immediate relative or legal representative of a
6 current or former client; two providers who deliver client
7 services as defined in s. 402.164(2); and two representatives
8 of professional organizations, one of whom represents the
9 health-related professions and one of whom represents the
10 legal profession. Priority of consideration shall be given to
11 the appointment of at least one medical or osteopathic
12 physician, as defined in chapters 458 and 459, and one member
13 in good standing of The Florida Bar. Priority of consideration
14 shall also be given to the appointment of an individual who is
15 receiving client services and whose primary interest,
16 experience, or expertise lies with a major client group not
17 represented on the council ~~committee~~ at the time of the
18 appointment. A person who is employed in client services by
19 any state agency may not be appointed to the council. No more
20 than three individuals who are providing contracted services
21 for clients to any state agency may serve on the same local
22 council at the same time. Persons related to each other by
23 consanguinity or affinity within the third degree may not
24 serve on the same local council at the same time. All members
25 of local councils must successfully complete a standardized
26 training course for council members within 3 months after
27 their appointment to a local council. A member may not be
28 assigned to an investigation that requires access to
29 confidential information prior to the completion of the
30 training course. After he or she completes the required
31 training course, a member of a local council may not be

1 prevented from participating in any activity of that local
2 council, including investigations and monitoring, except due
3 to a conflict of interest as described in the procedures
4 established by the statewide council pursuant to subsection
5 (7).

6
7 Reviser's note.--Amended to conform to the
8 redesignation of district human rights advocacy
9 committees as local advocacy councils by s. 3,
10 ch. 2000-263, Laws of Florida.

11
12 Section 40. Paragraph (b) of subsection (4) of section
13 402.28, Florida Statutes, is amended to read:

14 402.28 Child Care Plus.--
15 (4)

16 (b) Each child care facility, home, or agency
17 representing a network of family day care homes wishing to
18 apply for ~~a Child Care Plus grant shall submit a grant~~
19 ~~proposal for funding the department no later than March 1,~~
20 ~~1990. Thereafter, each such facility, home, or agency wishing~~
21 ~~to apply for~~ continued funding through an annual Child Care
22 Plus grant shall apply to the department no later than March 1
23 of each year.

24
25 Reviser's note.--Amended to delete a provision
26 that has served its purpose.

27
28 Section 41. Paragraph (b) of subsection (2) of section
29 402.50, Florida Statutes, is repealed, and paragraph (a) of
30 subsection (2) of that section is amended to read:

31

1 402.50 Administrative infrastructure; legislative
2 intent; establishment of standards.--

3 (2) ADMINISTRATIVE INFRASTRUCTURE STANDARDS.--

4 (a) The department, in conjunction with the Department
5 of Management Services and the Governor's Office of Planning
6 and Budgeting, shall develop standards for administrative
7 infrastructure funding and staffing to support the department
8 and contract service providers in the execution of their
9 duties and responsibilities. ~~A report of recommended~~
10 ~~standards shall be submitted to the Governor, the President of~~
11 ~~the Senate, the Speaker of the House of Representatives, the~~
12 ~~minority leaders of the Senate and House, and the chairpersons~~
13 ~~of appropriate House and Senate committees by October 1, 1992.~~

14
15 Reviser's note.--Paragraph (2)(a) is amended to
16 delete an obsolete provision. Paragraph (2)(b)
17 provides that the former Department of Health
18 and Rehabilitative Services was to submit, by
19 October 1, 1991, a task analysis,
20 implementation plan, and schedule for
21 development of administrative infrastructure
22 standards to the Economic and Demographic
23 Research Division of the former Joint
24 Legislative Management Committee, which entity
25 was to review and submit comments regarding
26 same to the appropriations committees by
27 December 1, 1991.

28
29 Section 42. Paragraph (a) of subsection (13) of
30 section 403.031, Florida Statutes, is amended to read:

31

1 403.031 Definitions.--In construing this chapter, or
2 rules and regulations adopted pursuant hereto, the following
3 words, phrases, or terms, unless the context otherwise
4 indicates, have the following meanings:

5 (13) "Waters" include, but are not limited to, rivers,
6 lakes, streams, springs, impoundments, wetlands, and all other
7 waters or bodies of water, including fresh, brackish, saline,
8 tidal, surface, or underground waters. Waters owned entirely
9 by one person other than the state are included only in regard
10 to possible discharge on other property or water. Underground
11 waters include, but are not limited to, all underground waters
12 passing through pores of rock or soils or flowing through in
13 channels, whether manmade or natural. Solely for purposes of
14 s. 403.0885, waters of the state also include navigable waters
15 or waters of the contiguous zone as used in s. 502 of the
16 Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in
17 existence on January 1, 1993, except for those navigable
18 waters seaward of the boundaries of the state set forth in s.
19 1, Art. II of the State Constitution. Solely for purposes of
20 this chapter, waters of the state also include the area
21 bounded by the following:

22 (a) Commence at the intersection of State Road (SRD) 5
23 (U.S. 1) and the county line dividing Dade and Monroe
24 Counties, said point also being the mean high-water line of
25 Florida Bay, located in section 4, township 60 south, range 39
26 east of the Tallahassee Meridian for the point of beginning.
27 From said point of beginning, thence run northwesterly along
28 said SRD 5 to an intersection with the north line of section
29 18, township 58 south, range 39 east; thence run westerly to a
30 point marking the southeast corner of section 12, township 58
31 south, range 37 east, said point also lying on the east

1 boundary of the Everglades National Park; thence run north
2 along the east boundary of the aforementioned Everglades
3 National Park to a point marking the northeast corner of
4 section 1, township 58 south, range 37 east; thence run west
5 along said park to a point marking the northwest corner of
6 said section 1; thence run northerly along said park to a
7 point marking the northwest corner of section 24, township 57
8 south, range 37 east; thence run westerly along the south
9 lines of sections 14, 15, and 16 to the southwest corner of
10 section 16; thence leaving the Everglades National Park
11 boundary run northerly along the west line of section 16 to
12 the northwest corner of section 16; thence east along the
13 northerly line of section 16 to a point at the intersection of
14 the east one-half and west one-half of section 9; thence
15 northerly along the line separating the east one-half and the
16 west one-half of sections 9, 4, 33, and 28; thence run
17 easterly along the north line of section 28 to the northeast
18 corner of section 28; thence run northerly along the west line
19 of section 22 to the northwest corner of section 22; thence
20 easterly along the north line of section 22 to a point at the
21 intersection of the east one-half and west one-half of section
22 15; thence run northerly along said line to the point of
23 intersection with the north line of section 15; thence
24 easterly along the north line of section 15 to the northeast
25 corner of section 15; thence run northerly along the west
26 lines of sections 11 and 2 to the northwest corner of section
27 2; thence run easterly along the north lines of sections 2 and
28 1 to the northeast corner of section 1, township 56 south,
29 range 37 east; thence run north along the east line of section
30 36, township 55 south, range 37 east to the northeast corner
31 of section 36; thence run west along the north line of section

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

1 of Lot 5; thence run east along the north line of Lot 5 to the
2 northeast corner of Lot 5, township 54 1/2 south, range 38
3 east; thence run north along the west line of section 33,
4 township 54 south, range 38 east to a point intersecting the
5 northwest corner of the southwest one-quarter of section 33;
6 thence run easterly along the north line of the southwest
7 one-quarter of section 33 to the northeast corner of the
8 southwest one-quarter of section 33; thence run north along
9 the west line of the northeast one-quarter of section 33 to a
10 point intersecting the north line of section 33; thence run
11 easterly along the north line of section 33 to the northeast
12 corner of section 33; thence run northerly along the west line
13 of section 27 to a point intersecting the northwest corner of
14 the southwest one-quarter of section 27; thence run easterly
15 to the northeast corner of the southwest one-quarter of
16 section 27; thence run northerly along the west line of the
17 northeast one-quarter of section 27 to a point intersecting
18 the north line of section 27; thence run west along the north
19 line of section 27 to the northwest corner of section 27;
20 thence run north along the west lines of sections 22 and 15 to
21 the northwest corner of section 15; thence run easterly along
22 the north lines of sections 15 and 14 to the point of
23 intersection with the L-31N Levee, said intersection located
24 near the southeast corner of section 11, township 54 south,
25 range 38 east; thence run northerly along Levee L-31N crossing
26 SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to
27 Levees L-31N, L-29, and L-30, said intersection located near
28 the southeast corner of section 2, township 54 south, range 38
29 east; thence run northeasterly, northerly, and northeasterly
30 along Levee L-30 to a point of intersection with the
31 Dade/Broward Levee, said intersection located near the

1 northeast corner of section 17, township 52 south, range 39
2 east; thence run due east to a point of intersection with SRD
3 27 (Krome Ave.); thence run northeasterly along SRD 27 to an
4 intersection with SRD 25 (U.S. 27), said intersection located
5 in section 3, township 52 south, range 39 east; thence run
6 northerly along said SRD 25, entering into Broward County, to
7 an intersection with SRD 84 at Andytown; thence run
8 southeasterly along the aforementioned SRD 84 to an
9 intersection with the southwesterly prolongation of Levee
10 L-35A, said intersection being located in the northeast
11 one-quarter of section 5, township 50 south, range 40 east;
12 thence run northeasterly along Levee L-35A to an intersection
13 of Levee L-36, said intersection located near the southeast
14 corner of section 12, township 49 south, range 40 east; thence
15 run northerly along Levee L-36, entering into Palm Beach
16 County, to an intersection common to said Levees L-36, L-39,
17 and L-40, said intersection located near the west quarter
18 corner of section 19, township 47 south, range 41 east; thence
19 run northeasterly, easterly, and northerly along Levee L-40,
20 said Levee L-40 being the easterly boundary of the Loxahatchee
21 National Wildlife Refuge, to an intersection with SRD 80 (U.S.
22 441), said intersection located near the southeast corner of
23 section 32, township 43 south, range 40 east; thence run
24 westerly along the aforementioned SRD 80 to a point marking
25 the intersection of said road and the northeasterly
26 prolongation of Levee L-7, said Levee L-7 being the westerly
27 boundary of the Loxahatchee National Wildlife Refuge; thence
28 run southwesterly and southerly along said Levee L-7 to an
29 intersection common to Levees L-7, L-15 (Hillsborough Canal),
30 and L-6; thence run southwesterly along Levee L-6 to an
31 intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee

1 L-5, said intersection being located near the northwest corner
2 of section 27, township 47 south, range 38 east; thence run
3 westerly along the aforementioned Levee L-5 to a point
4 intersecting the east line of range 36 east; thence run
5 northerly along said range line to a point marking the
6 northeast corner of section 1, township 47 south, range 36
7 east; thence run westerly along the north line of township 47
8 south, to an intersection with Levee L-23/24 (Miami Canal);
9 thence run northwesterly along the Miami Canal Levee to a
10 point intersecting the north line of section 22, township 46
11 south, range 35 east; thence run westerly to a point marking
12 the northwest corner of section 21, township 46 south, range
13 35 east; thence run southerly to the southwest corner of said
14 section 21; thence run westerly to a point marking the
15 northwest corner of section 30, township 46 south, range 35
16 east, said point also being on the line dividing Palm Beach
17 and Hendry Counties; from said point, thence run southerly
18 along said county line to a point marking the intersection of
19 Broward, Hendry, and Collier Counties, said point also being
20 the northeast corner of section 1, township 49 south, range 34
21 east; thence run westerly along the line dividing Hendry and
22 Collier Counties and continuing along the prolongation thereof
23 to a point marking the southwest corner of section 36,
24 township 48 south, range 29 east; thence run southerly to a
25 point marking the southwest corner of section 12, township 49
26 south, range 29 east; thence run westerly to a point marking
27 the southwest corner of section 10, township 49 south, range
28 29 east; thence run southerly to a point marking the southwest
29 corner of section 15, township 49 south, range 29 east; thence
30 run westerly to a point marking the northwest corner of
31 section 24, township 49 south, range 28 east, said point lying

1 on the west boundary of the Big Cypress Area of Critical State
2 Concern as described in rule 28-25.001 ~~27F-3~~, Florida
3 Administrative Code; thence run southerly along said boundary
4 crossing SRD 84 (Alligator Alley) to a point marking the
5 southwest corner of section 24, township 50 south, range 28
6 east; thence leaving the aforementioned west boundary of the
7 Big Cypress Area of Critical State Concern run easterly to a
8 point marking the northeast corner of section 25, township 50
9 south, range 28 east; thence run southerly along the east line
10 of range 28 east to a point lying approximately 0.15 miles
11 south of the northeast corner of section 1, township 52 south,
12 range 28 east; thence run southwesterly 2.4 miles more or less
13 to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said
14 intersection lying 1.1 miles more or less west of the east
15 line of range 28 east; thence run northwesterly and westerly
16 along SRD 90 to an intersection with the west line of section
17 10, township 52 south, range 28 east; thence leaving SRD 90
18 run southerly to a point marking the southwest corner of
19 section 15, township 52 south, range 28 east; thence run
20 westerly crossing the Faka Union Canal 0.6 miles more or less
21 to a point; thence run southerly and parallel to the Faka
22 Union Canal to a point located on the mean high-water line of
23 Faka Union Bay; thence run southeasterly along the mean
24 high-water line of the various bays, rivers, inlets, and
25 streams to the point of beginning.

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

1 Section 43. Subsection (4) of section 403.714, Florida
2 Statutes, is amended to read:

3 403.714 Duties of state agencies.--

4 (4) The Department of Agriculture and Consumer
5 Services, in consultation with the Department of
6 ~~Transportation, the Department of Commerce, and the~~
7 department, and appropriate trade associations, shall
8 undertake to stimulate the development of sustainable state
9 markets for compost through demonstration projects and other
10 approaches the Department of Agriculture and Consumer Services
11 may develop.

12
13 Reviser's note.--Amended to delete obsolete
14 language. Section 20.17, which created the
15 Department of Commerce, was repealed by s. 3,
16 ch. 96-320, Laws of Florida.

17
18 Section 44. Paragraph (b) of subsection (3) of section
19 403.718, Florida Statutes, is amended to read:

20 403.718 Waste tire fees.--

21 (3)

22 (b) The Department of Revenue, ~~under the applicable~~
23 ~~rules of the Career Service Commission,~~ is authorized to
24 employ persons and incur other expenses for which funds are
25 appropriated by the Legislature. The department is empowered
26 to adopt such rules and shall prescribe and publish such forms
27 as may be necessary to effectuate the purposes of this
28 section. The department is authorized to establish audit
29 procedures and to assess delinquent fees.

1 Reviser's note.--Amended to delete language
2 that has served its purpose. The Career Service
3 Commission was repealed by s. 87, ch. 86-163,
4 Laws of Florida.

5
6 Section 45. Subsection (5) of section 403.7191,
7 Florida Statutes, is amended to read:

8 403.7191 Toxics in packaging.--

9 (5) CERTIFICATE OF COMPLIANCE.--Each manufacturer or
10 distributor of a package or packaging component shall provide,
11 if required, to the purchaser of such package or packaging
12 component, a certificate of compliance stating that the
13 package or packaging component is in compliance with the
14 provisions of this section. If compliance is achieved under
15 any of the exemptions provided in paragraph (4)(b) ~~or~~
16 ~~paragraph (4)(c)~~, the certificate shall state the specific
17 basis upon which the exemption is claimed. The certificate of
18 compliance shall be signed by an authorized official of the
19 manufacturing or distributing company. The manufacturer or
20 distributor shall retain the certificate of compliance for as
21 long as the package or packaging component is in use. A copy
22 of the certificate of compliance shall be kept on file by the
23 manufacturer or distributor of the package or packaging
24 component for at least 3 years from the date of the last sale
25 or distribution by the manufacturer or distributor.
26 Certificates of compliance, or copies thereof, shall be
27 furnished within 60 days to the department upon the
28 department's request. If the manufacturer or distributor of
29 the package or packaging component reformulates or creates a
30 new package or packaging component, including a reformulation
31 or creation to meet the maximum levels set forth in subsection

1 (3), the manufacturer or distributor shall provide an amended
2 or new certificate of compliance for the reformulated or new
3 package or packaging component.

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

8
9 Section 46. Subsection (7) of section 403.7192,
10 Florida Statutes, is amended to read:

11 403.7192 Batteries; requirements for consumer,
12 manufacturers, and sellers; penalties.--

13 ~~(7) On or before October 7, 1997, and annually~~
14 ~~thereafter, for a period of 3 years, cell manufacturers and~~
15 ~~marketers or their representative organization shall report to~~
16 ~~the department plans for the implementation of the~~
17 ~~requirements under subsection (6). The reports shall include~~
18 ~~estimates of the cadmium disposal reductions. Representative~~
19 ~~organizations of manufacturers shall supply to the department~~
20 ~~a list of those organization members for whom the association~~
21 ~~is conducting the unit management program.~~

22
23 Reviser's note.--Amended to delete a provision
24 that has served its purpose.

25
26 Section 47. Subsections (3), (4), and (5) of section
27 408.02, Florida Statutes, are amended to read:

28 408.02 Practice parameters.--

29 (3) The agency shall summarize the effectiveness and
30 cost of care outcomes for each diagnosis by hospital, by
31 district, by region, and across the state, as well as by any

1 other grouping which will facilitate the development of
2 clinically relevant practice parameters. The agency shall
3 make the report available to the public and all hospitals
4 throughout the state on an annual basis beginning December 31,
5 1994. The agency shall also make detail data submitted
6 pursuant to subsection(2)~~(3)~~available for analysis by
7 others, subject to protection of confidentiality pursuant to
8 s. 408.061.

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

28 (5) The agency, in conjunction with the appropriate
29 health professional associations shall develop and may adopt
30 by rule practice parameters for services provided by
31 diagnostic-imaging centers, radiation therapy services,

1 clinical laboratory services, physical therapy services, and
2 comprehensive rehabilitative services. ~~Practice parameters~~
3 ~~applicable to diagnostic imaging services shall be developed~~
4 ~~by December 31, 1993.~~

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

13
14 Section 48. Section 408.0361, Florida Statutes, is
15 amended to read:

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

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

31

1 Section 49. Paragraph (c) of subsection (3) of section
2 409.145, Florida Statutes, is amended to read:

3 409.145 Care of children.--

4 (3)

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

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

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

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

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

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

1 college. An individual who is to be continued in or placed in
2 independent living shall continue to receive services
3 according to the independent living program and agreement of
4 responsibilities signed by the department and the individual.

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

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

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

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

27 c. Four consecutive years, 8 semesters, or 12 quarters
28 for an individual enrolled in a college or university unless
29 the individual is participating in college-preparatory
30 instruction or is requiring additional time to complete the
31 college-level communication and computation skills testing

1 programs, in which case such services shall continue for not
2 more than 5 consecutive years, 10 semesters, or 15 quarters.

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

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

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

23
24 Section 50. Section 409.1685, Florida Statutes, is
25 amended to read:

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

1 of each year and shall include the following information for
2 the prior calendar year:

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

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

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

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

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

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

16

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

20

21 Section 51. Paragraph (a) of subsection (1) and
22 paragraph (b) of subsection (2) of section 409.908, Florida
23 Statutes, are amended to read:

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

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

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

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

19 1. The raising of rate reimbursement caps, excluding
20 rural hospitals.

21 2. Recognition of the costs of graduate medical
22 education.

23 3. Other methodologies recognized in the General
24 Appropriations Act.

25

26 During the years funds are transferred from the Board of
27 Regents, any reimbursement supported by such funds shall be
28 subject to certification by the Board of Regents that the
29 hospital has complied with s. 381.0403. The agency is
30 authorized to receive funds from state entities, including,
31 but not limited to, the Board of Regents, local governments,

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

12 (2)

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

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

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

12

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

17

18 Section 52. Paragraph (b) of subsection (3) of section
19 409.912, Florida Statutes, is amended to read:

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

31

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

1 1. By January 1, 2001, the agency shall modify the
2 contracts with the entities providing comprehensive inpatient
3 and outpatient mental health care services to Medicaid
4 recipients in Hillsborough, Highlands, Hardee, Manatee, and
5 Polk Counties, to include substance-abuse-treatment services.

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

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

22 4. In converting to a prepaid system of delivery, the
23 agency shall in its procurement document require an entity
24 providing comprehensive behavioral health care services to
25 prevent the displacement of indigent care patients by
26 enrollees in the Medicaid prepaid health plan providing
27 behavioral health care services from facilities receiving
28 state funding to provide indigent behavioral health care, to
29 facilities licensed under chapter 395 which do not receive
30 state funding for indigent behavioral health care, or
31

1 reimburse the unsubsidized facility for the cost of behavioral
2 health care provided to the displaced indigent care patient.

3 5. Traditional community mental health providers under
4 contract with the Department of Children and Family Services
5 ~~Families~~ pursuant to part IV of chapter 394 and inpatient
6 mental health providers licensed pursuant to chapter 395 must
7 be offered an opportunity to accept or decline a contract to
8 participate in any provider network for prepaid behavioral
9 health services.

10
11 Reviser's note.--Amended to conform to the
12 official title of the department pursuant to s.
13 20.19.

14
15 Section 53. Subsection (1) of section 409.9122,
16 Florida Statutes, is reenacted to read:

17 409.9122 Mandatory Medicaid managed care enrollment;
18 programs and procedures.--

19 (1) It is the intent of the Legislature that the
20 MediPass program be cost-effective, provide quality health
21 care, and improve access to health services, and that the
22 program be statewide.

23
24 Reviser's note.--Section 7, ch. 96-199, Laws of
25 Florida, amended the text of s. 409.9122,
26 including amendment to the language in
27 then-existing paragraph (1)(a). Paragraph
28 (1)(b) did not appear in text after the
29 amendment to paragraph (1)(a), but the entire
30 text of subsection (1) also appeared following
31 the text of newly created subsection (3),

1 struck-through as if it were to be deleted
2 except for the last sentence of then-existing
3 paragraph (1)(b) which became paragraph (4)(a).
4 Subsection (1) is reenacted to confirm that the
5 struck-through version of paragraph (1)(a)
6 following the text of subsection (3) in the
7 amendment to s. 409.9122 by s. 7, ch. 96-199,
8 was not intended to repeal the paragraph.
9

10 Section 54. Paragraphs (f) and (g) of subsection (1)
11 of section 409.946, Florida Statutes, are amended to read:
12 409.946 Inner City Redevelopment Review Panel.--In
13 order to enhance public participation and involvement in the
14 redevelopment of inner-city areas, there is created within the
15 Office of Tourism, Trade, and Economic Development the Inner
16 City Redevelopment Review Panel.

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

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

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

1 Reviser's note.--Paragraphs (1)(f) and (g) are
2 amended to delete provisions that have served
3 their purpose. The Better Jobs/Better Wages
4 Council and First Jobs/First Wages Council are
5 provided for in s. 445.005. Paragraph (f) is
6 further amended to conform to the official
7 title of the council.

8
9 Section 55. Paragraph (c) of subsection (9) of section
10 411.01, Florida Statutes, is repealed.

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

19
20 Section 56. Subsection (6) of section 414.105, Florida
21 Statutes, is amended to read:

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

30 (6) The department, in cooperation with Workforce
31 Florida, Inc., shall establish a procedure for approving

1 hardship exemptions and for reviewing hardship cases at least
2 once every 2 years. Regional workforce boards may assist in
3 making these determinations. The composition of any review
4 panel must generally reflect the racial, gender, and ethnic
5 diversity of the community as a whole. Members of a review
6 panel shall serve without compensation but are entitled to
7 receive reimbursement for per diem and travel expenses as
8 provided in s. 112.061 ~~112.016~~.

9
10 Reviser's note.--Amended to conform to the
11 correct citation of the referenced material; s.
12 112.016 does not exist.

13
14 Section 57. Subsection (1) of section 418.302, Florida
15 Statutes, is amended to read:

16 418.302 Governing body of mobile home park recreation
17 district.--

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

30
31

1 Reviser's note.--Amended to conform to the
2 correct citation of the referenced material; s.
3 418.30 provides for creation of mobile home
4 park recreation districts.

5
6 Section 58. Section 420.506, Florida Statutes, is
7 amended to read:

8 420.506 Executive director; agents and employees.--The
9 appointment and removal of an executive director shall be by
10 the Secretary of Community Affairs, with the advice and
11 consent of the corporation's board of directors. The
12 executive director shall employ legal and technical experts
13 and such other agents and employees, permanent and temporary,
14 as the corporation may require, and shall communicate with and
15 provide information to the Legislature with respect to the
16 corporation's activities. The board is authorized,
17 notwithstanding the provisions of s. 216.262, to develop and
18 implement rules regarding the employment of employees of the
19 corporation and service providers, including legal counsel.
20 ~~The corporation may hire any individual who, as of the~~
21 ~~effective date of this act, is employed by the agency.~~The
22 corporation is authorized to enter into a lease agreement with
23 the Department of Management Services or the Department of
24 Community Affairs for the lease of state employees from such
25 entities, wherein an employee shall retain his or her status
26 as a state employee but shall work under the direct
27 supervision of the corporation, and shall retain the right to
28 participate in the Florida Retirement System. The board of
29 directors of the corporation is entitled to establish travel
30 procedures and guidelines for employees of the corporation.
31

1 The executive director's office and the corporation's files
2 and records must be located in Leon County.

3
4 Reviser's note.--Amended to delete a provision
5 that has served its purpose. The stricken text,
6 which was enacted by s. 9, ch. 97-167, Laws of
7 Florida, effective July 1, 1997, relates to the
8 replacement of the Florida Housing Finance
9 Agency by the Florida Housing Finance
10 Corporation.

11
12 Section 59. Paragraph (a) of subsection (22) of
13 section 420.507, Florida Statutes, is amended to read:

14 420.507 Powers of the corporation.--The corporation
15 shall have all the powers necessary or convenient to carry out
16 and effectuate the purposes and provisions of this part,
17 including the following powers which are in addition to all
18 other powers granted by other provisions of this part:

19 (22) To develop and administer the State Apartment
20 Incentive Loan Program. In developing and administering that
21 program, the corporation may:

22 (a) Make first, second, and other subordinated
23 mortgage loans including variable or fixed rate loans subject
24 to contingent interest. The corporation shall make loans
25 exceeding 25 percent of project cost available only to
26 nonprofit organizations and public bodies which are able to
27 secure grants, donations of land, or contributions from other
28 sources and to projects meeting the criteria of subparagraph
29 1. Mortgage loans shall be made available at the following
30 rates of interest:
31

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

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

7
8 Reviser's note.--Amended to conform to the
9 current location of the referenced material; s.
10 420.306(7) was repealed by s. 3, ch. 93-181,
11 Laws of Florida, and s. 420.503(18) defines
12 "farmworker."

13
14 Section 60. Sections 421.37, 421.38, 421.39, 421.40,
15 421.41, 421.42, 421.43, 421.44, and 421.45, Florida Statutes,
16 are repealed.

17
18 Reviser's note.--The cited sections, relating
19 to defense housing during World War II, are
20 obsolete.

21
22 Section 61. Subsection (2) of section 427.0159,
23 Florida Statutes, is repealed.

24
25 Reviser's note.--The cited subsection, enacted
26 by s. 21, ch. 2000-257, Laws of Florida,
27 provides for an allocation of funds by the
28 Department of Transportation, contingent on
29 S.B. 854 or similar legislation becoming law.
30 Neither of those contingencies occurred.

31

1 Section 62. Paragraph (a) of subsection (3) of section
2 435.03, Florida Statutes, is amended to read:

3 435.03 Level 1 screening standards.--

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

5 (a) For employees and employers licensed or registered
6 pursuant to chapter 400, and for employees and employers of
7 developmental services institutions as defined in s. 393.063,
8 intermediate care facilities for the developmentally disabled
9 as defined in s. 393.063, and mental health treatment
10 facilities as defined in s. 394.455, meets the requirements of
11 this chapter ~~part II~~.

12
13 Reviser's note.--Amended to conform to the
14 arrangement of chapter 435, which is not
15 divided into parts.

16
17 Section 63. Subsection (2) of section 435.05, Florida
18 Statutes, is amended to read:

19 435.05 Requirements for covered employees.--Except as
20 otherwise provided by law, the following requirements shall
21 apply to covered employees:

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

26
27 Reviser's note.--Amended to conform to the
28 arrangement of chapter 435, which is not
29 divided into parts.

1 Section 64. Subsection (1) of section 435.07, Florida
2 Statutes, is amended to read:

3 435.07 Exemptions from disqualification.--Unless
4 otherwise provided by law, the provisions of this section
5 shall apply to exemptions from disqualification.

6 (1) The appropriate licensing agency may grant to any
7 employee otherwise disqualified from employment an exemption
8 from disqualification for:

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

11 (b) Misdemeanors prohibited under any of the Florida
12 Statutes cited in this chapter or under similar statutes of
13 other jurisdictions;

14 (c) Offenses that were felonies when committed but are
15 now misdemeanors;

16 (d) Findings of delinquency; or

17 (e) Commissions of acts of domestic violence as
18 defined in s. 741.30.

19

20 For the purposes of this subsection, the term "felonies" means
21 both felonies prohibited under any of the Florida Statutes
22 cited in this chapter ~~part~~ or under similar statutes of other
23 jurisdictions.

24

25 Reviser's note.--Amended to conform to the
26 arrangement of chapter 435, which is not
27 divided into parts.

28

29 Section 65. Paragraph (c) of subsection (2) of section
30 440.15, Florida Statutes, is amended to read:

31

1 440.15 Compensation for disability.--Compensation for
2 disability shall be paid to the employee, subject to the
3 limits provided in s. 440.12(2), as follows:

4 (2) TEMPORARY TOTAL DISABILITY.--

5 (c) Temporary total disability benefits paid pursuant
6 to this subsection shall include such period as may be
7 reasonably necessary for training in the use of artificial
8 members and appliances, and shall include such period as the
9 employee may be receiving training and education under a
10 program pursuant to s. 440.491 ~~440.49(1)~~. Notwithstanding s.
11 440.02(9), the date of maximum medical improvement for
12 purposes of paragraph (3)(b) shall be no earlier than the last
13 day for which such temporary disability benefits are paid.

14
15 Reviser's note.--Amended to conform to the
16 current location of the referenced material.
17 Section 440.49(1) was repealed by s. 43, ch.
18 93-415, Laws of Florida, and s. 440.491,
19 created by s. 44, ch. 93-415, provides for
20 training and education.

21
22 Section 66. Subsection (2) of section 440.381, Florida
23 Statutes, is amended to read:

24 440.381 Application for coverage; reporting payroll;
25 payroll audit procedures; penalties.--

26 (2) The application must contain a statement that the
27 filing of an application containing false, misleading, or
28 incomplete information with the purpose of avoiding or
29 reducing the amount of premiums for workers' compensation
30 coverage is a felony of the third degree, punishable as
31 provided in s. 775.082, s. 775.083, or s. 775.084. The

1 application must contain a sworn statement by the employer
2 attesting to the accuracy of the information submitted and
3 acknowledging the provisions of former s. 440.37(4).

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation. Section
7 440.37 was repealed by s. 109, ch. 93-415, Laws
8 of Florida.

9
10 Section 67. Paragraph (e) of subsection (1) and
11 paragraph (a) of subsection (2) of section 440.4416, Florida
12 Statutes, are amended to read:

13 440.4416 Workers' Compensation Oversight Board.--

14 (1) There is created within the Department of Labor
15 and Employment Security the Workers' Compensation Oversight
16 Board. The board shall be composed of the following members,
17 each of whom has knowledge of, or experience with, the
18 workers' compensation system:

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

- 1 (2) POWERS AND DUTIES; ORGANIZATION.--
2 (a) The board shall have all the powers necessary and
3 convenient to carry out and effectuate the purposes of this
4 section, including, but not limited to, the power to:
5 1. Conduct public hearings.
6 ~~2. Report to the Legislature by January 1, 1995, as to~~
7 ~~the feasibility of a return-to-work program that includes~~
8 ~~incentives for employers who encourage such a program and~~
9 ~~disincentives for employers who hinder such a program.~~
10 2.3. Prescribe qualifications for board employees.
11 3.4. Appear on its own behalf before other boards,
12 commissions, or agencies of the state or Federal Government.
13 4.5. Make and execute contracts to the extent that
14 such contracts are consistent with duties and powers set forth
15 in this section and elsewhere in the law of this state.

16
17 Reviser's note.--Amended to delete obsolete
18 provisions.

19
20 Section 68. Subsection (1) of section 443.1715,
21 Florida Statutes, is amended to read:
22 443.1715 Disclosure of information; confidentiality.--
23 (1) RECORDS AND REPORTS.--Information revealing the
24 employing unit's or individual's identity obtained from the
25 employing unit or from any individual pursuant to the
26 administration of this chapter, and any determination
27 revealing such information, must, except to the extent
28 necessary for the proper presentation of a claim or upon
29 written authorization of the claimant who has a workers'
30 compensation claim pending, be held confidential and exempt
31 from the provisions of s. 119.07(1) and s. 24(a), Art. I of

1 the State Constitution. Such information may be made available
2 only to public employees in the performance of their public
3 duties, including employees of the Department of Education in
4 obtaining information for the Florida Education and Training
5 Placement Information Program and the Office of Tourism,
6 Trade, and Economic Development ~~Department of Commerce~~ in its
7 administration of the qualified defense contractor tax refund
8 program authorized by s. 288.1045 ~~288.104~~. Except as otherwise
9 provided by law, public employees receiving such information
10 must retain the confidentiality of such information. Any
11 claimant, or the claimant's legal representative, at a hearing
12 before an appeals referee or the commission shall be supplied
13 with information from such records to the extent necessary for
14 the proper presentation of her or his claim. Any employee or
15 member of the commission or any employee of the division, or
16 any other person receiving confidential information, who
17 violates any provision of this subsection commits a
18 misdemeanor of the second degree, punishable as provided in s.
19 775.082 or s. 775.083. However, the division may furnish to
20 any employer copies of any report previously submitted by such
21 employer, upon the request of such employer, and may furnish
22 to any claimant copies of any report previously submitted by
23 such claimant, upon the request of such claimant, and the
24 division is authorized to charge therefor such reasonable fee
25 as the division may by rule prescribe not to exceed the actual
26 reasonable cost of the preparation of such copies. Fees
27 received by the division for copies as provided in this
28 subsection must be deposited to the credit of the Employment
29 Security Administration Trust Fund.
30
31

1 Reviser's note.--Amended to conform to the
2 substitution of the Office of Tourism, Trade,
3 and Economic Development for the Department of
4 Commerce for purposes of s. 288.106 by s. 44,
5 ch. 96-320, Laws of Florida, and the repeal of
6 s. 288.104 by s. 8, ch. 96-348, Laws of
7 Florida, and the enactment of new s. 288.1045
8 governing the qualified defense contractor tax
9 refund program by s. 1, ch. 96-348.

10

11 Section 69. Paragraph (b) of subsection (6) of section
12 445.003, Florida Statutes, as amended by section 3 of chapter
13 2000-165, Laws of Florida, is reenacted to read:

14 445.003 Implementation of the federal Workforce
15 Investment Act of 1998.--

16 (6) LONG-TERM CONSOLIDATION OF WORKFORCE
17 DEVELOPMENT.--

18 (b) The Office of Program Policy Analysis and
19 Government Accountability shall review the workforce
20 development system, as established by this act. The office
21 shall submit its final report and recommendations by December
22 31, 2002, to the President of the Senate and the Speaker of
23 the House of Representatives.

24

25 Reviser's note.--Reenacted to confirm the
26 continued existence of the paragraph despite a
27 repeal by s. 46, ch. 2000-158, Laws of Florida,
28 a reviser's bill. Section 3, ch. 2000-165, Laws
29 of Florida, amended paragraph (6)(b) to require
30 submittal of a report and recommendations by
31 December 31, 2002; prior to amendment,

1 submittal of the report and recommendations was
2 required by January 31, 2000.

3
4 Section 70. Paragraph (c) of subsection (7) of section
5 445.009, Florida Statutes, as amended by section 9 of chapter
6 2000-165, Laws of Florida, is reenacted to read:

7 445.009 One-stop delivery system.--
8 (7)

9 (c) Workforce Florida, Inc., shall periodically review
10 Individual Training Account pricing schedules developed by
11 regional workforce boards and present findings and
12 recommendations for process improvement to the President of
13 the Senate and the Speaker of the House of Representatives.

14
15 Reviser's note.--Reenacted to confirm the
16 continued existence of the paragraph despite a
17 repeal by s. 45, ch. 2000-158, Laws of Florida,
18 a reviser's bill. Section 9, ch. 2000-165, Laws
19 of Florida, amended paragraph (8)(c),
20 redesignated as paragraph (7)(c), to provide
21 for periodic review of Individual Training
22 Account pricing schedules and deleted the
23 January 1, 2000, submittal date for findings
24 and recommendations for process improvement.

25
26 Section 71. Paragraph (e) of subsection (3) of section
27 445.024, Florida Statutes, is amended to read:

28 445.024 Work requirements.--

29 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
30 following individuals are exempt from work activity
31 requirements:

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

3
4 Reviser's note.--Amended to conform to the
5 correct citation of the referenced material; s.
6 415.015 does not exist.

7
8 Section 72. Paragraph (a) of subsection (2) and
9 paragraph (a) of subsection (3) of section 446.50, Florida
10 Statutes, are amended to read:

11 446.50 Displaced homemakers; multiservice programs;
12 report to the Legislature; Displaced Homemaker Trust Fund
13 created.--

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

15 (a) "Displaced homemaker" means an individual who:

- 16 1. Is 35 years of age or older;
17 2. Has worked in the home, providing unpaid household
18 services for family members;
19 3. Is not adequately employed, as defined by rule of
20 the agency division;
21 4. Has had, or would have, difficulty in securing
22 adequate employment; and
23 5. Has been dependent on the income of another family
24 member but is no longer supported by such income, or has been
25 dependent on federal assistance.

26 (3) AGENCY POWERS AND DUTIES.--

27 (a) The agency, under plans established by Workforce
28 Florida, Inc., shall establish, or contract for the
29 establishment of, programs for displaced homemakers which
30 shall include:
31

1 1. Job counseling, by professionals and peers,
2 specifically designed for a person entering the job market
3 after a number of years as a homemaker.

4 2. Job training and placement services, including:

5 a. Training programs for available jobs in the public
6 and private sectors, taking into account the skills and job
7 experiences of a homemaker and developed by working with
8 public and private employers.

9 b. Assistance in locating available employment for
10 displaced homemakers, some of whom could be employed in
11 existing job training and placement programs.

12 c. Utilization of the services of the state employment
13 service in locating employment opportunities.

14 3. Financial management services providing information
15 and assistance with respect to insurance, including, but not
16 limited to, life, health, home, and automobile insurance, and
17 taxes, estate and probate problems, mortgages, loans, and
18 other related financial matters.

19 4. Educational services, including high school
20 equivalency degree and such other courses as the agency
21 determines would be of interest and benefit to displaced
22 homemakers.

23 5. Outreach and information services with respect to
24 federal and state employment, education, health, and
25 unemployment assistance programs which the agency ~~division~~
26 determines would be of interest and benefit to displaced
27 homemakers.

28

29 Reviser's note.--Amended to conform to the
30 substitution of the term "agency" for the term

31

1 "division" made elsewhere in the section by s.
2 126, ch. 2000-165, Laws of Florida.

3
4 Section 73. Subsection (5) of section 456.025, Florida
5 Statutes, is amended to read:

6 456.025 Fees; receipts; disposition.--

7 (5) All moneys collected by the department from fees
8 or fines or from costs awarded to the agency by a court shall
9 be paid into a trust fund used by the department to implement
10 this chapter. The Legislature shall appropriate funds from
11 this trust fund sufficient to carry out this chapter and the
12 provisions of law with respect to professions regulated by the
13 Division of Medical Quality Assurance within the department
14 and the boards. The department may contract with public and
15 private entities to receive and deposit revenue pursuant to
16 this section. The department shall maintain separate accounts
17 in the trust fund used by the department to implement this
18 chapter for every profession within the department. To the
19 maximum extent possible, the department shall directly charge
20 all expenses to the account of each regulated profession. For
21 the purpose of this subsection, direct charge expenses
22 include, but are not limited to, costs for investigations,
23 examinations, and legal services. For expenses that cannot be
24 charged directly, the department shall provide for the
25 proportionate allocation among the accounts of expenses
26 incurred by the department in the performance of its duties
27 with respect to each regulated profession. The regulation by
28 the department of professions, as defined in this chapter
29 ~~part~~, shall be financed solely from revenue collected by it
30 from fees and other charges and deposited in the Medical
31 Quality Assurance Trust Fund, and all such revenue is hereby

1 appropriated to the department. However, it is legislative
2 intent that each profession shall operate within its
3 anticipated fees. The department may not expend funds from the
4 account of a profession to pay for the expenses incurred on
5 behalf of another profession, except that the Board of Nursing
6 must pay for any costs incurred in the regulation of certified
7 nursing assistants. The department shall maintain adequate
8 records to support its allocation of agency expenses. The
9 department shall provide any board with reasonable access to
10 these records upon request. The department shall provide each
11 board an annual report of revenue and direct and allocated
12 expenses related to the operation of that profession. The
13 board shall use these reports and the department's adopted
14 long-range plan to determine the amount of license fees. A
15 condensed version of this information, with the department's
16 recommendations, shall be included in the annual report to the
17 Legislature prepared under s. 456.026.

18

19 Reviser's note.--Amended to conform to the
20 arrangement of chapter 456, which is not
21 divided into parts.

22

23 Section 74. Paragraph (a) of subsection (1) of section
24 456.039, Florida Statutes, is amended to read:

25 456.039 Designated health care professionals;
26 information required for licensure.--

27 (1) Each person who applies for initial licensure as a
28 physician under chapter 458, chapter 459, chapter 460, or
29 chapter 461, except a person applying for registration
30 pursuant to ss. 458.345 and 459.021, must, at the time of
31 application, and each physician who applies for license

1 renewal under chapter 458, chapter 459, chapter 460, or
2 chapter 461, except a person registered pursuant to ss.
3 458.345 and 459.021, must, in conjunction with the renewal of
4 such license and under procedures adopted by the Department of
5 Health, and in addition to any other information that may be
6 required from the applicant, furnish the following information
7 to the Department of Health:

8 (a)1. The name of each medical school that the
9 applicant has attended, with the dates of attendance and the
10 date of graduation, and a description of all graduate medical
11 education completed by the applicant, excluding any coursework
12 taken to satisfy medical licensure continuing education
13 requirements.

14 2. The name of each hospital at which the applicant
15 has privileges.

16 3. The address at which the applicant will primarily
17 conduct his or her practice.

18 4. Any certification that the applicant has received
19 from a specialty board that is recognized by the board to
20 which the applicant is applying.

21 5. The year that the applicant began practicing
22 medicine.

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

27 7. A description of any criminal offense of which the
28 applicant has been found guilty, regardless of whether
29 adjudication of guilt was withheld, or to which the applicant
30 has pled guilty or nolo contendere. A criminal offense
31 committed in another jurisdiction which would have been a

1 felony or misdemeanor if committed in this state must be
2 reported. If the applicant indicates that a criminal offense
3 is under appeal and submits a copy of the notice for appeal of
4 that criminal offense, the department must state that the
5 criminal offense is under appeal if the criminal offense is
6 reported in the applicant's profile. If the applicant
7 indicates to the department that a criminal offense is under
8 appeal, the applicant must, upon disposition of the appeal,
9 submit to the department a copy of the final written order of
10 disposition.

11 8. A description of any final disciplinary action
12 taken within the previous 10 years against the applicant by
13 the agency regulating the profession that the applicant is or
14 has been licensed to practice, whether in this state or in any
15 other jurisdiction, by a specialty board that is recognized by
16 the American Board of Medical Specialties ~~Specialities~~, the
17 American Osteopathic Association, or a similar national
18 organization, or by a licensed hospital, health maintenance
19 organization, prepaid health clinic, ambulatory surgical
20 center, or nursing home. Disciplinary action includes
21 resignation from or nonrenewal of medical staff membership or
22 the restriction of privileges at a licensed hospital, health
23 maintenance organization, prepaid health clinic, ambulatory
24 surgical center, or nursing home taken in lieu of or in
25 settlement of a pending disciplinary case related to
26 competence or character. If the applicant indicates that the
27 disciplinary action is under appeal and submits a copy of the
28 document initiating an appeal of the disciplinary action, the
29 department must state that the disciplinary action is under
30 appeal if the disciplinary action is reported in the
31 applicant's profile.

1 Reviser's note.--Amended to conform to the
2 correct title of the board.

3
4 Section 75. Paragraph (d) of subsection (2) and
5 subsections (6) and (7) of section 458.3135, Florida Statutes,
6 are amended to read:

7 458.3135 Temporary certificate for visiting physicians
8 to practice in approved cancer centers.--

9 (2) A temporary certificate for practice in an
10 approved cancer center may be issued without examination to an
11 individual who:

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

15 (6) The board shall not issue a temporary certificate
16 for practice in an approved cancer center to any physician who
17 is under investigation in another jurisdiction for an act that
18 would constitute a violation of this chapter or chapter 456
19 ~~455~~ until such time as the investigation is complete and the
20 physician is found innocent of all charges.

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

24
25 Reviser's note.--Paragraph (2)(d) is amended to
26 conform to the redesignation of s. 455.624 as
27 s. 456.072 by s. 90, ch. 2000-160, Laws of
28 Florida. Subsections (6) and (7) are amended to
29 conform to the redesignation of sections
30 comprising part II of chapter 455 as chapter
31 456 by ch. 2000-160. Subsection (7) is further

1 amended to conform to the redesignation of ss.
2 455.565-455.5656 as ss. 456.039 and
3 456.041-456.046 by ss. 66-71, ch. 2000-160; and
4 the enactment of s. 455.56503, renumbered as s.
5 456.0391 by the reviser, by s. 152, ch.
6 2000-318, Laws of Florida.

7
8 Section 76. Subsection (5) of section 458.319, Florida
9 Statutes, is amended to read:

10 458.319 Renewal of license.--

11 (5)(a) Notwithstanding any provision of this chapter
12 or ~~part II~~ of chapter 456 ~~455~~, the requirements for the
13 biennial renewal of the license of any licensee who is a
14 member of the Legislature shall stand continued and extended
15 without the requirement of any filing by such a licensee of
16 any notice or application for renewal with the board or the
17 department and such licensee's license shall be an active
18 status license under this chapter, throughout the period that
19 the licensee is a member of the Legislature and for a period
20 of 60 days after the licensee ceases to be a member of the
21 Legislature.

22 (b) At any time during the licensee's legislative term
23 of office and during the period of 60 days after the licensee
24 ceases to be a member of the Legislature, the licensee may
25 file a completed renewal application that shall consist solely
26 of:

27 1. A license renewal fee of \$250 for each year the
28 licensee's license renewal has been continued and extended
29 pursuant to the terms of this subsection since the last
30 otherwise regularly scheduled biennial renewal year and each
31

1 year during which the renewed license shall be effective until
2 the next regularly scheduled biennial renewal date;

3 2. Documentation of the completion by the licensee of
4 10 hours of continuing medical education credits for each year
5 from the effective date of the last renewed license for the
6 licensee until the year in which the application is filed;

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

10 (c) The department and board may not impose any
11 additional requirements for the renewal of such licenses and,
12 not later than 20 days after receipt of a completed
13 application as specified in paragraph (b), shall renew the
14 active status license of the licensee, effective on and
15 retroactive to the last previous renewal date of the
16 licensee's license. Said license renewal shall be valid until
17 the next regularly scheduled biennial renewal date for said
18 license, and thereafter shall be subject to the biennial
19 requirements for renewal in this chapter and ~~part II of~~
20 chapter 456 ~~455~~.

21
22 Reviser's note.--Paragraphs (5)(a) and (c) are
23 amended to conform to the redesignation of
24 sections comprising part II of chapter 455 as
25 chapter 456 by ch. 2000-160, Laws of Florida.
26 Paragraph (5)(b) is amended to conform to the
27 redesignation of s. 455.565 as s. 456.039 by s.
28 66, ch. 2000-160.

29
30 Section 77. Paragraph (c) of subsection (9) of section
31 460.403, Florida Statutes, is amended to read:

1 460.403 Definitions.--As used in this chapter, the
2 term:
3 (9)
4 (c)1. Chiropractic physicians may adjust, manipulate,
5 or treat the human body by manual, mechanical, electrical, or
6 natural methods; by the use of physical means or
7 physiotherapy, including light, heat, water, or exercise; by
8 the use of acupuncture; or by the administration of foods,
9 food concentrates, food extracts, and items for which a
10 prescription is not required and may apply first aid and
11 hygiene, but chiropractic physicians are expressly prohibited
12 from prescribing or administering to any person any legend
13 drug except as authorized under subparagraph 2., from
14 performing any surgery except as stated herein, or from
15 practicing obstetrics.
16 2. Notwithstanding the prohibition against prescribing
17 and administering legend drugs under subparagraph 1., or s.
18 499.0122 ~~449.0122~~, pursuant to board rule chiropractic
19 physicians may order, store, and administer, for emergency
20 purposes only at the chiropractic physician's office or place
21 of business, prescription medical oxygen and may also order,
22 store, and administer the following topical anesthetics in
23 aerosol form:
24 a. Any solution consisting of 25 percent ethylchloride
25 and 75 percent dichlorodifluoromethane.
26 b. Any solution consisting of 15 percent
27 dichlorodifluoromethane and 85 percent
28 trichloromonofluoromethane.
29
30
31

1 However, this paragraph does not authorize a chiropractic
2 physician to prescribe medical oxygen as defined in chapter
3 499.

4
5 Reviser's note.--Amended to conform to the
6 correct citation of the referenced material; s.
7 449.0122 does not exist.

8
9 Section 78. Section 464.0045, Florida Statutes, is
10 repealed.

11
12 Reviser's note.--The cited section authorizes
13 the Governor to appoint one or more new members
14 of the Board of Nursing added to the board
15 pursuant to ch. 96-274, Laws of Florida, for a
16 period of less than 4 years to achieve
17 staggered terms. Chapter 96-274 took effect May
18 29, 1996.

19
20 Section 79. Effective October 1, 2002, sections
21 467.001, 467.002, 467.004, 467.011, 467.0125, 467.014,
22 467.015, 467.016, 467.017, 467.201, 467.203, 467.205, and
23 467.207, Florida Statutes, are reenacted to read:

24 467.001 Short title.--This chapter shall be known and
25 may be cited as the "Midwifery Practice Act."

26 467.002 Legislative intent.--The Legislature
27 recognizes the need for a person to have the freedom to choose
28 the manner, cost, and setting for giving birth. The
29 Legislature finds that access to prenatal care and delivery
30 services is limited by the inadequate number of providers of
31 such services and that the regulated practice of midwifery may

1 help to reduce this shortage. The Legislature also recognizes
2 the need for the safe and effective delivery of newborn babies
3 and the health, safety, and welfare of their mothers in the
4 delivery process. The Legislature finds that the interests of
5 public health require the regulation of the practice of
6 midwifery in this state for the purpose of protecting the
7 health and welfare of mothers and infants. Therefore, it is
8 unlawful for any person to practice midwifery in this state
9 unless such person is licensed pursuant to the provisions of
10 this chapter or s. 464.012.

11 467.004 Council of Licensed Midwifery.--

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

15 (2) One member of the council shall be a certified
16 nurse midwife. One member of the council shall be a physician
17 who is an obstetrician certified by the American Board of
18 Obstetrics and Gynecology and one family physician certified
19 by the American Board of Family Practice. One member of the
20 council shall be a physician who is a pediatrician certified
21 by the American Board of Pediatrics. Four members of the
22 council shall be licensed midwives. The one remaining member
23 shall be a resident of this state who has never been a
24 licensed midwife and who has no financial interest in the
25 practice of midwifery or in any health care facility, agency,
26 or insurer. The council members shall serve staggered 4-year
27 terms as determined by rule.

28 (3) The council shall:

29 (a) Assist and advise the department in developing
30 rules relating to: training requirements, including core
31 competencies, for persons training to become licensed

1 midwives; the licensure examination; fees; the informed
2 consent form; responsibilities of midwives; emergency care
3 plans; records and reports to be filed by licensed midwives;
4 and other regulatory requirements developed by the department.

5 (b) Assist the department in developing rules to
6 implement s. 467.205, relating to approval of midwifery
7 training programs.

8 (c) Monitor and inform the department on the practice
9 of midwifery in other states and countries by persons who are
10 not nurses.

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

13 (e) Collect and review data regarding licensed
14 midwifery.

15 (f) Recommend changes in the Midwifery Practice Act to
16 the department and the Legislature.

17 (g) Address concerns and problems of practicing
18 licensed midwives in order to promote improved safety in the
19 practice of midwifery.

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

23 467.011 Licensure by examination.--

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

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

30 (3) The department shall issue a license to practice
31 midwifery to an applicant who has graduated from an approved

1 midwifery program and successfully completed the examination,
2 upon payment of the required licensure fee.

3 467.0125 Licensure by endorsement.--

4 (1) The department shall issue a license by
5 endorsement to practice midwifery to an applicant who, upon
6 applying to the department, demonstrates to the department
7 that she or he:

8 (a)1. Holds a valid certificate or diploma from a
9 foreign institution of medicine or midwifery or from a
10 midwifery program offered in another state, bearing the seal
11 of the institution or otherwise authenticated, which renders
12 the individual eligible to practice midwifery in the country
13 or state in which it was issued, provided the requirements
14 therefor are deemed by the department to be substantially
15 equivalent to, or to exceed, those established under this
16 chapter and rules adopted under this chapter, and submits
17 therewith a certified translation of the foreign certificate
18 or diploma; or

19 2. Holds a valid certificate or license to practice
20 midwifery in another state, issued by that state, provided the
21 requirements therefor are deemed by the department to be
22 substantially equivalent to, or to exceed, those established
23 under this chapter and rules adopted under this chapter.

24 (b) Has completed a 4-month prelicensure course
25 conducted by an approved program and has submitted
26 documentation to the department of successful completion. The
27 department shall determine by rule the content of the
28 prelicensure course.

29 (c) Has successfully passed the licensed midwifery
30 examination.

31

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

5 (a) The Department of Health shall determine the areas
6 of critical need, and the midwife so certified shall practice
7 only in those specific areas, under the auspices of a
8 physician licensed pursuant to chapter 458 or chapter 459, a
9 certified nurse midwife licensed pursuant to part I of chapter
10 464, or a midwife licensed under this chapter, who has a
11 minimum of 3 years' professional experience. Such areas shall
12 include, but not be limited to, health professional shortage
13 areas designated by the United States Department of Health and
14 Human Services.

15 (b) A temporary certificate issued under this section
16 shall be valid only as long as an area for which it is issued
17 remains an area of critical need, but no longer than 2 years,
18 and shall not be renewable.

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

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

27 (e) The department shall review the practice under a
28 temporary certificate at least annually to ascertain that the
29 minimum requirements of the midwifery rules promulgated under
30 this chapter are being met. If it is determined that the
31

1 minimum requirements are not being met, the department shall
2 immediately revoke the temporary certificate.

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

6 467.014 Financial responsibility.--A licensed midwife
7 shall include in the informed consent plan presented to the
8 parents the status of the midwife's malpractice insurance,
9 including the amount of malpractice insurance, if any.

10 467.015 Responsibilities of the midwife.--

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

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

17 (b) If the patient is delivering at home, the home is
18 safe and hygienic and meets standards set forth by the
19 department.

20 (2) A midwife may provide collaborative prenatal and
21 postpartal care to pregnant women not at low risk in their
22 pregnancy, labor, and delivery, within a written protocol of a
23 physician currently licensed under chapter 458 or chapter 459,
24 which physician shall maintain supervision for directing the
25 specific course of medical treatment. The department shall by
26 rule develop guidelines for the identification of high-risk
27 pregnancies.

28 (3) A midwife licensed under this chapter may
29 administer prophylactic ophthalmic medication, oxygen,
30 postpartum oxytocin, vitamin K, rho immune globulin (human),
31 and local anesthetic pursuant to a prescription issued by a

1 practitioner licensed under chapter 458 or chapter 459, and
2 may administer such other medicinal drugs as prescribed by
3 such practitioner. Any such prescription for medicinal drugs
4 shall be in a form that complies with chapter 499 and shall be
5 dispensed in a pharmacy permitted under chapter 465 by a
6 pharmacist licensed under chapter 465.

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

11 (5) The midwife shall:

12 (a) Prepare a written plan of action with the family
13 to ensure continuity of medical care throughout labor and
14 delivery and to provide for immediate medical care if an
15 emergency arises. The family should have specific plans for
16 medical care throughout the prenatal, intrapartal, and
17 postpartal periods.

18 (b) Instruct the patient and family regarding the
19 preparation of the environment and ensure availability of
20 equipment and supplies needed for delivery and infant care, if
21 a home birth is planned.

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

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

26 (6) The midwife shall determine the progress of labor
27 and, when birth is imminent, shall be immediately available
28 until delivery is accomplished. During labor and delivery,
29 the midwife shall comply with rules adopted by the department
30 pursuant to this chapter, which shall include rules that
31 govern:

- 1 (a) Maintaining a safe and hygienic environment;
- 2 (b) Monitoring the progress of labor and the status of
3 the fetus;
- 4 (c) Recognizing early signs of distress or
5 complications; and
- 6 (d) Enacting the written emergency plan when
7 indicated.
- 8 (7)(a) The midwife shall remain with the postpartal
9 mother until the conditions of the mother and the neonate are
10 stabilized.
- 11 (b) The midwife shall instill into each eye of the
12 newborn infant a prophylactic in accordance with s. 383.04.
- 13 467.016 Informed consent.--The department shall
14 develop a uniform client informed-consent form to be used by
15 the midwife to inform the client of the qualifications of a
16 licensed midwife and the nature and risk of the procedures to
17 be used by a midwife and to obtain the client's consent for
18 the provision of midwifery services.
- 19 467.017 Emergency care plan; immunity.--
- 20 (1) Every licensed midwife shall develop a written
21 plan for the appropriate delivery of emergency care. A copy
22 of the plan shall accompany any application for license
23 issuance or renewal. The plan shall address the following:
- 24 (a) Consultation with other health care providers.
- 25 (b) Emergency transfer.
- 26 (c) Access to neonatal intensive care units and
27 obstetrical units or other patient care areas.
- 28 (2) Any physician licensed under chapter 458 or
29 chapter 459, or any certified nurse midwife, or any hospital
30 licensed under chapter 395, or any osteopathic hospital,
31 providing medical care or treatment to a woman or infant due

1 to an emergency arising during delivery or birth as a
2 consequence of the care received by a midwife licensed under
3 chapter 467 shall not be held liable for any civil damages as
4 a result of such medical care or treatment unless such damages
5 result from providing, or failing to provide, medical care or
6 treatment under circumstances demonstrating a reckless
7 disregard for the consequences so as to affect the life or
8 health of another.

9 467.201 Violations and penalties.--Each of the
10 following acts constitutes a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084:

13 (1) Practicing midwifery, unless holding an active
14 license to do so.

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

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

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

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

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

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

29 467.203 Disciplinary actions; penalties.--

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

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

4 (b) Having a license to practice midwifery revoked,
5 suspended, or otherwise acted against, including being denied
6 licensure, by the licensing authority of another state,
7 territory, or country.

8 (c) Being convicted or found guilty, regardless of
9 adjudication, in any jurisdiction of a crime which directly
10 relates to the practice of midwifery or to the ability to
11 practice midwifery. A plea of nolo contendere shall be
12 considered a conviction for purposes of this provision.

13 (d) Making or filing a false report or record, which
14 the licensee knows to be false; intentionally or negligently
15 failing to file a report or record required by state or
16 federal law; or willfully impeding or obstructing such filing
17 or inducing another to do so. Such reports or records shall
18 include only those which are signed in the midwife's capacity
19 as a licensed midwife.

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

21 (f) Engaging in unprofessional conduct, which
22 includes, but is not limited to, any departure from, or the
23 failure to conform to, the standards of practice of midwifery
24 as established by the department, in which case actual injury
25 need not be established.

26 (g) Being unable to practice midwifery with reasonable
27 skill and safety to patients by reason of illness;
28 drunkenness; or use of drugs, narcotics, chemicals, or other
29 materials or as a result of any mental or physical condition.
30 A midwife affected under this paragraph shall, at reasonable
31 intervals, be afforded an opportunity to demonstrate that he

1 or she can resume the competent practice of midwifery with
2 reasonable skill and safety.

3 (h) Failing to report to the department any person who
4 the licensee knows is in violation of this chapter or of the
5 rules of the department.

6 (i) Willfully or repeatedly violating any provision of
7 this chapter, any rule of the department, or any lawful order
8 of the department previously entered in a disciplinary
9 proceeding or failing to comply with a lawfully issued
10 subpoena of the department.

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

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

15 (b) Revocation or suspension of a license.

16 (c) Imposition of an administrative fine not to exceed
17 \$1,000 for each count or separate offense.

18 (d) Issuance of a reprimand.

19 (e) Placement of the midwife on probation for such
20 period of time and subject to such conditions as the
21 department may specify, including requiring the midwife to
22 submit to treatment; undertake further relevant education or
23 training; take an examination; or work under the supervision
24 of another licensed midwife, a physician, or a nurse midwife
25 licensed under part I of chapter 464.

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

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

6 467.205 Approval of midwifery programs.--

7 (1) An organization desiring to conduct an approved
8 program for the education of midwives shall apply to the
9 department and submit such evidence as may be required to show
10 that it complies with s. 467.009 and with the rules of the
11 department. Any accredited or state-licensed institution of
12 higher learning, public or private, may provide midwifery
13 education and training.

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

19 (3) The department shall survey each organization
20 applying for approval. If the department is satisfied that
21 the program meets the requirements of s. 467.009 and rules
22 adopted pursuant to that section, it shall approve the
23 program.

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

27 (5) If the department finds that an approved program
28 no longer meets the required standards, it may place the
29 program on probationary status until such time as the
30 standards are restored. If a program fails to correct these
31 conditions within a specified period of time, the department

1 may rescind the approval. Any program having its approval
2 rescinded shall have the right to reapply.

3 (6) Provisional approval of a new program may be
4 granted pending the licensure results of the first graduating
5 class.

6 467.207 Exceptions.--No provision of this chapter
7 shall be construed to prohibit:

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

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

13 (3) Assistance by any person in the case of an
14 emergency.

15
16 Reviser's note.--Reenacted to conform to the
17 repeal of the s. 11.61 repeal of ss. 467.001,
18 467.002, 467.004, 467.011, 467.0125,
19 467.014-467.017, and 467.201-467.207 by s. 4,
20 ch. 91-429, Laws of Florida, and the
21 confirmation of that repeal by s. 33, ch.
22 96-318, Laws of Florida. Section 467.004 is
23 also reenacted to conform to the repeal of the
24 s. 11.611 review of the Council of Licensed
25 Midwifery as provided by s. 20, ch. 92-179,
26 Laws of Florida. Section 5, ch. 91-429,
27 repealed s. 11.611, and s. 33, ch. 96-318,
28 confirmed the repeal of s. 11.611.

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1 Section 80. Paragraph (b) of subsection (3) of section
2 468.354, Florida Statutes, as amended by section 178 of
3 chapter 99-397, Laws of Florida, is reenacted to read:

4 468.354 Board of Respiratory Care; organization;
5 function.--

6 (3)

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

10 1. Two members shall be appointed for terms of 2
11 years.

12 2. Two members shall be appointed for terms of 3
13 years.

14 3. Three members shall be appointed for terms of 4
15 years.

16
17 Reviser's note.--Reenacted to confirm the
18 continued existence of the paragraph despite
19 the repeal by s. 57, ch. 99-5, Laws of Florida,
20 a reviser's bill. Section 178, ch. 99-397, Laws
21 of Florida, amended paragraph (3)(b) to require
22 that, in order to achieve staggered terms,
23 within 120 days after July 1, 1999, the
24 Governor appoint board members for terms of
25 office ranging from 2 to 4 years; prior to
26 amendment, the appointments were to be made
27 within 120 days after October 1, 1984.

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