

By Senator Sullivan

22-1431-02

See HB

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 a  
10          provision authorizing the department to enter  
11          into such contract with the agency, to conform;  
12          updating a reference to provide the name of a  
13          regulatory board under the Division of Medical  
14          Quality Assurance; amending s. 456.073, F.S.;  
15          revising procedures and timeframes for formal  
16          hearings of health care practitioner  
17          disciplinary cases; revising the charges and  
18          manner of charging for disciplinary hearings;  
19          providing fees; requiring a joint audit of  
20          hearings and their billing formulas and a  
21          report to the Legislature; amending s. 456.076,  
22          F.S.; requiring each impaired practitioner to  
23          pay a portion of the cost of a consultant and  
24          impaired practitioner program and the full cost  
25          of the required treatment program or plan;  
26          providing certain exceptions; repealing s.  
27          456.047, F.S., to terminate the standardized  
28          credentialing program for health care  
29          practitioners; prohibiting the refund of moneys  
30          collected through the credentialing program;  
31          amending ss. 456.039, 456.0391, 456.072, and

1 456.077, F.S.; removing references, to conform;  
2 amending s. 458.309, F.S.; requiring  
3 accreditation of physician offices in which  
4 surgery is performed; amending s. 459.005,  
5 F.S.; requiring accreditation of osteopathic  
6 physician offices in which surgery is  
7 performed; amending s. 456.004, F.S., relating  
8 to powers and duties of the department;  
9 requiring performance measures for certain  
10 entities; providing procedures for considering  
11 board requests to privatize regulatory  
12 functions; amending s. 456.009, F.S.; requiring  
13 performance measures for certain legal and  
14 investigative services and annual review of  
15 such services to determine whether such  
16 performance measures are being met; amending s.  
17 456.011, F.S.; requiring regulatory board  
18 committee meetings, including probable cause  
19 panels, to be held electronically unless  
20 certain conditions are met; amending s.  
21 456.026, F.S.; requiring inclusion of  
22 performance measures for certain entities in  
23 the department's annual report to the  
24 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 that health  
23 care practitioner licensure and licensure  
24 renewal fees be set at the statutory fee cap or  
25 at the level of actual regulatory costs,  
26 whichever is less; amending s. 468.301, F.S.;  
27 revising 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 that  
16 applications for health care practitioner  
17 licensure and licensure renewal 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; conforming cross-references; amending  
30 ss. 395.2050, 409.815, 765.5216, and 765.522,  
31 F.S.; conforming cross-references; creating s.

1           765.539, F.S.; prohibiting cadaveric organ and  
2           tissue procurement organizations from pooling  
3           human cells or tissues; providing effective  
4           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 which  
12 relate 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 section 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 which 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 in this section, no legal proceeding shall be  
10 dismissed, nor any contract terminated, on the basis of this  
11 type two transfer. The interagency agreement between the  
12 Department of Health and the Agency for Health Care  
13 Administration shall 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 which 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 on the case by the  
14 administrative law judge or hearing officer. There shall be a  
15 one-time filing fee per case of \$50. There shall be no charge  
16 for 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 which 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 section  
28 456.073(5), 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 section  
4 456.047, Florida Statutes, and collected by the Department of  
5 Health on or before July 1, 2002, shall remain in the Medical  
6 Quality 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:

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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.

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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 which 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 which require the office to be registered and  
15 accredited are performed. Accreditation reports shall be  
16 submitted to the department. The actual costs for registration  
17 ~~and inspection~~ or accreditation shall be paid by the person  
18 seeking to register and operate the office setting in which  
19 office surgery is performed. The Board of Osteopathic  
20 Medicine may adopt rules pursuant to ss. 120.536(1) and 120.54  
21 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 which 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:

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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 which  
14 have 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 which 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:

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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  
19 regulation is transferred to the Department of Health. The  
20 review shall be completed and a report issued to the President  
21 of the Senate and the Speaker of the House of Representatives  
22 no 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 charge the department only 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  
8 per-licensee cost to regulate that profession, whichever is  
9 less.

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

12 468.301 Definitions.--As used in this part, the term:

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

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

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

26 (3)

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

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

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 for 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 sections 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 is  
9 amended to read:

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

11 (1) Each applicant for certification must comply with  
12 the following requirements:

13 (a) Upon receipt of a completed, signed, and dated  
14 application, the Agency for Health Care Administration shall  
15 require background screening, in accordance with the level 2  
16 standards for screening set forth in chapter 435, of the  
17 managing employee, or other similarly titled individual  
18 responsible for the daily operation of the organization,  
19 agency, or entity, and financial officer, or other similarly  
20 titled individual who is responsible for the financial  
21 operation of the organization, agency, or entity, including  
22 billings for services. The applicant must comply with the  
23 procedures for level 2 background screening as set forth in  
24 chapter 435, as well as the requirements of s. 435.03(3).

25 (b) The Agency for Health Care Administration may  
26 require background screening of any other individual who is an  
27 applicant if the Agency for Health Care Administration has  
28 probable cause to believe that he or she has been convicted of  
29 a crime or has committed any other offense prohibited under  
30 the level 2 standards for screening set forth in chapter 435.

31

1 (c) Proof of compliance with the level 2 background  
2 screening requirements of chapter 435 which has been submitted  
3 within the previous 5 years in compliance with any other  
4 health care licensure requirements of this state is acceptable  
5 in fulfillment of the requirements of paragraph (a).

6 (d) A provisional certification may be granted to the  
7 organization, agency, or entity when each individual required  
8 by this section to undergo background screening has met the  
9 standards for the Department of Law Enforcement background  
10 check, but the agency has not yet received background  
11 screening results from the Federal Bureau of Investigation, or  
12 a request for a disqualification exemption has been submitted  
13 to the agency as set forth in chapter 435, but a response has  
14 not yet been issued. A standard certification may be granted  
15 to the organization, agency, or entity upon the agency's  
16 receipt of a report of the results of the Federal Bureau of  
17 Investigation background screening for each individual  
18 required by this section to undergo background screening which  
19 confirms that all standards have been met, or upon the  
20 granting of a disqualification exemption by the agency as set  
21 forth in chapter 435. Any other person who is required to  
22 undergo level 2 background screening may serve in his or her  
23 capacity pending the agency's receipt of the report from the  
24 Federal Bureau of Investigation. However, the person may not  
25 continue to serve if the report indicates any violation of  
26 background screening standards and a disqualification  
27 exemption has not been requested of and granted by the agency  
28 as set forth in chapter 435.

29 (e) Each applicant must submit to the agency, with its  
30 application, a description and explanation of any exclusions,  
31 permanent suspensions, or terminations of the applicant from

1 the Medicare or Medicaid programs. Proof of compliance with  
2 the requirements for disclosure of ownership and control  
3 interests under the Medicaid or Medicare programs shall be  
4 accepted in lieu of this submission.

5 (f) Each applicant must submit to the agency a  
6 description and explanation of any conviction of an offense  
7 prohibited under the level 2 standards of chapter 435 by a  
8 member of the board of directors of the applicant, its  
9 officers, or any individual owning 5 percent or more of the  
10 applicant. This requirement does not apply to a director of a  
11 not-for-profit corporation or organization if the director  
12 serves solely in a voluntary capacity for the corporation or  
13 organization, does not regularly take part in the day-to-day  
14 operational decisions of the corporation or organization,  
15 receives no remuneration for his or her services on the  
16 corporation or organization's board of directors, and has no  
17 financial interest and has no family members with a financial  
18 interest in the corporation or organization, provided that the  
19 director and the not-for-profit corporation or organization  
20 include in the application a statement affirming that the  
21 director's relationship to the corporation satisfies the  
22 requirements of this paragraph.

23 (g) The agency may not certify any organization,  
24 agency, or entity if any applicant or managing employee has  
25 been found guilty of, regardless of adjudication, or has  
26 entered a plea of nolo contendere or guilty to, any offense  
27 prohibited under the level 2 standards for screening set forth  
28 in chapter 435, unless an exemption from disqualification has  
29 been granted by the agency as set forth in chapter 435.

30 (h) The agency may deny or revoke certification of any  
31 organization, agency, or entity if the applicant:

1           1. Has falsely represented a material fact in the  
2 application required by paragraph (e) or paragraph (f), or has  
3 omitted any material fact from the application required by  
4 paragraph (e) or paragraph (f); or

5           2. Has had prior action taken against the applicant  
6 under the Medicaid or Medicare program as set forth in  
7 paragraph (e).

8           (i) An application for renewal of certification must  
9 contain the information required under paragraphs (e) and (f).

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

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

21           765.546 ~~381.6025~~ Physician supervision of cadaveric  
22 organ and tissue procurement coordinators.--Organ procurement  
23 organizations, tissue banks, and eye banks may employ  
24 coordinators, who are registered nurses, physician's  
25 assistants, or other medically trained personnel who meet the  
26 relevant standards for organ procurement organizations, tissue  
27 banks, or eye banks as adopted by the Agency for Health Care  
28 Administration under s. 765.541 ~~381.6021~~, to assist in the  
29 medical management of organ donors or in the surgical  
30 procurement of cadaveric organs, tissues, or eyes for  
31 transplantation or research. A coordinator who assists in the

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

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

20 395.2050 Routine inquiry for organ and tissue  
21 donation; certification for procurement activities.--

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

25 765.541-765.547 ~~381.6021-381.6026~~.

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

28 409.815 Health benefits coverage; limitations.--

29 (2) BENCHMARK BENEFITS.--In order for health benefits  
30 coverage to qualify for premium assistance payments for an  
31 eligible child under ss. 409.810-409.820, the health benefits

1 coverage, except for coverage under Medicaid and Medikids,  
2 must include the following minimum benefits, as medically  
3 necessary.

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

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

13 765.5216 Organ and tissue donor education panel.--

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

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

30 (b) A representative from a Florida licensed organ  
31 procurement organization.

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

1 exercise of reasonable care, a request for organ donation is  
2 inappropriate and the gift is not made according to this part  
3 and the rules of the Agency for Health Care Administration.

4 Section 44. Section 765.539, Florida Statutes, is  
5 created to read:

6 765.539 Organizations engaged in the practice of  
7 cadaveric organ and tissue procurement; pooling of cells or  
8 tissues prohibited.--Organizations engaged in the practice of  
9 cadaveric organ and tissue procurement in this state are  
10 prohibited from allowing human cells or tissues from two or  
11 more donors to be pooled during retrieval, processing,  
12 preservation, or storage. For purposes of this section,  
13 "pooled" means placed in physical contact or processed in any  
14 way which allows any fluids, cells, or tissues to be  
15 commingled in any way between two or more donors.

16 Section 45. Except as otherwise provided in this act,  
17 this act shall take effect July 1, 2002.

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LEGISLATIVE 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 certain circumstances. Requires cases in which no

1 | probable cause has been found to be closed within a  
2 | specified period of time.

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

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

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

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

28 | Requires applications for health care practitioner  
29 | licensure and licensure renewal to be submitted  
30 | electronically beginning July 1, 2003. Directs the  
31 | 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.