

By the Committee on Health Regulation and Representatives
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Ritter, Harrell, Wishner, Siplin and Rubio

1 A bill to be entitled
2 An act relating to health regulation;
3 transferring to the Department of Health the
4 powers, duties, functions, and assets that
5 relate to the consumer complaint services,
6 investigations, and prosecutorial services
7 performed by the Agency for Health Care
8 Administration under contract with the
9 department; amending s. 20.43, F.S.; deleting
10 the provision authorizing the department to
11 enter into such contract with the agency, to
12 conform; updating a reference to provide the
13 name of a regulatory board under the Division
14 of Medical Quality Assurance; amending s.
15 456.073, F.S.; revising procedures and
16 timeframes for formal hearings of health care
17 practitioner disciplinary cases; revising the
18 charges and manner of charging for disciplinary
19 hearings; providing fees; requiring a joint
20 audit of hearings and their billing formulas
21 and a report to the Legislature; amending s.
22 456.076, F.S.; requiring each impaired
23 practitioner to pay a portion of the cost of
24 the consultant and impaired practitioner
25 program and the full cost of the required
26 treatment program or plan; providing certain
27 exceptions; repealing s. 456.047, F.S., to
28 terminate the standardized credentialing
29 program for health care practitioners;
30 prohibiting the refund of moneys collected
31 through the credentialing program; amending ss.

1 456.039, 456.0391, 456.072, and 456.077, F.S.;
2 removing references, to conform; amending s.
3 458.309, F.S.; requiring accreditation of
4 physician offices in which surgery is
5 performed; amending s. 459.005, F.S.; requiring
6 accreditation of osteopathic physician offices
7 in which surgery is performed; amending s.
8 456.004, F.S., relating to powers and duties of
9 the department; requiring performance measures
10 for certain entities; providing procedures for
11 considering board requests to privatize
12 regulatory functions; amending s. 456.009,
13 F.S.; requiring performance measures for
14 certain legal and investigative services and
15 annual review of such services to determine
16 whether such performance measures are being
17 met; amending s. 456.011, F.S.; requiring
18 regulatory board committee meetings, including
19 probable cause panels, to be held
20 electronically unless certain conditions are
21 met; amending s. 456.026, F.S.; requiring
22 inclusion of performance measures for certain
23 entities in the department's annual report to
24 the Legislature; creating s. 458.3093, F.S.;
25 requiring submission of credentials for initial
26 physician licensure to a national licensure
27 verification service; requiring verification of
28 such credentials by that service or an
29 equivalent program; creating s. 459.0053, F.S.;
30 requiring submission of credentials for initial
31 osteopathic physician licensure to a national

1 licensure verification service; requiring
2 verification of such credentials by that
3 service, a specified association, or an
4 equivalent program; amending ss. 458.331,
5 459.015, and 627.912, F.S.; raising the
6 malpractice closed claims reporting requirement
7 amount; amending s. 456.073, F.S.; requiring
8 health care practitioner licensees to pay the
9 actual costs of investigation and prosecution
10 under certain circumstances; requiring cases in
11 which no probable cause has been found to be
12 closed within a specified period of time;
13 requiring a study of the field office structure
14 and organization of the Agency for Health Care
15 Administration and a report to the Legislature;
16 amending s. 456.025, F.S.; eliminating certain
17 restrictions on the setting of licensure
18 renewal fees for health care practitioners;
19 creating s. 456.0165, F.S.; restricting the
20 costs that may be charged by educational
21 institutions hosting health care practitioner
22 licensure examinations; requiring health care
23 practitioner licensure and licensure renewal
24 fees to be set at the statutory fee cap or at
25 the level of actual regulatory costs, whichever
26 is less; amending s. 468.301, F.S.; revising
27 the definition of "direct supervision"
28 applicable to the regulation of radiologic
29 technology; amending s. 468.302, F.S.;
30 authorizing certified nuclear medicine
31 technologists to administer X radiation from

1 certain devices under certain circumstances;
2 exempting certain persons from radiologic
3 technologist certification and providing
4 certain training requirements for such
5 exemption; amending s. 468.352, F.S.; revising
6 and providing definitions applicable to the
7 regulation of respiratory therapy; amending s.
8 468.355, F.S.; revising provisions relating to
9 respiratory therapy licensure and testing
10 requirements; amending s. 468.368, F.S.;
11 revising exemptions from respiratory therapy
12 licensure requirements; repealing s. 468.356,
13 F.S., relating to the approval of educational
14 programs; repealing s. 468.357, F.S., relating
15 to licensure by examination; requiring
16 applications for health care practitioner
17 licensure and licensure renewal to be submitted
18 electronically beginning July 1, 2003;
19 directing the Division of Statutory Revision to
20 annually submit reviser's bills to adjust the
21 statutory fee caps applicable to regulation of
22 health care practitioners; renumbering ss.
23 381.0602, 381.6021, 381.6022, 381.6023,
24 381.6024, and 381.6026, F.S., and renumbering
25 and amending ss. 381.60225 and 381.6025, F.S.,
26 to move provisions relating to organ and tissue
27 procurement, donation, and transplantation to
28 part V, ch. 765, F.S., relating to anatomical
29 gifts; revising cross references, to conform;
30 amending ss. 395.2050, 409.815, 765.5216, and
31 765.522, F.S.; revising cross references, to

1 conform; creating s. 765.539, F.S.; prohibiting
2 cadaveric organ and tissue procurement
3 organizations from pooling human cells or
4 tissues; providing effective dates.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. (1) Effective July 1, 2002, all powers,
9 duties, functions, records, personnel, property, and
10 unexpended balances of appropriations, allocations, and other
11 funds of the Agency for Health Care Administration that relate
12 to consumer complaint services, investigations, and
13 prosecutorial services currently provided by the Agency for
14 Health Care Administration under a contract with the
15 Department of Health are transferred to the Department of
16 Health by a type two transfer, as defined in s. 20.06(2),
17 Florida Statutes. This transfer of funds shall include all
18 advance payments made from the Medical Quality Assurance Trust
19 Fund to the Agency for Health Care Administration.

20 (2)(a) Effective July 1, 2002, 281 full-time
21 equivalent positions are eliminated from the Agency for Health
22 Care Administration's total number of authorized positions.
23 Effective July 1, 2002, 273 full-time equivalent positions are
24 authorized for the Department of Health, to be added to the
25 department's total number of authorized positions. Any such
26 position transferred to the Department of Health that remains
27 unfilled 90 days after the transfer shall be eliminated.

28 (b) All records, personnel, and funds of the consumer
29 complaint and investigative services units of the agency are
30 transferred and assigned to the Division of Medical Quality
31 Assurance of the Department of Health.

1 (c) All records, personnel, and funds of the health
2 care practitioner prosecutorial unit of the agency are
3 transferred and assigned to the Office of the General Counsel
4 of the Department of Health.

5 (3) The Department of Health is deemed the successor
6 in interest in all legal proceedings and contracts currently
7 involving the Agency for Health Care Administration and
8 relating to health care practitioner regulation. Except as
9 provided herein, no legal proceeding shall be dismissed, nor
10 any contract terminated, on the basis of this type two
11 transfer. The interagency agreement between the Department of
12 Health and the Agency for Health Care Administration shall
13 terminate on June 30, 2002.

14 Section 2. Paragraph (g) of subsection (3) of section
15 20.43, Florida Statutes, is amended to read:

16 20.43 Department of Health.--There is created a
17 Department of Health.

18 (3) The following divisions of the Department of
19 Health are established:

20 (g) Division of Medical Quality Assurance, which is
21 responsible for the following boards and professions
22 established within the division:

23 1. The Board of Acupuncture, created under chapter
24 457.

25 2. The Board of Medicine, created under chapter 458.

26 3. The Board of Osteopathic Medicine, created under
27 chapter 459.

28 4. The Board of Chiropractic Medicine, created under
29 chapter 460.

30 5. The Board of Podiatric Medicine, created under
31 chapter 461.

- 1 6. Naturopathy, as provided under chapter 462.
- 2 7. The Board of Optometry, created under chapter 463.
- 3 8. The Board of Nursing, created under part I of
- 4 chapter 464.
- 5 9. Nursing assistants, as provided under part II of
- 6 chapter 464.
- 7 10. The Board of Pharmacy, created under chapter 465.
- 8 11. The Board of Dentistry, created under chapter 466.
- 9 12. Midwifery, as provided under chapter 467.
- 10 13. The Board of Speech-Language Pathology and
- 11 Audiology, created under part I of chapter 468.
- 12 14. The Board of Nursing Home Administrators, created
- 13 under part II of chapter 468.
- 14 15. The Board of Occupational Therapy, created under
- 15 part III of chapter 468.
- 16 16. The Board of Respiratory ~~Care therapy~~, as created
- 17 ~~provided~~ under part V of chapter 468.
- 18 17. Dietetics and nutrition practice, as provided
- 19 under part X of chapter 468.
- 20 18. The Board of Athletic Training, created under part
- 21 XIII of chapter 468.
- 22 19. The Board of Orthotists and Prosthetists, created
- 23 under part XIV of chapter 468.
- 24 20. Electrolysis, as provided under chapter 478.
- 25 21. The Board of Massage Therapy, created under
- 26 chapter 480.
- 27 22. The Board of Clinical Laboratory Personnel,
- 28 created under part III of chapter 483.
- 29 23. Medical physicists, as provided under part IV of
- 30 chapter 483.
- 31

1 24. The Board of Opticianry, created under part I of
2 chapter 484.

3 25. The Board of Hearing Aid Specialists, created
4 under part II of chapter 484.

5 26. The Board of Physical Therapy Practice, created
6 under chapter 486.

7 27. The Board of Psychology, created under chapter
8 490.

9 28. School psychologists, as provided under chapter
10 490.

11 29. The Board of Clinical Social Work, Marriage and
12 Family Therapy, and Mental Health Counseling, created under
13 chapter 491.

14

15 ~~The department may contract with the Agency for Health Care~~
16 ~~Administration who shall provide consumer complaint,~~
17 ~~investigative, and prosecutorial services required by the~~
18 ~~Division of Medical Quality Assurance, councils, or boards, as~~
19 ~~appropriate.~~

20 Section 3. Subsection (5) of section 456.073, Florida
21 Statutes, is amended to read:

22 456.073 Disciplinary proceedings.--Disciplinary
23 proceedings for each board shall be within the jurisdiction of
24 the department.

25 (5)(a) A formal hearing before an administrative law
26 judge from the Division of Administrative Hearings shall be
27 held pursuant to chapter 120 if there are any disputed issues
28 of material fact raised within 45 days after service of the
29 administrative complaint. The administrative law judge shall
30 issue a recommended order pursuant to chapter 120. ~~if any~~
31 ~~party raises an issue of disputed fact during an informal~~

1 ~~hearing, the hearing shall be terminated and a formal hearing~~
2 ~~pursuant to chapter 120 shall be held.~~

3 (b) Notwithstanding s. 120.569(2), the department
4 shall notify the division within 45 days after receipt of a
5 petition or request for a hearing that the department has
6 determined requires a formal hearing before an administrative
7 law judge.

8 (c) The division shall maintain time records for each
9 case it receives. The division shall charge its expenses to
10 the Medical Quality Assurance Trust Fund based on an hourly
11 rate set forth in this paragraph. The costs charged shall
12 include actual travel and copying expenses plus a \$100 hourly
13 fee for the actual time spent by the administrative law judge
14 or hearing officer on the case. There shall be a one-time
15 filing fee per case of \$50. There shall be no charge for
16 hearings cancelled more than 21 days in advance. Hearings
17 cancelled between 3 and 21 days in advance shall be billed for
18 actual expenses incurred, including travel cancellation fees
19 actually incurred. For any formal hearing cancelled less than
20 72 hours before the start of the hearing, actual expenses
21 incurred and a cancellation fee of \$250 shall be billed.

22 Section 4. All payments made after July 1, 2002, by
23 the Department of Health to the Division of Administrative
24 Hearings that are based on a formula in effect prior to that
25 date shall revert to the Department of Health. Effective July
26 1, 2002, the Division of Administrative Hearings shall bill
27 the Department of Health in accordance with s. 456.073(5),
28 Florida Statutes.

29 Section 5. The Office of Program Policy Analysis and
30 Government Accountability and the Auditor General shall
31 conduct a joint audit of all hearings and billings therefor

1 conducted by the Division of Administrative Hearings for all
2 state agencies and nonstate agencies and shall present a
3 report to the President of the Senate and the Speaker of the
4 House of Representatives on or before January 1, 2003, which
5 contains findings and recommendations regarding the manner in
6 which the division charges for its services. The report shall
7 recommend alternative billing formulas.

8 Section 6. Subsection (7) is added to section 456.076,
9 Florida Statutes, to read:

10 456.076 Treatment programs for impaired
11 practitioners.--

12 (7) Each licensee participating in an impaired
13 practitioner program pursuant to this section shall pay a
14 minimum of 40 percent of the costs of the consultant and
15 impaired practitioner program incurred as a result of that
16 licensee, unless the consultant finds the licensee to be
17 financially unable to pay. Payment of these costs shall be a
18 condition of the contract between the impaired practitioner
19 program and the impaired practitioner. Failure to pay the
20 required costs shall be a violation of the contract, unless
21 prior arrangements have been made with the impaired
22 practitioner program. If the licensee has entered the
23 impaired practitioner program as a result of a disciplinary
24 investigation, such payment shall be included in the final
25 order imposing discipline. The remaining costs shall be paid
26 out of the Medical Quality Assurance Trust Fund or other
27 federal, state, or private program funds. Each licensee shall
28 pay the full cost of the approved treatment program or other
29 treatment plan required by the impaired practitioner program,
30 unless private funds are available to assist with such
31 payment.

1 Section 7. Section 456.047, Florida Statutes, is
2 repealed.

3 Section 8. All revenues associated with s. 456.047,
4 Florida Statutes, and collected by the Department of Health on
5 or before July 1, 2002, shall remain in the Medical Quality
6 Assurance Trust Fund, and no refunds shall be given.

7 Section 9. Paragraph (d) of subsection (4) of section
8 456.039, Florida Statutes, is amended to read:

9 456.039 Designated health care professionals;
10 information required for licensure.--

11 (4)

12 (d) Any applicant for initial licensure or renewal of
13 licensure as a health care practitioner who submits to the
14 Department of Health a set of fingerprints or information
15 required for the criminal history check required under this
16 section shall not be required to provide a subsequent set of
17 fingerprints or other duplicate information required for a
18 criminal history check to the Agency for Health Care
19 Administration, the Department of Juvenile Justice, or the
20 Department of Children and Family Services for employment or
21 licensure with such agency or department if the applicant has
22 undergone a criminal history check as a condition of initial
23 licensure or licensure renewal as a health care practitioner
24 with the Department of Health or any of its regulatory boards,
25 notwithstanding any other provision of law to the contrary. In
26 lieu of such duplicate submission, the Agency for Health Care
27 Administration, the Department of Juvenile Justice, and the
28 Department of Children and Family Services shall obtain
29 criminal history information for employment or licensure of
30 health care practitioners by such agency and departments from
31

1 the Department of Health ~~Health's health care practitioner~~
2 ~~credentialing system.~~

3 Section 10. Paragraph (d) of subsection (4) of section
4 456.0391, Florida Statutes, is amended to read:

5 456.0391 Advanced registered nurse practitioners;
6 information required for certification.--

7 (4)

8 (d) Any applicant for initial certification or renewal
9 of certification as an advanced registered nurse practitioner
10 who submits to the Department of Health a set of fingerprints
11 and information required for the criminal history check
12 required under this section shall not be required to provide a
13 subsequent set of fingerprints or other duplicate information
14 required for a criminal history check to the Agency for Health
15 Care Administration, the Department of Juvenile Justice, or
16 the Department of Children and Family Services for employment
17 or licensure with such agency or department, if the applicant
18 has undergone a criminal history check as a condition of
19 initial certification or renewal of certification as an
20 advanced registered nurse practitioner with the Department of
21 Health, notwithstanding any other provision of law to the
22 contrary. In lieu of such duplicate submission, the Agency for
23 Health Care Administration, the Department of Juvenile
24 Justice, and the Department of Children and Family Services
25 shall obtain criminal history information for employment or
26 licensure of persons certified under s. 464.012 by such agency
27 or department from the Department of Health ~~Health's health~~
28 ~~care practitioner credentialing system.~~

29 Section 11. Paragraph (v) of subsection (1) of section
30 456.072, Florida Statutes, is amended to read:

31

1 456.072 Grounds for discipline; penalties;
2 enforcement.--

3 (1) The following acts shall constitute grounds for
4 which the disciplinary actions specified in subsection (2) may
5 be taken:

6 (v) Failing to comply with the requirements for
7 profiling ~~and credentialing~~, including, but not limited to,
8 failing to provide initial information, failing to timely
9 provide updated information, or making misleading, untrue,
10 deceptive, or fraudulent representations on a profile;
11 ~~credentialing~~, or initial or renewal licensure application.

12 Section 12. Subsection (2) of section 456.077, Florida
13 Statutes, is amended to read:

14 456.077 Authority to issue citations.--

15 (2) The board, or the department if there is no board,
16 shall adopt rules designating violations for which a citation
17 may be issued. Such rules shall designate as citation
18 violations those violations for which there is no substantial
19 threat to the public health, safety, and welfare. Violations
20 for which a citation may be issued shall include violations of
21 continuing education requirements; failure to timely pay
22 required fees and fines; failure to comply with the
23 requirements of ss. 381.026 and 381.0261 regarding the
24 dissemination of information regarding patient rights; failure
25 to comply with advertising requirements; failure to timely
26 update practitioner profile ~~and credentialing~~ files; failure
27 to display signs, licenses, and permits; failure to have
28 required reference books available; and all other violations
29 that do not pose a direct and serious threat to the health and
30 safety of the patient.

31

1 Section 13. Subsection (3) of section 458.309, Florida
2 Statutes, is amended to read:

3 458.309 Authority to make rules.--

4 (3) All physicians who perform level 2 procedures
5 lasting more than 5 minutes and all level 3 surgical
6 procedures in an office setting must register the office with
7 the department unless that office is licensed as a facility
8 pursuant to chapter 395. Each office that is required under
9 this subsection to be registered must be ~~The department shall~~
10 ~~inspect the physician's office annually unless the office is~~
11 ~~accredited by a nationally recognized accrediting agency~~
12 approved by the Board of Medicine by rule or an accrediting
13 organization ~~subsequently~~ approved by the Board of Medicine by
14 rule. Each office registered but not accredited as required
15 by this subsection must achieve full and unconditional
16 accreditation no later than July 1, 2003, and must maintain
17 unconditional accreditation as long as procedures described in
18 this subsection that require the office to be registered and
19 accredited are performed. Accreditation reports shall be
20 submitted to the department. The actual costs for registration
21 and ~~inspection or~~ accreditation shall be paid by the person
22 seeking to register and operate the office setting in which
23 office surgery is performed. The board may adopt rules
24 pursuant to ss. 120.536(1) and 120.54 to implement this
25 subsection.

26 Section 14. Subsection (2) of section 459.005, Florida
27 Statutes, is amended to read:

28 459.005 Rulemaking authority.--

29 (2) All osteopathic physicians who perform level 2
30 procedures lasting more than 5 minutes and all level 3
31 surgical procedures in an office setting must register the

1 office with the department unless that office is licensed as a
2 facility pursuant to chapter 395. Each office that is
3 required under this subsection to be registered must be ~~The~~
4 ~~department shall inspect the physician's office annually~~
5 ~~unless the office is~~ accredited by a nationally recognized
6 accrediting agency approved by the Board of Medicine or the
7 Board of Osteopathic Medicine by rule or an accrediting
8 organization ~~subsequently~~ approved by the Board of Medicine or
9 the Board of Osteopathic Medicine by rule. Each office
10 registered but not accredited as required by this subsection
11 must achieve full and unconditional accreditation no later
12 than July 1, 2003, and must maintain unconditional
13 accreditation as long as procedures described in this
14 subsection that require the office to be registered and
15 accredited are performed. Accreditation reports shall be
16 submitted to the department. The actual costs for
17 registration ~~and inspection~~ or accreditation shall be paid by
18 the person seeking to register and operate the office setting
19 in which office surgery is performed. The Board of
20 Osteopathic Medicine may adopt rules pursuant to ss.
21 120.536(1) and 120.54 to implement this subsection.

22 Section 15. Subsections (11) and (12) are added to
23 section 456.004, Florida Statutes, to read:

24 456.004 Department; powers and duties.--The
25 department, for the professions under its jurisdiction, shall:

26 (11) Require objective performance measures for all
27 bureaus, units, boards, contracted entities, and board
28 executive directors that reflect the expected quality and
29 quantity of services.

30 (12) Consider all board requests to use private
31 vendors for particular regulatory functions. In considering a

1 board request, the department shall conduct a cost-benefit
2 analysis to determine if the function could be appropriately
3 and successfully performed by a private entity at a lower cost
4 or with improved efficiency. If after reviewing the
5 department's cost-benefit analysis the board desires to
6 contract with a vendor for a particular regulatory function
7 and the board has a positive cash balance, the department
8 shall enter into a contract for the service. The contract
9 shall include objective performance measures that reflect the
10 expected quality and quantity of the service and shall include
11 a provision that terminates the contract if the service falls
12 below expected levels. For purposes of this subsection, a
13 "regulatory function" shall be defined to include licensure,
14 licensure renewal, examination, complaint analysis,
15 investigation, or prosecution.

16 Section 16. Subsection (1) of section 456.009, Florida
17 Statutes, is amended to read:

18 456.009 Legal and investigative services.--

19 (1) The department shall provide board counsel for
20 boards within the department by contracting with the
21 Department of Legal Affairs, by retaining private counsel
22 pursuant to s. 287.059, or by providing department staff
23 counsel. The primary responsibility of board counsel shall be
24 to represent the interests of the citizens of the state. A
25 board shall provide for the periodic review and evaluation of
26 the services provided by its board counsel. Fees and costs of
27 such counsel shall be paid from a trust fund used by the
28 department to implement this chapter, subject to the
29 provisions of s. 456.025. All contracts for independent
30 counsel shall provide for periodic review and evaluation by
31 the board and the department of services provided. All legal

1 and investigative services shall be reviewed by the department
2 annually to determine if such services are meeting the
3 performance measures specified in law and in the contract. All
4 contracts for legal and investigative services must include
5 objective performance measures that reflect the expected
6 quality and quantity of the contracted services.

7 Section 17. Subsection (6) is added to section
8 456.011, Florida Statutes, to read:

9 456.011 Boards; organization; meetings; compensation
10 and travel expenses.--

11 (6) Meetings of board committees, including probable
12 cause panels, shall be conducted electronically unless held
13 concurrently with, or on the day immediately before or after,
14 a regularly scheduled in-person board meeting. However, if a
15 particular committee meeting is expected to last more than 5
16 hours and cannot be held before or after the in-person board
17 meeting, the chair of the committee may request special
18 permission from the director of the Division of Medical
19 Quality Assurance to hold an in-person committee meeting in
20 Tallahassee.

21 Section 18. Subsection (11) is added to section
22 456.026, Florida Statutes, to read:

23 456.026 Annual report concerning finances,
24 administrative complaints, disciplinary actions, and
25 recommendations.--The department is directed to prepare and
26 submit a report to the President of the Senate and the Speaker
27 of the House of Representatives by November 1 of each year. In
28 addition to finances and any other information the Legislature
29 may require, the report shall include statistics and relevant
30 information, profession by profession, detailing:
31

1 (11) The performance measures for all bureaus, units,
2 boards, and contracted entities required by the department to
3 reflect the expected quality and quantity of services, and a
4 description of any effort to improve the performance of such
5 services.

6 Section 19. Section 458.3093, Florida Statutes, is
7 created to read:

8 458.3093 Licensure credentials verification.--All
9 applicants for initial physician licensure pursuant to this
10 chapter must submit their credentials to the Federation of
11 State Medical Boards. Effective January 1, 2003, the board
12 and the department shall only consider applications for
13 initial physician licensure pursuant to this chapter that have
14 been verified by the Federation of State Medical Boards
15 Credentials Verification Service or an equivalent program
16 approved by the board.

17 Section 20. Section 459.0053, Florida Statutes, is
18 created to read:

19 459.0053 Licensure credentials verification.--All
20 applicants for initial osteopathic physician licensure
21 pursuant to this chapter must submit their credentials to the
22 Federation of State Medical Boards. Effective January 1,
23 2003, the board and the department shall only consider
24 applications for initial osteopathic physician licensure
25 pursuant to this chapter that have been verified by the
26 Federation of State Medical Boards Credentials Verification
27 Service, the American Osteopathic Association, or an
28 equivalent program approved by the board.

29 Section 21. Paragraph (t) of subsection (1) of section
30 458.331, Florida Statutes, is amended to read:

31

1 458.331 Grounds for disciplinary action; action by the
2 board and department.--

3 (1) The following acts constitute grounds for denial
4 of a license or disciplinary action, as specified in s.
5 456.072(2):

6 (t) Gross or repeated malpractice or the failure to
7 practice medicine with that level of care, skill, and
8 treatment which is recognized by a reasonably prudent similar
9 physician as being acceptable under similar conditions and
10 circumstances. The board shall give great weight to the
11 provisions of s. 766.102 when enforcing this paragraph. As
12 used in this paragraph, "repeated malpractice" includes, but
13 is not limited to, three or more claims for medical
14 malpractice within the previous 5-year period resulting in
15 indemnities being paid in excess of \$50,000~~\$25,000~~ each to
16 the claimant in a judgment or settlement and which incidents
17 involved negligent conduct by the physician. As used in this
18 paragraph, "gross malpractice" or "the failure to practice
19 medicine with that level of care, skill, and treatment which
20 is recognized by a reasonably prudent similar physician as
21 being acceptable under similar conditions and circumstances,"
22 shall not be construed so as to require more than one
23 instance, event, or act. Nothing in this paragraph shall be
24 construed to require that a physician be incompetent to
25 practice medicine in order to be disciplined pursuant to this
26 paragraph.

27 Section 22. Paragraph (x) of subsection (1) of section
28 459.015, Florida Statutes, is amended to read:

29 459.015 Grounds for disciplinary action; action by the
30 board and department.--

31

1 (1) The following acts constitute grounds for denial
2 of a license or disciplinary action, as specified in s.
3 456.072(2):

4 (x) Gross or repeated malpractice or the failure to
5 practice osteopathic medicine with that level of care, skill,
6 and treatment which is recognized by a reasonably prudent
7 similar osteopathic physician as being acceptable under
8 similar conditions and circumstances. The board shall give
9 great weight to the provisions of s. 766.102 when enforcing
10 this paragraph. As used in this paragraph, "repeated
11 malpractice" includes, but is not limited to, three or more
12 claims for medical malpractice within the previous 5-year
13 period resulting in indemnities being paid in excess of
14 \$50,000~~\$25,000~~ each to the claimant in a judgment or
15 settlement and which incidents involved negligent conduct by
16 the osteopathic physician. As used in this paragraph, "gross
17 malpractice" or "the failure to practice osteopathic medicine
18 with that level of care, skill, and treatment which is
19 recognized by a reasonably prudent similar osteopathic
20 physician as being acceptable under similar conditions and
21 circumstances" shall not be construed so as to require more
22 than one instance, event, or act. Nothing in this paragraph
23 shall be construed to require that an osteopathic physician be
24 incompetent to practice osteopathic medicine in order to be
25 disciplined pursuant to this paragraph. A recommended order
26 by an administrative law judge or a final order of the board
27 finding a violation under this paragraph shall specify whether
28 the licensee was found to have committed "gross malpractice,"
29 "repeated malpractice," or "failure to practice osteopathic
30 medicine with that level of care, skill, and treatment which
31 is recognized as being acceptable under similar conditions and

1 circumstances," or any combination thereof, and any
2 publication by the board shall so specify.

3 Section 23. Subsection (1) of section 627.912, Florida
4 Statutes, is amended to read:

5 627.912 Professional liability claims and actions;
6 reports by insurers.--

7 (1) Each self-insurer authorized under s. 627.357 and
8 each insurer or joint underwriting association providing
9 professional liability insurance to a practitioner of medicine
10 licensed under chapter 458, to a practitioner of osteopathic
11 medicine licensed under chapter 459, to a podiatric physician
12 licensed under chapter 461, to a dentist licensed under
13 chapter 466, to a hospital licensed under chapter 395, to a
14 crisis stabilization unit licensed under part IV of chapter
15 394, to a health maintenance organization certificated under
16 part I of chapter 641, to clinics included in chapter 390, to
17 an ambulatory surgical center as defined in s. 395.002, or to
18 a member of The Florida Bar shall report in duplicate to the
19 Department of Insurance any claim or action for damages for
20 personal injuries claimed to have been caused by error,
21 omission, or negligence in the performance of such insured's
22 professional services or based on a claimed performance of
23 professional services without consent, if the claim resulted
24 in:

25 (a) A final judgment in any amount.

26 (b) A settlement in any amount.

27

28 Reports shall be filed with the Department of Insurance ~~and,~~
29 If the insured party is licensed under chapter 458, chapter
30 459, chapter 461, or chapter 466, with the Department of
31 Health, and the final judgment or settlement was in an amount

1 exceeding \$50,000, the report shall also be filed with the
2 Department of Health. Reports must be filed no later than 30
3 days following the occurrence of any event listed in this
4 subsection ~~paragraph (a) or paragraph (b)~~. The Department of
5 Health shall review each report and determine whether any of
6 the incidents that resulted in the claim potentially involved
7 conduct by the licensee that is subject to disciplinary
8 action, in which case the provisions of s. 456.073 shall
9 apply. The Department of Health, as part of the annual report
10 required by s. 456.026, shall publish annual statistics,
11 without identifying licensees, on the reports it receives,
12 including final action taken on such reports by the Department
13 of Health or the appropriate regulatory board.

14 Section 24. Subsections (14) and (15) are added to
15 section 456.073, Florida Statutes, to read:

16 456.073 Disciplinary proceedings.--Disciplinary
17 proceedings for each board shall be within the jurisdiction of
18 the department.

19 (14) When the probable cause panel determines that
20 probable cause exists that a violation of law occurred but
21 decides to issue a letter of guidance in lieu of finding
22 probable cause as a result of mitigating circumstances, the
23 subject shall be required to pay the actual costs of the
24 investigation and prosecution of the case within 30 days after
25 the execution of the closing order. If the subject fails to
26 pay the costs within 30 days, the case shall be reopened and
27 the department shall file an administrative complaint against
28 the subject based on the underlying case. No additional
29 charges may be added as a result of the subject failing to pay
30 the costs. The issuance of a letter of guidance and the
31 assessment of costs under this subsection shall not be

1 considered discipline, nor shall it be considered a final
2 order of discipline.

3 (15) All cases in which no probable cause is found
4 shall be closed within 14 days following the probable cause
5 panel meeting at which such determination was made. The
6 department shall mail a copy of the closing order to the
7 subject within 14 days after such probable cause panel
8 meeting.

9 Section 25. The Office of Program Policy Analysis and
10 Governmental Accountability shall review the investigative
11 field office structure and organization of the Agency for
12 Health Care Administration to determine the feasibility of
13 eliminating all or some field offices, the feasibility of
14 combining field offices, and the feasibility of requiring
15 field inspectors and investigators to telecommute from home in
16 lieu of paying for office space. The review shall include all
17 agency programs that have field offices, including health
18 practitioner regulation even if health practitioner regulation
19 is transferred to the Department of Health. The review shall
20 be completed and a report issued to the President of the
21 Senate and the Speaker of the House of Representatives no
22 later than January 1, 2003.

23 Section 26. Subsection (1) of section 456.025, Florida
24 Statutes, is amended to read:

25 456.025 Fees; receipts; disposition.--

26 (1) It is the intent of the Legislature that all costs
27 of regulating health care professions and practitioners shall
28 be borne solely by licensees and licensure applicants. It is
29 also the intent of the Legislature that fees should be
30 reasonable and not serve as a barrier to licensure. Moreover,
31 it is the intent of the Legislature that the department

1 operate as efficiently as possible and regularly report to the
2 Legislature additional methods to streamline operational
3 costs. Therefore, the boards in consultation with the
4 department, or the department if there is no board, shall, by
5 rule, set renewal fees which:

6 (a) Shall be based on revenue projections prepared
7 using generally accepted accounting procedures;

8 (b) Shall be adequate to cover all expenses relating
9 to that board identified in the department's long-range policy
10 plan, as required by s. 456.005;

11 (c) Shall be reasonable, fair, and not serve as a
12 barrier to licensure;

13 (d) Shall be based on potential earnings from working
14 under the scope of the license;

15 (e) Shall be similar to fees imposed on similar
16 licensure types; and

17 ~~(f) Shall not be more than 10 percent greater than the~~
18 ~~fee imposed for the previous biennium;~~

19 ~~(g) Shall not be more than 10 percent greater than the~~
20 ~~actual cost to regulate that profession for the previous~~
21 ~~biennium; and~~

22 ~~(f)(h)~~ Shall be subject to challenge pursuant to
23 chapter 120.

24 Section 27. Section 456.0165, Florida Statutes, is
25 created to read:

26 456.0165 Examination location.--A college, university,
27 or vocational school in this state may serve as the host
28 school for a health care practitioner licensure examination.
29 However, the college, university, or vocational school may not
30 charge the department for rent, space, reusable equipment,
31 utilities, or janitorial services. The college, university,

1 or vocational school may only charge the department the actual
2 cost of nonreusable supplies provided by the school at the
3 request of the department.

4 Section 28. Effective July 1, 2002, all licensure and
5 licensure renewal fees for professions within the Division of
6 Medical Quality Assurance shall be set at the profession's
7 statutory fee cap or at a level equal to the actual per
8 licensee cost to regulate that profession, whichever is less.

9 Section 29. Subsection (6) of section 468.301, Florida
10 Statutes, is amended to read:

11 468.301 Definitions.--As used in this part, the term:

12 (6) "Direct supervision" means supervision and control
13 by a licensed practitioner who assumes legal liability for the
14 services rendered ~~by the basic X-ray machine operator or~~
15 ~~basic X-ray machine operator-podiatric medicine, which~~
16 Supervision requires the physical presence of the licensed
17 practitioner for consultation and direction ~~of the actions of~~
18 ~~the basic X-ray machine operator or basic X-ray machine~~
19 ~~operator-podiatric medicine.~~

20 Section 30. Paragraph (g) of subsection (3) and
21 paragraph (c) of subsection (6) of section 468.302, Florida
22 Statutes, are amended to read:

23 468.302 Use of radiation; identification of certified
24 persons; limitations; exceptions.--

25 (3)

26 (g) A person holding a certificate as a nuclear
27 medicine technologist may only:

28 1. Conduct in vivo and in vitro measurements of
29 radioactivity and administer radiopharmaceuticals to human
30 beings for diagnostic and therapeutic purposes.

31

1 2. Administer X radiation from a combination nuclear
2 medicine-computed tomography device if that radiation is
3 administered as an integral part of a nuclear medicine
4 procedure that uses an automated computed tomography protocol
5 and the person has received device-specific training on the
6 combination device.

7
8 However, the authority of a nuclear medicine technologist
9 under this paragraph excludes radioimmunoassay and other
10 clinical laboratory testing regulated pursuant to chapter 483.

11 (6) Requirement for certification does not apply to:

12 (c) A person who is a registered nurse licensed under
13 part I of chapter 464, a respiratory therapist licensed under
14 part V of chapter 468, or a cardiovascular technologist or
15 cardiopulmonary technologist with active certification as a
16 registered cardiovascular invasive specialist from a
17 nationally recognized credentialing organization, or future
18 equivalent should such credentialing be subsequently modified,
19 each of whom is trained and skilled in invasive cardiovascular
20 cardiopulmonary technology, including the radiologic
21 technology duties associated with such procedures, and who
22 provides invasive cardiovascular ~~cardiopulmonary~~ technology
23 services at the direction, and under the direct supervision,
24 of a licensed practitioner. A person requesting this exemption
25 must have successfully completed a didactic and clinical
26 training program in the following areas before performing
27 radiologic technology duties under the direct supervision of a
28 licensed practitioner:

29 1. Principles of X-ray production and equipment
30 operation.

31 2. Biological effects of radiation.

- 1 3. Radiation exposure and monitoring.
2 4. Radiation safety and protection.
3 5. Evaluation of radiographic equipment and
4 accessories.
5 6. Radiographic exposure and technique factors.
6 7. Film processing.
7 8. Image quality assurance.
8 9. Patient positioning.
9 10. Administration and complications of contrast
10 media.
11 11. Specific fluoroscopic and digital X-ray imaging
12 procedures related to invasive cardiovascular technology.
13 Section 31. Section 468.352, Florida Statutes, is
14 amended to read:
15 (Substantial rewording of section. See
16 s. 468.352, F.S., for present text.)
17 468.352 Definitions.--As used in this part the term:
18 (1) "Board" means the Board of Respiratory Care.
19 (2) "Certified respiratory therapist" means any person
20 licensed pursuant to this part who is certified by the
21 National Board for Respiratory Care or its successor, who is
22 employed to deliver respiratory care services, under the order
23 of a physician licensed pursuant to chapter 458 or chapter
24 459, in accordance with protocols established by a hospital or
25 other health care provider or the board, and who functions in
26 situations of unsupervised patient contact requiring
27 individual judgment.
28 (3) "Critical care" means care given to a patient in
29 any setting involving a life-threatening emergency.
30 (4) "Department" means the Department of Health.
31

1 (5) "Direct supervision" means practicing under the
2 direction of a licensed, registered, or certified respiratory
3 therapist who is physically on the premises and readily
4 available, as defined by the board.

5 (6) "Physician supervision" means supervision and
6 control by a physician licensed under chapter 458 or chapter
7 459 who assumes the legal liability for the services rendered
8 by the personnel employed in his or her office. Except in the
9 case of an emergency, physician supervision requires the easy
10 availability of the physician within the office or the
11 physical presence of the physician for consultation and
12 direction of the actions of the persons who deliver
13 respiratory care services.

14 (7) "Practice of respiratory care" or "respiratory
15 therapy" means the allied health specialty associated with the
16 cardiopulmonary system that is practiced under the orders of a
17 physician licensed under chapter 458 or chapter 459 and in
18 accordance with protocols, policies, and procedures
19 established by a hospital or other health care provider or the
20 board, including the assessment, diagnostic evaluation,
21 treatment, management, control, rehabilitation, education, and
22 care of patients.

23 (8) "Registered respiratory therapist" means any
24 person licensed under this part who is registered by the
25 National Board for Respiratory Care or its successor, and who
26 is employed to deliver respiratory care services under the
27 order of a physician licensed under chapter 458 or chapter
28 459, in accordance with protocols established by a hospital or
29 other health care provider or the board, and who functions in
30 situations of unsupervised patient contact requiring
31 individual judgment.

1 (9) "Respiratory care practitioner" means any person
2 licensed under this part who is employed to deliver
3 respiratory care services, under direct supervision, pursuant
4 to the order of a physician licensed under chapter 458 or
5 chapter 459.

6 (10) "Respiratory care services" includes:

7 (a) Evaluation and disease management.

8 (b) Diagnostic and therapeutic use of respiratory
9 equipment, devices, or medical gas.

10 (c) Administration of drugs, as duly ordered or
11 prescribed by a physician licensed under chapter 458 or
12 chapter 459 and in accordance with protocols, policies, and
13 procedures established by a hospital or other health care
14 provider or the board.

15 (d) Initiation, management, and maintenance of
16 equipment to assist and support ventilation and respiration.

17 (e) Diagnostic procedures, research, and therapeutic
18 treatment and procedures, including measurement of ventilatory
19 volumes, pressures, and flows; specimen collection and
20 analysis of blood for gas transport and acid/base
21 determinations; pulmonary-function testing; and other related
22 physiological monitoring of cardiopulmonary systems.

23 (f) Cardiopulmonary rehabilitation.

24 (g) Cardiopulmonary resuscitation, advanced cardiac
25 life support, neonatal resuscitation, and pediatric advanced
26 life support, or equivalent functions.

27 (h) Insertion and maintenance of artificial airways
28 and intravascular catheters.

29 (i) Performing sleep-disorder studies.

30 (j) Education of patients, families, the public, or
31 other health care providers, including disease process and

1 management programs and smoking prevention and cessation
2 programs.
3 (k) Initiation and management of hyperbaric oxygen.
4 Section 32. Section 468.355, Florida Statutes, is
5 amended to read:
6 (Substantial rewording of section. See
7 s. 468.355, F.S., for present text.)
8 468.355 Licensure requirements.--To be eligible for
9 licensure by the board, an applicant must be certified as a
10 "Certified Respiratory Therapist" or be registered as a
11 "Registered Respiratory Therapist" by the National Board for
12 Respiratory Care, or its successor.
13 Section 33. Section 468.368, Florida Statutes, is
14 amended to read:
15 (Substantial rewording of section. See
16 s. 468.368, F.S., for present text.)
17 468.368 Exemptions.--This part may not be construed to
18 prevent or restrict the practice, service, or activities of:
19 (1) Any person licensed in this state by any other law
20 from engaging in the profession or occupation for which he or
21 she is licensed.
22 (2) Any legally qualified person in the state or
23 another state or territory who is employed by the United
24 States Government or any agency thereof while such person is
25 discharging his or her official duties.
26 (3) A friend or family member who is providing
27 respiratory care services to an ill person and who does not
28 represent himself or herself to be a respiratory care
29 practitioner or respiratory therapist.
30
31

1 (4) An individual providing respiratory care services
2 in an emergency who does not represent himself or herself as a
3 respiratory care practitioner or respiratory therapist.

4 (5) Any individual employed to deliver, assemble, set
5 up, or test equipment for use in a home, upon the order of a
6 physician licensed pursuant to chapter 458 or chapter 459.
7 This subsection does not, however, authorize the practice of
8 respiratory care without a license.

9 (6) Any individual credentialed by the Board of
10 Registered Polysomnographic Technologists, as a registered
11 polysomnographic technologist, as related to the diagnosis and
12 evaluation of treatment for sleep disorders.

13 (7) Any individual certified or registered as a
14 pulmonary function technologist who is credentialed by the
15 National Board for Respiratory Care from performing
16 cardiopulmonary diagnostic studies.

17 (8) Any student who is enrolled in an accredited
18 respiratory care program approved by the board, while
19 performing respiratory care as an integral part of a required
20 course.

21 (9) The delivery of incidental respiratory care to
22 noninstitutionalized persons by surrogate family members who
23 do not represent themselves as registered or certified
24 respiratory care therapists.

25 (10) Any individual credentialed by the Underseas
26 Hyperbaric Society in hyperbaric medicine or its equivalent as
27 determined by the board, while performing related duties. This
28 subsection does not, however, authorize the practice of
29 respiratory care without a license.

30 Section 34. Sections 468.356 and 468.357, Florida
31 Statutes, are repealed.

1 Section 35. Beginning July 1, 2003, application forms
2 for initial licensure and licensure renewal for the
3 professions regulated by the Department of Health, Division of
4 Medical Quality Assurance, shall be submitted electronically
5 through the World Wide Web. The department shall issue the
6 license or renew a license if the licensee provides
7 satisfactory evidence that all conditions and requirements of
8 licensure or renewal have been met, including, but not limited
9 to, the payment of fees, the completion of required continuing
10 education coursework, and, if applicable, the maintenance of
11 financial responsibility. This section shall not be construed
12 to reduce or eliminate any requirement set forth in chapter
13 456, Florida Statutes, or the applicable practice act.

14 Section 36. Beginning with the 2004 Regular Session of
15 the Legislature, the Division of Statutory Revision shall
16 prepare a reviser's bill for each regular legislative session
17 that proposes to increase by 2.5 percent the statutory fee
18 caps set forth in ss. 456.025, 457.105, 457.107, 458.313,
19 458.3135, 458.3145, 458.317, 458.319, 458.347, 459.0092,
20 459.022, 460.406, 460.407, 460.4165, 460.4166, 461.006,
21 461.007, 462.16, 462.19, 463.0057, 463.006, 463.007, 464.008,
22 464.009, 464.012, 464.019, 465.007, 465.0075, 465.008,
23 465.0125, 465.0126, 465.022, 465.0276, 466.006, 466.007,
24 466.008, 466.013, 466.032, 467.0125, 467.0135, 468.1145,
25 468.1695, 468.1705, 468.1715, 468.1735, 468.221, 468.364,
26 468.508, 468.709, 468.803, 468.806, 478.55, 480.043, 480.044,
27 483.807, 483.901, 484.002, 484.007, 484.008, 484.009,
28 484.0447, 486.041, 486.061, 486.081, 486.085, 486.103,
29 486.106, 486.107, 486.108, 490.005, 490.0051, 490.007,
30 491.0045, 491.0046, 491.005, 491.007, 491.008, 491.0085, and
31

1 491.0145, Florida Statutes, to be effective July 1 of the year
2 in which proposed.

3 Section 37. Sections 381.0602, 381.6021, 381.6022,
4 381.6023, 381.6024, and 381.6026, Florida Statutes, are
5 renumbered as sections 765.53, 765.541, 765.542, 765.544,
6 765.545, and 765.547, Florida Statutes, respectively.

7 Section 38. Section 381.60225, Florida Statutes, is
8 renumbered as section 765.543, Florida Statutes, and
9 subsection (2) of said section is amended to read:

10 765.543 ~~381.60225~~ Background screening.--

11 (2) An organ procurement organization, tissue bank, or
12 eye bank certified by the Agency for Health Care
13 Administration in accordance with ss. 381.6021 and 765.542
14 ~~381.6022~~ is not subject to the requirements of this section if
15 the entity has no direct patient care responsibilities and
16 does not bill patients or insurers directly for services under
17 the Medicare or Medicaid programs, or for privately insured
18 services.

19 Section 39. Section 381.6025, Florida Statutes, is
20 renumbered as section 765.546, Florida Statutes, and amended
21 to read:

22 765.546 ~~381.6025~~ Physician supervision of cadaveric
23 organ and tissue procurement coordinators.--Organ procurement
24 organizations, tissue banks, and eye banks may employ
25 coordinators, who are registered nurses, physician's
26 assistants, or other medically trained personnel who meet the
27 relevant standards for organ procurement organizations, tissue
28 banks, or eye banks as adopted by the Agency for Health Care
29 Administration under s. 765.541 ~~381.6021~~, to assist in the
30 medical management of organ donors or in the surgical
31 procurement of cadaveric organs, tissues, or eyes for

1 transplantation or research. A coordinator who assists in the
2 medical management of organ donors or in the surgical
3 procurement of cadaveric organs, tissues, or eyes for
4 transplantation or research must do so under the direction and
5 supervision of a licensed physician medical director pursuant
6 to rules and guidelines to be adopted by the Agency for Health
7 Care Administration. With the exception of organ procurement
8 surgery, this supervision may be indirect supervision. For
9 purposes of this section, the term "indirect supervision"
10 means that the medical director is responsible for the medical
11 actions of the coordinator, that the coordinator is operating
12 under protocols expressly approved by the medical director,
13 and that the medical director or his or her physician designee
14 is always available, in person or by telephone, to provide
15 medical direction, consultation, and advice in cases of organ,
16 tissue, and eye donation and procurement. Although indirect
17 supervision is authorized under this section, direct physician
18 supervision is to be encouraged when appropriate.

19 Section 40. Subsection (2) of section 395.2050,
20 Florida Statutes, is amended to read:

21 395.2050 Routine inquiry for organ and tissue
22 donation; certification for procurement activities.--

23 (2) Every hospital licensed under this chapter that is
24 engaged in the procurement of organs, tissues, or eyes shall
25 comply with the certification requirements of ss.

26 765.541-765.547 ~~381.6021-381.6026~~.

27 Section 41. Paragraph (e) of subsection (2) of section
28 409.815, Florida Statutes, is amended to read:

29 409.815 Health benefits coverage; limitations.--

30 (2) BENCHMARK BENEFITS.--In order for health benefits
31 coverage to qualify for premium assistance payments for an

1 eligible child under ss. 409.810-409.820, the health benefits
2 coverage, except for coverage under Medicaid and Medikids,
3 must include the following minimum benefits, as medically
4 necessary.

5 (e) Organ transplantation services.--Covered services
6 include pretransplant, transplant, and postdischarge services
7 and treatment of complications after transplantation for
8 transplants deemed necessary and appropriate within the
9 guidelines set by the Organ Transplant Advisory Council under
10 s. 765.53 ~~381.0602~~ or the Bone Marrow Transplant Advisory
11 Panel under s. 627.4236.

12 Section 42. Subsection (2) of section 765.5216,
13 Florida Statutes, is amended to read:

14 765.5216 Organ and tissue donor education panel.--

15 (2) There is created within the Agency for Health Care
16 Administration a statewide organ and tissue donor education
17 panel, consisting of 12 members, to represent the interests of
18 the public with regard to increasing the number of organ and
19 tissue donors within the state. The panel and the Organ and
20 Tissue Procurement and Transplantation Advisory Board
21 established in s. 765.544 ~~381.6023~~ shall jointly develop,
22 subject to the approval of the Agency for Health Care
23 Administration, education initiatives pursuant to s. 732.9215,
24 which the agency shall implement. The membership must be
25 balanced with respect to gender, ethnicity, and other
26 demographic characteristics so that the appointees reflect the
27 diversity of the population of this state. The panel members
28 must include:

29 (a) A representative from the Agency for Health Care
30 Administration, who shall serve as chairperson of the panel.

31

- 1 (b) A representative from a Florida licensed organ
2 procurement organization.
- 3 (c) A representative from a Florida licensed tissue
4 bank.
- 5 (d) A representative from a Florida licensed eye bank.
- 6 (e) A representative from a Florida licensed hospital.
- 7 (f) A representative from the Division of Driver
8 Licenses of the Department of Highway Safety and Motor
9 Vehicles, who possesses experience and knowledge in dealing
10 with the public.
- 11 (g) A representative from the family of an organ,
12 tissue, or eye donor.
- 13 (h) A representative who has been the recipient of a
14 transplanted organ, tissue, or eye, or is a family member of a
15 recipient.
- 16 (i) A representative who is a minority person as
17 defined in s. 381.81.
- 18 (j) A representative from a professional association
19 or public relations or advertising organization.
- 20 (k) A representative from a community service club or
21 organization.
- 22 (l) A representative from the Department of Education.
23 Section 43. Subsection (5) of section 765.522, Florida
24 Statutes, is amended to read:
- 25 765.522 Duty of certain hospital administrators;
26 liability of hospital administrators, organ procurement
27 organizations, eye banks, and tissue banks.--
- 28 (5) There shall be no civil or criminal liability
29 against any organ procurement organization, eye bank, or
30 tissue bank certified under s. 765.542 ~~381.6022~~, or against
31 any hospital or hospital administrator or designee, when

1 complying with the provisions of this part and the rules of
2 the Agency for Health Care Administration or when, in the
3 exercise of reasonable care, a request for organ donation is
4 inappropriate and the gift is not made according to this part
5 and the rules of the Agency for Health Care Administration.

6 Section 44. Section 765.539, Florida Statutes, is
7 created to read:

8 765.539 Organizations engaged in the practice of
9 cadaveric organ and tissue procurement; pooling of cells or
10 tissues prohibited.--Organizations engaged in the practice of
11 cadaveric organ and tissue procurement in this state are
12 prohibited from allowing human cells or tissues from two or
13 more donors to be pooled during retrieval, processing,
14 preservation, or storage. For purposes of this section,
15 "pooled" means placed in physical contact or processed in any
16 way which allows any fluids, cells, or tissues to be
17 commingled in any way between two or more donors.

18 Section 45. Except as otherwise provided herein, this
19 act shall take effect July 1, 2002.

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HOUSE SUMMARY

Transfers to the Department of Health the powers, duties, functions, and assets that relate to the consumer complaint services, investigations, and prosecutorial services performed by the Agency for Health Care Administration under contract with the department.

Revises procedures and timeframes for formal hearings of health care practitioner disciplinary cases. Revises the charges and manner of charging for disciplinary hearings. Provides fees. Requires a joint audit of hearings and their billing formulas and a report to the Legislature.

Requires each impaired practitioner to pay a portion of the cost of the consultant and impaired practitioner program and the full cost of the required treatment program or plan. Provides certain exceptions.

Terminates the standardized credentialing program for health care practitioners and prohibits the refund of moneys collected through the program.

Requires accreditation of physician offices and osteopathic physician offices in which surgery is performed.

Expands powers and duties of the Department of Health to require performance measures for certain entities and to provide procedures for considering board requests to privatize regulatory functions. Requires performance measures for certain legal and investigative services and annual review of such services to determine whether such performance measures are being met. Requires regulatory board committee meetings, including probable cause panels, to be held electronically unless certain conditions are met. Requires inclusion of performance measures for certain entities in the department's annual report to the Legislature.

Requires submission of credentials for initial physician or osteopathic physician licensure to a national licensure verification service. Requires verification of such credentials by that service, a specified association, or an equivalent program.

Raises the malpractice closed claims reporting requirement amount.

Requires health care practitioner licensees to pay the actual costs of investigation and prosecution under

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1 certain circumstances. Requires cases in which no
2 probable cause has been found to be closed within a
3 specified period of time.

4 Requires a study of the field office structure and
5 organization of the Agency for Health Care Administration
6 and a report to the Legislature.

7 Eliminates certain restrictions on the setting of
8 licensure renewal fees for health care practitioners.
9 Restricts the costs which may be charged by educational
10 institutions hosting health care practitioner licensure
11 examinations. Requires health care practitioner
12 licensure and licensure renewal fees to be set at the
13 statutory fee cap or at the level of actual regulatory
14 costs, whichever is less.

15 Revises the definition of "direct supervision" applicable
16 to the regulation of radiologic technology. Authorizes
17 certified nuclear medicine technologists to administer X
18 radiation from certain devices under certain
19 circumstances. Exempts certain persons from radiologic
20 technologist certification and provides certain training
21 requirements for such exemption.

22 Revises and provides definitions applicable to the
23 regulation of respiratory therapy. Revises provisions
24 relating to respiratory therapy licensure and testing
25 requirements. Revises exemptions from respiratory
26 therapy licensure requirements. Repeals provisions
27 relating to the approval of educational programs and
28 licensure by examination.

29 Requires applications for health care practitioner
30 licensure and licensure renewal to be submitted
31 electronically beginning July 1, 2003. Directs the
Division of Statutory Revision to annually submit
reviser's bills to adjust the statutory fee caps
applicable to regulation of health care practitioners.

Moves provisions relating to organ and tissue
procurement, donation, and transplantation from ch. 381,
F.S., relating to public health, to part V, ch. 765,
F.S., relating to anatomical gifts. Prohibits cadaveric
organ and tissue procurement organizations from pooling
human cells or tissues.