

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Council for Healthy Communities offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Effective upon this act becoming a law, paragraphs (t), (u), and (v) are added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review.--

(3) EXEMPTIONS.--Upon request, the following projects are subject to exemption from the provisions of subsection (1):

(t) For the provision of health services, long-term care hospital services, new construction, or tertiary health services excluding solid organ transplant services, by an existing hospital, provided that the hospital utilizes existing bed capacity and does not exceed the current licensed bed capacity for that facility. Utilizing existing bed capacity, a hospital may offer the exempted services within the hospital's respective health planning district.

1 1. In addition to any other documentation required by
2 the agency, a request for an exemption submitted under this
3 paragraph must certify that the applicant will meet and
4 continuously maintain the minimum licensure requirements
5 governing such programs adopted by the agency pursuant to
6 subparagraph 2.

7 2. The agency shall adopt minimum licensure
8 requirements by rule which govern the operation of health
9 services, long-term care hospital services, and tertiary
10 health services excluding solid organ transplant services,
11 established pursuant to the exemption provided in this
12 paragraph. The rules shall ensure that such programs:

13 a. Perform only services authorized by the exemption
14 and will not provide any other services not authorized by the
15 exemption.

16 b. Maintain sufficient appropriate equipment and
17 health personnel to ensure quality and safety.

18 c. Maintain appropriate times of operation and
19 protocols to ensure availability and appropriate referrals in
20 emergencies.

21 d. Provide a minimum of 10 percent of its services to
22 charity and Medicaid patients each year.

23 e. Establish quality outcome measures that are
24 evidence-based. The performance of quality outcome measures
25 for such programs must be at least at the 50th percentile of
26 state and national outcome measures.

27 f. Be given an opportunity to correct any deficiencies
28 as noted by the agency prior to the expiration of the
29 authorized exemption.

30 3. The exemption provided by this paragraph shall not
31 apply unless the agency determines that the program is in

1 compliance with the requirements of subparagraph 1. and that
2 the program will, after beginning operation, continuously
3 comply with the rules adopted pursuant to subparagraph 2. The
4 agency shall monitor such programs to ensure compliance with
5 the requirements of subparagraph 2.

6 4.a. The exemption for a program shall expire
7 immediately when the agency determines that the program fails
8 to comply with the rules adopted pursuant to sub-subparagraphs
9 2.a., b., and c.

10 b. Beginning 24 months after a program first begins
11 treating patients, the exemption for the program shall expire
12 when the program fails to comply with the rules adopted
13 pursuant to sub-subparagraph 2.d.

14 5. If the exemption for a program expires pursuant to
15 sub-subparagraph 4.a. or sub-subparagraph 4.b., the agency
16 shall not grant an exemption pursuant to this paragraph for a
17 program located at the same hospital until 2 years following
18 the date of the determination by the agency that the program
19 failed to comply with the rules adopted pursuant to
20 subparagraph 2.

21 (u) For the provision of adult open heart services in
22 a hospital. When a clear problem exists in access to needed
23 cardiac services, consideration must be given to creating an
24 exemption. While such needs might be addressed by the changing
25 of the specific need criteria under the certificate-of-need
26 law, the problem of protracted administrative appeals would
27 still remain. The exemption must be based upon objective
28 criteria and address and solve the twin problems of geographic
29 and temporal access. A hospital shall be exempt from the
30 certificate-of-need review for the establishment of an open
31 heart surgery program subject to the following conditions and

1 criteria:

2 1. The applicant must certify it will meet and
3 continuously maintain the minimum licensure requirements
4 adopted by the agency governing adult open heart programs,
5 including the most current guidelines of the American College
6 of Cardiology and American Heart Association Guidelines for
7 Adult Open Heart Programs.

8 2. The applicant must certify it will maintain
9 sufficient appropriate equipment and health personnel to
10 ensure quality and safety.

11 3. The applicant must certify it will maintain
12 appropriate times of operation and protocols to ensure
13 availability and appropriate referrals in the event of
14 emergencies.

15 4. The applicant can demonstrate that it is referring
16 300 or more cardiac patients from the hospital, including the
17 emergency room, per year to a hospital with cardiac services,
18 or that the average wait for transfer for 50 percent or more
19 of the cardiac patients exceeds 4 hours.

20 5. The applicant is a general acute care hospital that
21 is in operation for 3 years or more.

22 6. The applicant is performing more than 500
23 diagnostic cardiac catheterization procedures per year,
24 combined inpatient and outpatient.

25 7. The applicant has a formal agreement with an
26 existing statutory teaching hospital or cardiac program
27 performing 750 open heart cases per year which creates at a
28 minimum an external peer review process. The peer review shall
29 be conducted quarterly the first year of operation and two
30 times a year in the succeeding years until either the program
31 reaches 350 cases per year or demonstrates consistency with

1 state-adopted quality and outcome standards for the service.

2 8. The applicant payor-mix at a minimum reflects the
3 community average for Medicaid, charity care, and self-pay or
4 the applicant must certify that it will provide a minimum of 5
5 percent of Medicaid, charity care, and self-pay to open heart
6 surgery patients.

7 9. If the applicant fails to meet the established
8 criteria for open heart programs or fails to reach 300
9 surgeries per year by the end of year 3, it must show cause
10 why its exemption should not be revoked.

11 (v) For the establishment of a satellite hospital
12 through the relocation of 100 general acute care beds from an
13 existing hospital located in the same district, as defined in
14 s. 408.032(5).

15 Section 2. Subsection (5) is added to section 408.043,
16 Florida Statutes, to read:

17 408.043 Special provisions.--

18 (5) SOLE ACUTE CARE HOSPITAL IN A HIGH GROWTH
19 COUNTY.--Notwithstanding any other provision of law, an acute
20 care hospital licensed under chapter 395 may add up to 180
21 additional beds without agency review, provided such hospital
22 is located in a county that has experienced at least a
23 60-percent growth rate since 1990, is under construction on
24 January 1, 2002, is the sole acute care hospital in the
25 county, and is located such that there is no other acute care
26 hospital within a 10-mile radius of such hospital.

27 Section 3. Section 408.7057, Florida Statutes, is
28 amended to read:

29 408.7057 Statewide provider and health plan managed
30 ~~care organization~~ claim dispute resolution program.--

31 (1) As used in this section, the term:

1 (a) "Agency" means the Agency for Health Care
2 Administration.

3 (b)(a) "Health plan Managed care organization" means a
4 health maintenance organization or a prepaid health clinic
5 certified under chapter 641, a prepaid health plan authorized
6 under s. 409.912, ~~or~~ an exclusive provider organization
7 certified under s. 627.6472, or a major medical expense health
8 insurance policy, as defined in s. 627.643(2)(e), offered by a
9 group or an individual health insurer licensed pursuant to
10 chapter 624, including a preferred provider organization under
11 s. 627.6471.

12 (c)(b) "Resolution organization" means a qualified
13 independent third-party claim-dispute-resolution entity
14 selected by and contracted with the Agency for Health Care
15 Administration.

16 (2)(a) The agency ~~for Health Care Administration~~ shall
17 establish a program by January 1, 2001, to provide assistance
18 to contracted and noncontracted providers and health plans
19 ~~managed care organizations~~ for resolution of claim disputes
20 that are not resolved by the provider and the health plan
21 ~~managed care organization~~. The agency shall contract with a
22 resolution organization to timely review and consider claim
23 disputes submitted by providers and health plans ~~managed care~~
24 ~~organizations~~ and recommend to the agency an appropriate
25 resolution of those disputes. The agency shall establish by
26 rule jurisdictional amounts and methods of aggregation for
27 claim disputes that may be considered by the resolution
28 organization.

29 (b) The resolution organization shall review claim
30 disputes filed by contracted and noncontracted providers and
31 health plans ~~managed care organizations~~ unless the disputed

1 claim:

- 2 1. Is related to interest payment;
- 3 2. Does not meet the jurisdictional amounts or the
- 4 methods of aggregation established by agency rule, as provided
- 5 in paragraph (a);
- 6 3. Is part of an internal grievance in a Medicare
- 7 managed care organization or a reconsideration appeal through
- 8 the Medicare appeals process;
- 9 4. Is related to a health plan that is not regulated
- 10 by the state;
- 11 5. Is part of a Medicaid fair hearing pursued under 42
- 12 C.F.R. ss. 431.220 et seq.;
- 13 6. Is the basis for an action pending in state or
- 14 federal court; or
- 15 7. Is subject to a binding claim-dispute-resolution
- 16 process provided by contract entered into prior to October 1,
- 17 2000, between the provider and the managed care organization.
- 18 (c) Contracts entered into or renewed on or after
- 19 October 1, 2000, may require exhaustion of an internal
- 20 dispute-resolution process as a prerequisite to the submission
- 21 of a claim by a provider or a health plan maintenance
- 22 ~~organization~~ to the resolution organization ~~when the~~
- 23 ~~dispute-resolution program becomes effective.~~
- 24 (d) A contracted or noncontracted provider or health
- 25 plan maintenance organization may not file a claim dispute
- 26 with the resolution organization more than 12 months after a
- 27 final determination has been made on a claim by a health plan
- 28 or provider maintenance organization.
- 29 (e) The resolution organization shall require the
- 30 health plan or provider submitting the claim dispute to submit
- 31 any supporting documentation to the resolution organization

1 within 15 days after receipt by the health plan or provider of
2 a request from the resolution organization for documentation
3 in support of the claim dispute. The resolution organization
4 may extend the time if appropriate. Failure to submit the
5 supporting documentation within such time period shall result
6 in the dismissal of the submitted claim dispute.

7 (f) The resolution organization shall require the
8 respondent in the claim dispute to submit all documentation in
9 support of its position within 15 days after receiving a
10 request from the resolution organization for supporting
11 documentation. The resolution organization may extend the time
12 if appropriate. Failure to submit the supporting documentation
13 within such time period shall result in a default against the
14 health plan or provider. In the event of such a default, the
15 resolution organization shall issue its written recommendation
16 to the agency that a default be entered against the defaulting
17 entity. The written recommendation shall include a
18 recommendation to the agency that the defaulting entity shall
19 pay the entity submitting the claim dispute the full amount of
20 the claim dispute, plus all accrued interest, and shall be
21 considered a nonprevailing party for the purposes of this
22 section.

23 (g)1. If on an ongoing basis during the preceding 12
24 months, the agency has reason to believe that a pattern of
25 noncompliance with s. 627.6131 and s. 641.3155 exists on the
26 part of a particular health plan or provider, the agency shall
27 evaluate the information contained in these cases to determine
28 whether the information evidences a pattern and report its
29 findings, together with substantiating evidence, to the
30 appropriate licensure or certification entity for the health
31 plan or provider.

1 2. In addition, the agency shall prepare an annual
2 report to the Governor and the Legislature by February 1 of
3 each year, enumerating: claims dismissed; defaults issued;
4 and failures to comply with agency final orders issued under
5 this section.

6 (3) The agency shall adopt rules to establish a
7 process to be used by the resolution organization in
8 considering claim disputes submitted by a provider or health
9 plan managed care organization which must include the issuance
10 by the resolution organization of a written recommendation,
11 supported by findings of fact, to the agency within 60 days
12 after the requested information is received by the resolution
13 organization within the timeframes specified by the resolution
14 organization. In no event shall the review time exceed 90 days
15 following receipt of the initial claim dispute submission by
16 the resolution organization ~~receipt of the claim dispute~~
17 ~~submission.~~

18 (4) Within 30 days after receipt of the recommendation
19 of the resolution organization, the agency shall adopt the
20 recommendation as a final order.

21 (5) The agency shall notify within 7 days the
22 appropriate licensure or certification entity whenever there
23 is a violation of a final order issued by the agency pursuant
24 to this section.

25 ~~(6)~~~~(5)~~ The entity that does not prevail in the
26 agency's order must pay a review cost to the review
27 organization, as determined by agency rule. Such rule must
28 provide for an apportionment of the review fee in any case in
29 which both parties prevail in part. If the nonprevailing party
30 fails to pay the ordered review cost within 35 days after the
31 agency's order, the nonpaying party is subject to a penalty of

1 not more than \$500 per day until the penalty is paid.

2 ~~(7)(6)~~ The agency for Health Care Administration may
3 adopt rules to administer this section.

4 Section 4. Subsection (1) of section 626.88, Florida
5 Statutes, is amended to read:

6 626.88 Definitions of "administrator" and "insurer".--

7 (1) For the purposes of this part, an "administrator"
8 is any person who directly or indirectly solicits or effects
9 coverage of, collects charges or premiums from, or adjusts or
10 settles claims on residents of this state in connection with
11 authorized commercial self-insurance funds or with insured or
12 self-insured programs which provide life or health insurance
13 coverage or coverage of any other expenses described in s.
14 624.33(1) or any person who, through a health care risk
15 contract as defined in s. 641.234 with an insurer or health
16 maintenance organization, provides billing and collection
17 services to health insurers and health maintenance
18 organizations on behalf of health care providers, other than
19 any of the following persons:

20 (a) An employer on behalf of such employer's employees
21 or the employees of one or more subsidiary or affiliated
22 corporations of such employer.

23 (b) A union on behalf of its members.

24 (c) An insurance company which is either authorized to
25 transact insurance in this state or is acting as an insurer
26 with respect to a policy lawfully issued and delivered by such
27 company in and pursuant to the laws of a state in which the
28 insurer was authorized to transact an insurance business.

29 (d) A health care services plan, health maintenance
30 organization, professional service plan corporation, or person
31 in the business of providing continuing care, possessing a

1 valid certificate of authority issued by the department, and
2 the sales representatives thereof, if the activities of such
3 entity are limited to the activities permitted under the
4 certificate of authority.

5 (e) An insurance agent licensed in this state whose
6 activities are limited exclusively to the sale of insurance.

7 (f) An adjuster licensed in this state whose
8 activities are limited to the adjustment of claims.

9 (g) A creditor on behalf of such creditor's debtors
10 with respect to insurance covering a debt between the creditor
11 and its debtors.

12 (h) A trust and its trustees, agents, and employees
13 acting pursuant to such trust established in conformity with
14 29 U.S.C. s. 186.

15 (i) A trust exempt from taxation under s. 501(a) of
16 the Internal Revenue Code, a trust satisfying the requirements
17 of ss. 624.438 and 624.439, or any governmental trust as
18 defined in s. 624.33(3), and the trustees and employees acting
19 pursuant to such trust, or a custodian and its agents and
20 employees, including individuals representing the trustees in
21 overseeing the activities of a service company or
22 administrator, acting pursuant to a custodial account which
23 meets the requirements of s. 401(f) of the Internal Revenue
24 Code.

25 (j) A financial institution which is subject to
26 supervision or examination by federal or state authorities or
27 a mortgage lender licensed under chapter 494 who collects and
28 remits premiums to licensed insurance agents or authorized
29 insurers concurrently or in connection with mortgage loan
30 payments.

31 (k) A credit card issuing company which advances for

1 and collects premiums or charges from its credit card holders
2 who have authorized such collection if such company does not
3 adjust or settle claims.

4 (l) A person who adjusts or settles claims in the
5 normal course of such person's practice or employment as an
6 attorney at law and who does not collect charges or premiums
7 in connection with life or health insurance coverage.

8 (m) A person approved by the Division of Workers'
9 Compensation of the Department of Labor and Employment
10 Security who administers only self-insured workers'
11 compensation plans.

12 (n) A service company or service agent and its
13 employees, authorized in accordance with ss. 626.895-626.899,
14 serving only a single employer plan, multiple-employer welfare
15 arrangements, or a combination thereof.

16 (o) Any provider or group practice, as defined in s.
17 456.053, providing services under the scope of the license of
18 the provider or the member of the group practice.

19
20 A person who provides billing and collection services to
21 health insurers and health maintenance organizations on behalf
22 of health care providers shall comply with the provisions of
23 ss. 627.6131, 641.3155, and 641.51(4).

24 Section 5. Section 627.6131, Florida Statutes, is
25 created to read:

26 627.6131 Payment of claims.--

27 (1) The contract shall include the following
28 provision:

29
30 "Time of Payment of Claims: After receiving
31 written proof of loss, the insurer will pay

1 monthly all benefits then due for ... (type of
2 benefit).... Benefits for any other loss
3 covered by this policy will be paid as soon as
4 the insurer receives proper written proof."

5
6 (2) As used in this section, the term "claim" for a
7 noninstitutional provider means a paper or electronic billing
8 instrument submitted to the insurer's designated location that
9 consists of the HCFA 1500 data set, or its successor, that has
10 all mandatory entries for a physician licensed under chapter
11 458, chapter 459, chapter 460, chapter 461, chapter 463, or
12 chapter 490 or any appropriate billing instrument that has all
13 mandatory entries for any other noninstitutional provider. For
14 institutional providers, "claim" means a paper or electronic
15 billing instrument submitted to the insurer's designated
16 location that consists of the UB-92 data set or its successor
17 that has all mandatory entries.

18 (3) All claims for payment, whether electronic or
19 nonelectronic:

20 (a) Are considered received on the date the claim is
21 received by the insurer at its designated claims receipt
22 location.

23 (b) Must be mailed or electronically transferred to an
24 insurer within 9 months after completion of the service and
25 the provider is furnished with the correct name and address of
26 the patient's health insurer.

27 (c) Must not duplicate a claim previously submitted
28 unless it is determined that the original claim was not
29 received or is otherwise lost.

30 (4) For all electronically submitted claims, a health
31 insurer shall:

1 (a) Within 24 hours after the beginning of the next
2 business day after receipt of the claim, provide electronic
3 acknowledgment of the receipt of the claim to the electronic
4 source submitting the claim.

5 (b) Within 20 days after receipt of the claim, pay the
6 claim or notify a provider or designee if a claim is denied or
7 contested. Notice of the insurer's action on the claim and
8 payment of the claim is considered to be made on the date the
9 notice or payment was mailed or electronically transferred.

10 (c)1. Notification of the health insurer's
11 determination of a contested claim must be accompanied by an
12 itemized list of additional information or documents the
13 insurer can reasonably determine are necessary to process the
14 claim.

15 2. A provider must submit the additional information
16 or documentation, as specified on the itemized list, within 35
17 days after receipt of the notification. Failure of a provider
18 to submit by mail or electronically the additional information
19 or documentation requested within 35 days after receipt of the
20 notification may result in denial of the claim.

21 3. A health insurer may not make more than one request
22 for documents under this paragraph in connection with a claim,
23 unless the provider fails to submit all of the requested
24 documents to process the claim or if documents submitted by
25 the provider raise new additional issues not included in the
26 original written itemization, in which case the health insurer
27 may provide the provider with one additional opportunity to
28 submit the additional documents needed to process the claim.
29 In no case may the health insurer request duplicate documents.

30 (d) For purposes of this subsection, electronic means
31 of transmission of claims, notices, documents, forms, and

1 payments shall be used to the greatest extent possible by the
2 health insurer and the provider.

3 (e) A claim must be paid or denied within 90 days
4 after receipt of the claim. Failure to pay or deny a claim
5 within 120 days after receipt of the claim creates an
6 uncontestable obligation to pay the claim.

7 (5) For all nonelectronically submitted claims, a
8 health insurer shall:

9 (a) Effective November 1, 2003, provide acknowledgment
10 of receipt of the claim within 15 days after receipt of the
11 claim to the provider or provide a provider within 15 days
12 after receipt with electronic access to the status of a
13 submitted claim.

14 (b) Within 40 days after receipt of the claim, pay the
15 claim or notify a provider or designee if a claim is denied or
16 contested. Notice of the insurer's action on the claim and
17 payment of the claim is considered to be made on the date the
18 notice or payment was mailed or electronically transferred.

19 (c)1. Notification of the health insurer's
20 determination of a contested claim must be accompanied by an
21 itemized list of additional information or documents the
22 insurer can reasonably determine are necessary to process the
23 claim.

24 2. A provider must submit the additional information
25 or documentation, as specified on the itemized list, within 35
26 days after receipt of the notification. Failure of a provider
27 to submit by mail or electronically the additional information
28 or documentation requested within 35 days after receipt of the
29 notification may result in denial of the claim.

30 3. A health insurer may not make more than one request
31 for documents under this paragraph in connection with a claim

1 unless the provider fails to submit all of the requested
2 documents to process the claim or if documents submitted by
3 the provider raise new additional issues not included in the
4 original written itemization, in which case the health insurer
5 may provide the provider with one additional opportunity to
6 submit the additional documents needed to process the claim.
7 In no case may the health insurer request duplicate documents.

8 (d) For purposes of this subsection, electronic means
9 of transmission of claims, notices, documents, forms, and
10 payments shall be used to the greatest extent possible by the
11 health insurer and the provider.

12 (e) A claim must be paid or denied within 120 days
13 after receipt of the claim. Failure to pay or deny a claim
14 within 140 days after receipt of the claim creates an
15 uncontestable obligation to pay the claim.

16 (6) If a health insurer determines that it has made an
17 overpayment to a provider for services rendered to an insured,
18 the health insurer must make a claim for such overpayment. A
19 health insurer that makes a claim for overpayment to a
20 provider under this section shall give the provider a written
21 or electronic statement specifying the basis for the
22 retroactive denial or payment adjustment. The insurer must
23 identify the claim or claims, or overpayment claim portion
24 thereof, for which a claim for overpayment is submitted.

25 (a) If an overpayment determination is the result of
26 retroactive review or audit of coverage decisions or payment
27 levels not related to fraud, a health insurer shall adhere to
28 the following procedures:

29 1. All claims for overpayment must be submitted to a
30 provider within 30 months after the health insurer's payment
31 of the claim. A provider must pay, deny, or contest the health

1 insurer's claim for overpayment within 40 days after the
2 receipt of the claim. All contested claims for overpayment
3 must be paid or denied within 120 days after receipt of the
4 claim. Failure to pay or deny overpayment and claim within 140
5 days after receipt creates an uncontestable obligation to pay
6 the claim.

7 2. A provider that denies or contests a health
8 insurer's claim for overpayment or any portion of a claim
9 shall notify the health insurer, in writing, within 35 days
10 after the provider receives the claim that the claim for
11 overpayment is contested or denied. The notice that the claim
12 for overpayment is denied or contested must identify the
13 contested portion of the claim and the specific reason for
14 contesting or denying the claim and, if contested, must
15 include a request for additional information. If the health
16 insurer submits additional information, the health insurer
17 must, within 35 days after receipt of the request, mail or
18 electronically transfer the information to the provider. The
19 provider shall pay or deny the claim for overpayment within 45
20 days after receipt of the information. The notice is
21 considered made on the date the notice is mailed or
22 electronically transferred by the provider.

23 3. Failure of a health insurer to respond to a
24 provider's contesting of claim or request for additional
25 information regarding the claim within 35 days after receipt
26 of such notice may result in denial of the claim.

27 4. The health insurer may not reduce payment to the
28 provider for other services unless the provider agrees to the
29 reduction in writing or fails to respond to the health
30 insurer's overpayment claim as required by this paragraph.

31 5. Payment of an overpayment claim is considered made

1 on the date the payment was mailed or electronically
2 transferred. An overdue payment of a claim bears simple
3 interest at the rate of 12 percent per year. Interest on an
4 overdue payment for a claim for an overpayment begins to
5 accrue when the claim should have been paid, denied, or
6 contested.

7 (b) A claim for overpayment shall not be permitted
8 beyond 30 months after the health insurer's payment of a
9 claim, except that claims for overpayment may be sought beyond
10 that time from providers convicted of fraud pursuant to s.
11 817.234.

12 (7) Payment of a claim is considered made on the date
13 the payment was mailed or electronically transferred. An
14 overdue payment of a claim bears simple interest of 12 percent
15 per year. Interest on an overdue payment for a claim or for
16 any portion of a claim begins to accrue when the claim should
17 have been paid, denied, or contested. The interest is payable
18 with the payment of the claim.

19 (8) For all contracts entered into or renewed on or
20 after October 1, 2002, a health insurer's internal dispute
21 resolution process related to a denied claim not under active
22 review by a mediator, arbitrator, or third-party dispute
23 entity must be finalized within 60 days after the receipt of
24 the provider's request for review or appeal.

25 (9) A provider or any representative of a provider,
26 regardless of whether the provider is under contract with the
27 health insurer, may not collect or attempt to collect money
28 from, maintain any action at law against, or report to a
29 credit agency an insured for payment of covered services for
30 which the health insurer contested or denied the provider's
31 claim. This prohibition applies during the pendency of any

1 claim for payment made by the provider to the health insurer
2 for payment of the services or internal dispute resolution
3 process to determine whether the health insurer is liable for
4 the services. For a claim, this pendency applies from the
5 date the claim or a portion of the claim is denied to the date
6 of the completion of the health insurer's internal dispute
7 resolution process, not to exceed 60 days.

8 (10) The provisions of this section may not be waived,
9 voided, or nullified by contract.

10 (11) A health insurer may not retroactively deny a
11 claim because of insured ineligibility more than 1 year after
12 the date of payment of the claim.

13 (12) A health insurer shall pay a contracted primary
14 care or admitting physician, pursuant to such physician's
15 contract, for providing inpatient services in a contracted
16 hospital to an insured if such services are determined by the
17 health insurer to be medically necessary and covered services
18 under the health insurer's contract with the contract holder.

19 (13) Upon written notification by an insured, an
20 insurer shall investigate any claim of improper billing by a
21 physician, hospital, or other health care provider. The
22 insurer shall determine if the insured was properly billed for
23 only those procedures and services that the insured actually
24 received. If the insurer determines that the insured has been
25 improperly billed, the insurer shall notify the insured and
26 the provider of its findings and shall reduce the amount of
27 payment to the provider by the amount determined to be
28 improperly billed. If a reduction is made due to such
29 notification by the insured, the insurer shall pay to the
30 insured 20 percent of the amount of the reduction up to \$500.

31 (14) A permissible error ratio of 5 percent is

1 established for insurer's claims payment violations of s.
2 627.6131(4)(a), (b), (c), and (e) and (5)(a), (b), (c), and
3 (e). If the error ratio of a particular insurer does not
4 exceed the permissible error ratio of 5 percent for an audit
5 period, no fine shall be assessed for the noted claims
6 violations for the audit period. The error ratio shall be
7 determined by dividing the number of claims with violations
8 found on a statistically valid sample of claims for the audit
9 period by the total number of claims in the sample. If the
10 error ratio exceeds the permissible error ratio of 5 percent,
11 a fine may be assessed according to s. 624.4211 for those
12 claims payment violations which exceed the error ratio.
13 Notwithstanding the provisions of this section, the department
14 may fine a health insurer for claims payment violations of s.
15 627.6131(4)(e) and (5)(e) which create an uncontestable
16 obligation to pay the claim. The department shall not fine
17 insurers for violations which the department determines were
18 due to circumstances beyond the insurer's control.

19 (15) This section is applicable only to a major
20 medical expense health insurance policy as defined in s.
21 627.643(2)(e) offered by a group or an individual health
22 insurer licensed pursuant to chapter 624, including a
23 preferred provider policy under s. 627.6471 and an exclusive
24 provider organization under s. 627.6472 or a group or
25 individual insurance contract that only provides direct
26 payments to dentists for enumerated dental services.

27 (16) Notwithstanding s. 627.6131(4)(b), where an
28 electronic pharmacy claim is submitted to a pharmacy benefits
29 manager acting on behalf of a health insurer the pharmacy
30 benefits manager shall, within 30 days of receipt of the
31 claim, pay the claim or notify a provider or designee if a

1 claim is denied or contested. Notice of the insurer's action
2 on the claim and payment of the claim is considered to be made
3 on the date the notice or payment was mailed or electronically
4 transferred.

5 (17) Notwithstanding s. 627.6131(5)(a), effective
6 November 1, 2003, where a nonelectronic pharmacy claim is
7 submitted to a pharmacy benefits manager acting on behalf of a
8 health insurer the pharmacy benefits manager shall provide
9 acknowledgment of receipt of the claim within 30 days after
10 receipt of the claim to the provider or provide a provider
11 within 30 days after receipt with electronic access to the
12 status of a submitted claim.

13 Section 6. Section 627.6135, Florida Statutes, is
14 created to read:

15 627.6135 Treatment authorization; payment of claims.--

16 (1) For purposes of this section, "authorization"
17 consists of any requirement of a provider to obtain prior
18 approval or to provide documentation relating to the necessity
19 of a covered medical treatment or service as a condition for
20 reimbursement for the treatment or service prior to the
21 treatment or service. Each authorization request from a
22 provider must be assigned an identification number by the
23 health insurer.

24 (2) Upon receipt of a request from a provider for
25 authorization, the health insurer shall make a determination
26 within a reasonable time appropriate to medical circumstance
27 indicating whether the treatment or services are authorized.
28 For urgent care requests for which the standard timeframe for
29 the health insurer to make a determination would seriously
30 jeopardize the life or health of an insured or would
31 jeopardize the insured's ability to regain maximum function, a

1 health insurer must notify the provider as to its
2 determination as soon as possible taking into account medical
3 exigencies.

4 (3) Each response to an authorization request must be
5 assigned an identification number. Each authorization provided
6 by a health insurer must include the date of request of
7 authorization, a timeframe of the authorization, length of
8 stay if applicable, identification number of the
9 authorization, place of service, and type of service.

10 (4) A claim for treatment may not be denied if a
11 provider follows the health insurer's authorization procedures
12 and receives authorization for a covered service for an
13 eligible insured unless the provider provided information to
14 the health insurer with the intention to misinform the health
15 insurer.

16 (5) A health insurer's requirements for authorization
17 for medical treatment or services and 30-day advance notice of
18 material change in such requirements must be provided to all
19 contracted providers and upon request to all noncontracted
20 providers. A health insurer that makes such requirements and
21 advance notices accessible to providers and insureds
22 electronically shall be deemed to be in compliance with this
23 subsection.

24 Section 7. Paragraph (a) of subsection (2) of section
25 627.6425, Florida Statutes, is amended to read:

26 627.6425 Renewability of individual coverage.--

27 (2) An insurer may nonrenew or discontinue health
28 insurance coverage of an individual in the individual market
29 based only on one or more of the following:

30 (a) The individual has failed to pay premiums, ~~or~~
31 contributions, or a required copayment payable to the insurer

1 in accordance with the terms of the health insurance coverage
2 or the insurer has not received timely premium payments. When
3 the copayment is payable to the insurer and exceeds \$300 the
4 insurer shall allow the insured up to ninety days from the
5 date of the procedure to pay the required copayment. The
6 insurer shall print in 10 point type on the Declaration of
7 Benefits page notification that the insured could be
8 terminated for failure to make any required copayment to the
9 insurer.

10 Section 8. Subsection (4) of section 627.651, Florida
11 Statutes, is amended to read:

12 627.651 Group contracts and plans of self-insurance
13 must meet group requirements.--

14 (4) This section does not apply to any plan which is
15 established or maintained by an individual employer in
16 accordance with the Employee Retirement Income Security Act of
17 1974, Pub. L. No. 93-406, or to a multiple-employer welfare
18 arrangement as defined in s. 624.437(1), except that a
19 multiple-employer welfare arrangement shall comply with ss.
20 627.419, 627.657, 627.6575, 627.6578, 627.6579, 627.6612,
21 627.66121, 627.66122, 627.6615, 627.6616, and 627.662(8)~~(6)~~.
22 This subsection does not allow an authorized insurer to issue
23 a group health insurance policy or certificate which does not
24 comply with this part.

25 Section 9. Section 627.662, Florida Statutes, is
26 amended to read:

27 627.662 Other provisions applicable.--The following
28 provisions apply to group health insurance, blanket health
29 insurance, and franchise health insurance:

30 (1) Section 627.569, relating to use of dividends,
31 refunds, rate reductions, commissions, and service fees.

1 (2) Section 627.602(1)(f) and (2), relating to
2 identification numbers and statement of deductible provisions.

3 (3) Section 627.635, relating to excess insurance.

4 (4) Section 627.638, relating to direct payment for
5 hospital or medical services.

6 (5) Section 627.640, relating to filing and
7 classification of rates.

8 (6) Section 627.613, relating to timely payment of
9 claims, or s. 627.6131, relating to payment of claims.

10 (7) Section 627.6135, relating to treatment
11 authorizations and payment of claims.

12 ~~(8)(6)~~ Section 627.645(1), relating to denial of
13 claims.

14 ~~(9)(7)~~ Section 627.613, relating to time of payment of
15 claims.

16 ~~(10)(8)~~ Section 627.6471, relating to preferred
17 provider organizations.

18 ~~(11)(9)~~ Section 627.6472, relating to exclusive
19 provider organizations.

20 ~~(12)(10)~~ Section 627.6473, relating to combined
21 preferred provider and exclusive provider policies.

22 ~~(13)(11)~~ Section 627.6474, relating to provider
23 contracts.

24 Section 10. Subsection (2) of section 627.638, Florida
25 Statutes, is amended to read:

26 627.638 Direct payment for hospital, medical
27 services.--

28 (2) Whenever, in any health insurance claim form, an
29 insured specifically authorizes payment of benefits directly
30 to any recognized hospital or physician, the insurer shall
31 make such payment to the designated provider of such services,

1 unless otherwise provided in the insurance contract. However,
2 if:

3 (a) The benefit is determined to be covered under the
4 terms of the policy;

5 (b) The claim is limited to treatment of mental health
6 or substance abuse, including drug and alcohol abuse; and

7 (c) The insured authorizes the insurer, in writing, as
8 part of the claim to make direct payment of benefits to a
9 recognized hospital, physician, or other licensed provider,
10
11 payments shall be made directly to the recognized hospital,
12 physician, or other licensed provider, notwithstanding any
13 contrary provisions in the insurance contract.

14 Section 11. Paragraph (e) of subsection (1) of section
15 641.185, Florida Statutes, is amended to read:

16 641.185 Health maintenance organization subscriber
17 protections.--

18 (1) With respect to the provisions of this part and
19 part III, the principles expressed in the following statements
20 shall serve as standards to be followed by the Department of
21 Insurance and the Agency for Health Care Administration in
22 exercising their powers and duties, in exercising
23 administrative discretion, in administrative interpretations
24 of the law, in enforcing its provisions, and in adopting
25 rules:

26 (e) A health maintenance organization subscriber
27 should receive timely, concise information regarding the
28 health maintenance organization's reimbursement to providers
29 and services pursuant to ss. 641.31 and 641.31015 and should
30 receive prompt payment from the organization pursuant to s.
31 641.3155.

1 Section 12. Subsection (4) is added to section
2 641.234, Florida Statutes, to read:

3 641.234 Administrative, provider, and management
4 contracts.--

5 (4)(a) If a health maintenance organization, through a
6 health care risk contract, transfers to any entity the
7 obligations to pay any provider for any claims arising from
8 services provided to or for the benefit of any subscriber of
9 the organization, the health maintenance organization shall
10 remain responsible for any violations of ss. 641,3155,
11 641.3156, and 641.51(4). The provisions of ss.
12 624.418-624.4211 and 641.52 shall apply to any such
13 violations.

14 (b) As used in this subsection:

15 1. The term "health care risk contract" means a
16 contract under which an entity receives compensation in
17 exchange for providing to the health maintenance organization
18 a provider network or other services, which may include
19 administrative services.

20 2. The term "entity" means a person licensed as an
21 administrator under s. 626.88 and does not include any
22 provider or group practice, as defined in s. 456.053,
23 providing services under the scope of the license of the
24 provider or the members of the group practice.

25 Section 13. Subsection (1) of section 641.30, Florida
26 Statutes, is amended to read:

27 641.30 Construction and relationship to other laws.--

28 (1) Every health maintenance organization shall accept
29 the ~~standard health~~ claim form prescribed pursuant to s.
30 641.3155 ~~627-647~~.

31 Section 14. Subsection (4) of section 641.3154,

1 Florida Statutes, is amended to read:

2 641.3154 Organization liability; provider billing
3 prohibited.--

4 (4) A provider or any representative of a provider,
5 regardless of whether the provider is under contract with the
6 health maintenance organization, may not collect or attempt to
7 collect money from, maintain any action at law against, or
8 report to a credit agency a subscriber of an organization for
9 payment of services for which the organization is liable, if
10 the provider in good faith knows or should know that the
11 organization is liable. This prohibition applies during the
12 pendency of any claim for payment made by the provider to the
13 organization for payment of the services and any legal
14 proceedings or dispute resolution process to determine whether
15 the organization is liable for the services if the provider is
16 informed that such proceedings are taking place. It is
17 presumed that a provider does not know and should not know
18 that an organization is liable unless:

19 (a) The provider is informed by the organization that
20 it accepts liability;

21 (b) A court of competent jurisdiction determines that
22 the organization is liable; ~~or~~

23 (c) The department or agency makes a final
24 determination that the organization is required to pay for
25 such services subsequent to a recommendation made by the
26 Statewide Provider and Subscriber Assistance Panel pursuant to
27 s. 408.7056; or

28 (d) The agency issues a final order that the
29 organization is required to pay for such services subsequent
30 to a recommendation made by a resolution organization pursuant
31 to s. 408.7057.

1 Section 15. Section 641.3155, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 641.3155, F.S., for present text.)
5 641.3155 Prompt payment of claims.--

6 (1) As used in this section, the term "claim" for a
7 noninstitutional provider means a paper or electronic billing
8 instrument submitted to the health maintenance organization's
9 designated location that consists of the HCFA 1500 data set,
10 or its successor, that has all mandatory entries for a
11 physician licensed under chapter 458, chapter 459, chapter
12 460, chapter 461, chapter 463, or chapter 490 or any
13 appropriate billing instrument that has all mandatory entries
14 for any other noninstitutional provider. For institutional
15 providers, "claim" means a paper or electronic billing
16 instrument submitted to the health maintenance organization's
17 designated location that consists of the UB-92 data set or its
18 successor that has all mandatory entries.

19 (2) All claims for payment, whether electronic or
20 nonelectronic:

21 (a) Are considered received on the date the claim is
22 received by the organization at its designated claims receipt
23 location.

24 (b) Must be mailed or electronically transferred to an
25 organization within 9 months after completion of the service
26 and the provider is furnished with the correct name and
27 address of the patient's health insurer.

28 (c) Must not duplicate a claim previously submitted
29 unless it is determined that the original claim was not
30 received or is otherwise lost.

31 (3) For all electronically submitted claims, a health

1 maintenance organization shall:

2 (a) Within 24 hours after the beginning of the next
3 business day after receipt of the claim, provide electronic
4 acknowledgment of the receipt of the claim to the electronic
5 source submitting the claim.

6 (b) Within 20 days after receipt of the claim, pay the
7 claim or notify a provider or designee if a claim is denied or
8 contested. Notice of the organization's action on the claim
9 and payment of the claim is considered to be made on the date
10 the notice or payment was mailed or electronically
11 transferred.

12 (c)1. Notification of the health maintenance
13 organization's determination of a contested claim must be
14 accompanied by an itemized list of additional information or
15 documents the insurer can reasonably determine are necessary
16 to process the claim.

17 2. A provider must submit the additional information
18 or documentation, as specified on the itemized list, within 35
19 days after receipt of the notification. Failure of a provider
20 to submit by mail or electronically the additional information
21 or documentation requested within 35 days after receipt of the
22 notification may result in denial of the claim.

23 3. A health maintenance organization may not make more
24 than one request for documents under this paragraph in
25 connection with a claim, unless the provider fails to submit
26 all of the requested documents to process the claim or if
27 documents submitted by the provider raise new additional
28 issues not included in the original written itemization, in
29 which case the health maintenance organization may provide the
30 provider with one additional opportunity to submit the
31 additional documents needed to process the claim. In no case

1 may the health maintenance organization request duplicate
2 documents.

3 (d) For purposes of this subsection, electronic means
4 of transmission of claims, notices, documents, forms, and
5 payment shall be used to the greatest extent possible by the
6 health maintenance organization and the provider.

7 (e) A claim must be paid or denied within 90 days
8 after receipt of the claim. Failure to pay or deny a claim
9 within 120 days after receipt of the claim creates an
10 uncontestable obligation to pay the claim.

11 (4) For all nonelectronically submitted claims, a
12 health maintenance organization shall:

13 (a) Effective November 1, 2003, provide
14 acknowledgement of receipt of the claim within 15 days after
15 receipt of the claim to the provider or designee or provide a
16 provider or designee within 15 days after receipt with
17 electronic access to the status of a submitted claim.

18 (b) Within 40 days after receipt of the claim, pay the
19 claim or notify a provider or designee if a claim is denied or
20 contested. Notice of the health maintenance organization's
21 action on the claim and payment of the claim is considered to
22 be made on the date the notice or payment was mailed or
23 electronically transferred.

24 (c)1. Notification of the health maintenance
25 organization's determination of a contested claim must be
26 accompanied by an itemized list of additional information or
27 documents the organization can reasonably determine are
28 necessary to process the claim.

29 2. A provider must submit the additional information
30 or documentation, as specified on the itemized list, within 35
31 days after receipt of the notification. Failure of a provider

1 to submit by mail or electronically the additional information
2 or documentation requested within 35 days after receipt of the
3 notification may result in denial of the claim.

4 3. A health maintenance organization may not make more
5 than one request for documents under this paragraph in
6 connection with a claim unless the provider fails to submit
7 all of the requested documents to process the claim or if
8 documents submitted by the provider raise new additional
9 issues not included in the original written itemization, in
10 which case the health maintenance organization may provide the
11 provider with one additional opportunity to submit the
12 additional documents needed to process the claim. In no case
13 may the health maintenance organization request duplicate
14 documents.

15 (d) For purposes of this subsection, electronic means
16 of transmission of claims, notices, documents, forms, and
17 payments shall be used to the greatest extent possible by the
18 health maintenance organization and the provider.

19 (e) A claim must be paid or denied within 120 days
20 after receipt of the claim. Failure to pay or deny a claim
21 within 140 days after receipt of the claim creates an
22 uncontestable obligation to pay the claim.

23 (5) If a health maintenance organization determines
24 that it has made an overpayment to a provider for services
25 rendered to a subscriber, the health maintenance organization
26 must make a claim for such overpayment. A health maintenance
27 organization that makes a claim for overpayment to a provider
28 under this section shall give the provider a written or
29 electronic statement specifying the basis for the retroactive
30 denial or payment adjustment. The health maintenance
31 organization must identify the claim or claims, or overpayment

1 claim portion thereof, for which a claim for overpayment is
2 submitted.

3 (a) If an overpayment determination is the result of
4 retroactive review or audit of coverage decisions or payment
5 levels not related to fraud, a health maintenance organization
6 shall adhere to the following procedures:

7 1. All claims for overpayment must be submitted to a
8 provider within 30 months after the health maintenance
9 organization's payment of the claim. A provider must pay,
10 deny, or contest the health maintenance organization's claim
11 for overpayment within 40 days after the receipt of the claim.
12 All contested claims for overpayment must be paid or denied
13 within 120 days after receipt of the claim. Failure to pay or
14 deny overpayment and claim within 140 days after receipt
15 creates an uncontestable obligation to pay the claim.

16 2. A provider that denies or contests a health
17 maintenance organization's claim for overpayment or any
18 portion of a claim shall notify the organization, in writing,
19 within 35 days after the provider receives the claim that the
20 claim for overpayment is contested or denied. The notice that
21 the claim for overpayment is denied or contested must identify
22 the contested portion of the claim and the specific reason for
23 contesting or denying the claim and, if contested, must
24 include a request for additional information. If the
25 organization submits additional information, the organization
26 must, within 35 days after receipt of the request, mail or
27 electronically transfer the information to the provider. The
28 provider shall pay or deny the claim for overpayment within 45
29 days after receipt of the information. The notice is
30 considered made on the date the notice is mailed or
31 electronically transferred by the provider.

1 3. Failure of a health maintenance organization to
2 respond to a provider's contestment of claim or request for
3 additional information regarding the claim within 35 days
4 after receipt of such notice may result in denial of the
5 claim.

6 4. The health maintenance organization may not reduce
7 payment to the provider for other services unless the provider
8 agrees to the reduction in writing or fails to respond to the
9 health maintenance organization's overpayment claim as
10 required by this paragraph.

11 5. Payment of an overpayment claim is considered made
12 on the date the payment was mailed or electronically
13 transferred. An overdue payment of a claim bears simple
14 interest at the rate of 12 percent per year. Interest on an
15 overdue payment for a claim for an overpayment payment begins
16 to accrue when the claim should have been paid, denied, or
17 contested.

18 (b) A claim for overpayment shall not be permitted
19 beyond 30 months after the health maintenance organization's
20 payment of a claim, except that claims for overpayment may be
21 sought beyond that time from providers convicted of fraud
22 pursuant to s. 817.234.

23 (6) Payment of a claim is considered made on the date
24 the payment was mailed or electronically transferred. An
25 overdue payment of a claim bears simple interest of 12 percent
26 per year. Interest on an overdue payment for a claim or for
27 any portion of a claim begins to accrue when the claim should
28 have been paid, denied, or contested. The interest is payable
29 with the payment of the claim.

30 (7)(a) For all contracts entered into or renewed on or
31 after October 1, 2002, a health maintenance organization's

1 internal dispute resolution process related to a denied claim
2 not under active review by a mediator, arbitrator, or
3 third-party dispute entity must be finalized within 60 days
4 after the receipt of the provider's request for review or
5 appeal.

6 (b) All claims to a health maintenance organization
7 begun after October 1, 2000, not under active review by a
8 mediator, arbitrator, or third-party dispute entity, shall
9 result in a final decision on the claim by the health
10 maintenance organization by January 2, 2003, for the purpose
11 of the statewide provider and managed care organization claim
12 dispute resolution program pursuant to s. 408.7057.

13 (8) A provider or any representative of a provider,
14 regardless of whether the provider is under contract with the
15 health maintenance organization, may not collect or attempt to
16 collect money from, maintain any action at law against, or
17 report to a credit agency a subscriber for payment of covered
18 services for which the health maintenance organization
19 contested or denied the provider's claim. This prohibition
20 applies during the pendency of any claim for payment made by
21 the provider to the health maintenance organization for
22 payment of the services or internal dispute resolution process
23 to determine whether the health maintenance organization is
24 liable for the services. For a claim, this pendency applies
25 from the date the claim or a portion of the claim is denied to
26 the date of the completion of the health maintenance
27 organization's internal dispute resolution process, not to
28 exceed 60 days.

29 (9) The provisions of this section may not be waived,
30 voided, or nullified by contract.

31 (10) A health maintenance organization may not

1 retroactively deny a claim because of subscriber ineligibility
2 more than 1 year after the date of payment of the claim.

3 (11) A health maintenance organization shall pay a
4 contracted primary care or admitting physician, pursuant to
5 such physician's contract, for providing inpatient services in
6 a contracted hospital to a subscriber if such services are
7 determined by the health maintenance organization to be
8 medically necessary and covered services under the health
9 maintenance organization's contract with the contract holder.

10 (12) Upon written notification by a subscriber, a
11 health maintenance organization shall investigate any claim of
12 improper billing by a physician, hospital, or other health
13 care provider. The organization shall determine if the
14 subscriber was properly billed for only those procedures and
15 services that the subscriber actually received. If the
16 organization determines that the subscriber has been
17 improperly billed, the organization shall notify the
18 subscriber and the provider of its findings and shall reduce
19 the amount of payment to the provider by the amount determined
20 to be improperly billed. If a reduction is made due to such
21 notification by the insured, the insurer shall pay to the
22 insured 20 percent of the amount of the reduction up to \$500.

23 (13) A permissible error ratio of 5 percent is
24 established for health maintenance organizations' claims
25 payment violations of s. 641.3155(3)(a), (b), (c), and (e) and
26 (4)(a), (b), (c), and (e). If the error ratio of a particular
27 insurer does not exceed the permissible error ratio of 5
28 percent for an audit period, no fine shall be assessed for the
29 noted claims violations for the audit period. The error ratio
30 shall be determined by dividing the number of claims with
31 violations found on a statistically valid sample of claims for

1 the audit period by the total number of claims in the sample.
2 If the error ratio exceeds the permissible error ratio of 5
3 percent, a fine may be assessed according to s. 624.4211 for
4 those claims payment violations which exceed the error ratio.
5 Notwithstanding the provisions of this section, the department
6 may fine a health maintenance organization for claims payment
7 violations of s. 641.3155(3)(e) and (4)(e) which create an
8 uncontestable obligation to pay the claim. The department
9 shall not fine organizations for violations which the
10 department determines were due to circumstances beyond the
11 organization's control.

12 (14) This section shall apply to all claims or any
13 portion of a claim submitted by a health maintenance
14 organization subscriber under a health maintenance
15 organization subscriber contract to the organization for
16 payment.

17 (15) Notwithstanding s. 641.3155(3)(b), where an
18 electronic pharmacy claim is submitted to a pharmacy benefits
19 manager acting on behalf of a health maintenance organization
20 the pharmacy benefits manager shall, within 30 days of receipt
21 of the claim, pay the claim or notify a provider or designee
22 if a claim is denied or contested. Notice of the
23 organization's action on the claim and payment of the claim is
24 considered to be made on the date the notice or payment was
25 mailed or electronically transferred.

26 (16) Notwithstanding s. 641.3155(4)(a), effective
27 November 1, 2003, where a nonelectronic pharmacy claim is
28 submitted to a pharmacy benefits manager acting on behalf of a
29 health maintenance organization the pharmacy benefits manager
30 shall provide acknowledgment of receipt of the claim within 30
31 days after receipt of the claim to the provider or provide a

1 provider within 30 days after receipt with electronic access
2 to the status of a submitted claim.

3 Section 16. Section 641.3156, Florida Statutes, is
4 amended to read:

5 641.3156 Treatment authorization; payment of claims.--

6 (1) For purposes of this section, "authorization"
7 consists of any requirement of a provider to obtain prior
8 approval or to provide documentation relating to the necessity
9 of a covered medical treatment or service as a condition for
10 reimbursement for the treatment or service prior to the
11 treatment or service. Each authorization request from a
12 provider must be assigned an identification number by the
13 health maintenance organization ~~A health maintenance~~
14 ~~organization must pay any hospital-service or referral-service~~
15 ~~claim for treatment for an eligible subscriber which was~~
16 ~~authorized by a provider empowered by contract with the health~~
17 ~~maintenance organization to authorize or direct the patient's~~
18 ~~utilization of health care services and which was also~~
19 ~~authorized in accordance with the health maintenance~~
20 ~~organization's current and communicated procedures, unless the~~
21 ~~provider provided information to the health maintenance~~
22 ~~organization with the willful intention to misinform the~~
23 ~~health maintenance organization.~~

24 (2) A claim for treatment may not be denied if a
25 provider follows the health maintenance organization's
26 authorization procedures and receives authorization for a
27 covered service for an eligible subscriber, unless the
28 provider provided information to the health maintenance
29 organization with the ~~willful~~ intention to misinform the
30 health maintenance organization.

31 (3) Upon receipt of a request from a provider for

1 authorization, the health maintenance organization shall make
2 a determination within a reasonable time appropriate to
3 medical circumstance indicating whether the treatment or
4 services are authorized. For urgent care requests for which
5 the standard timeframe for the health maintenance organization
6 to make a determination would seriously jeopardize the life or
7 health of a subscriber or would jeopardize the subscriber's
8 ability to regain maximum function, a health maintenance
9 organization must notify the provider as to its determination
10 as soon as possible taking into account medical exigencies.

11 (4) Each response to an authorization request must be
12 assigned an identification number. Each authorization provided
13 by a health maintenance organization must include the date of
14 request of authorization, timeframe of the authorization,
15 length of stay if applicable, identification number of the
16 authorization, place of service, and type of service.

17 (5) A health maintenance organization's requirements
18 for authorization for medical treatment or services and 30-day
19 advance notice of material change in such requirements must be
20 provided to all contracted providers and upon request to all
21 noncontracted providers. A health maintenance organization
22 that makes such requirements and advance notices accessible to
23 providers and subscribers electronically shall be deemed to be
24 in compliance with this paragraph.

25 (6)(3) Emergency services are subject to the
26 provisions of s. 641.513 and are not subject to the provisions
27 of this section.

28 Section 17. (1) Effective July 1, 2002, all powers,
29 duties, functions, records, personnel, property, and
30 unexpended balances of appropriations, allocations, and other
31 funds of the Agency for Health Care Administration that relate

1 to consumer complaint services, investigations, and
2 prosecutorial services currently provided by the Agency for
3 Health Care Administration under a contract with the
4 Department of Health are transferred to the Department of
5 Health by a type two transfer, as defined in s. 20.06(2),
6 Florida Statutes. This transfer of funds shall include all
7 advance payments made from the Medical Quality Assurance Trust
8 Fund to the Agency for Health Care Administration.

9 (2)(a) Effective July 1, 2002, 279 full-time
10 equivalent positions are eliminated from the Agency for Health
11 Care Administration's total number of authorized positions.
12 Effective July 1, 2002, 279 full-time equivalent positions are
13 authorized for the Department of Health, to be added to the
14 department's total number of authorized positions. However,
15 should the General Appropriations Act for fiscal year
16 2002-2003 reduce the number of positions from the practitioner
17 regulation component at the Agency for Health Care
18 Administration, that provision shall be construed to eliminate
19 the full-time equivalent positions from the practitioner
20 regulation component which is hereby transferred to the
21 Department of Health, thereby resulting in no more than 279
22 positions being eliminated from the agency and no more than
23 279 positions being authorized to the department.

24 (b) All records, personnel, and funds of the consumer
25 complaint and investigative services units of the agency are
26 transferred and assigned to the Division of Medical Quality
27 Assurance of the Department of Health.

28 (c) All records, personnel, and funds of the health
29 care practitioner prosecutorial unit of the agency are
30 transferred and assigned to the Office of the General Counsel
31 of the Department of Health.

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

10 Section 18. Paragraph (g) of subsection (3) of section
11 20.43, Florida Statutes, is amended to read:

12 20.43 Department of Health.--There is created a
13 Department of Health.

14 (3) The following divisions of the Department of
15 Health are established:

16 (g) Division of Medical Quality Assurance, which is
17 responsible for the following boards and professions
18 established within the division:

19 1. The Board of Acupuncture, created under chapter
20 457.

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

22 3. The Board of Osteopathic Medicine, created under
23 chapter 459.

24 4. The Board of Chiropractic Medicine, created under
25 chapter 460.

26 5. The Board of Podiatric Medicine, created under
27 chapter 461.

28 6. Naturopathy, as provided under chapter 462.

29 7. The Board of Optometry, created under chapter 463.

30 8. The Board of Nursing, created under part I of
31 chapter 464.

- 1 9. Nursing assistants, as provided under part II of
- 2 chapter 464.
- 3 10. The Board of Pharmacy, created under chapter 465.
- 4 11. The Board of Dentistry, created under chapter 466.
- 5 12. Midwifery, as provided under chapter 467.
- 6 13. The Board of Speech-Language Pathology and
- 7 Audiology, created under part I of chapter 468.
- 8 14. The Board of Nursing Home Administrators, created
- 9 under part II of chapter 468.
- 10 15. The Board of Occupational Therapy, created under
- 11 part III of chapter 468.
- 12 16. The Board of Respiratory Care ~~therapy~~, as created
- 13 ~~provided~~ under part V of chapter 468.
- 14 17. Dietetics and nutrition practice, as provided
- 15 under part X of chapter 468.
- 16 18. The Board of Athletic Training, created under part
- 17 XIII of chapter 468.
- 18 19. The Board of Orthotists and Prosthetists, created
- 19 under part XIV of chapter 468.
- 20 20. Electrolysis, as provided under chapter 478.
- 21 21. The Board of Massage Therapy, created under
- 22 chapter 480.
- 23 22. The Board of Clinical Laboratory Personnel,
- 24 created under part III of chapter 483.
- 25 23. Medical physicists, as provided under part IV of
- 26 chapter 483.
- 27 24. The Board of Opticianry, created under part I of
- 28 chapter 484.
- 29 25. The Board of Hearing Aid Specialists, created
- 30 under part II of chapter 484.
- 31 26. The Board of Physical Therapy Practice, created

1 under chapter 486.

2 27. The Board of Psychology, created under chapter
3 490.

4 28. School psychologists, as provided under chapter
5 490.

6 29. The Board of Clinical Social Work, Marriage and
7 Family Therapy, and Mental Health Counseling, created under
8 chapter 491.

9
10 ~~The department may contract with the Agency for Health Care~~
11 ~~Administration who shall provide consumer complaint,~~
12 ~~investigative, and prosecutorial services required by the~~
13 ~~Division of Medical Quality Assurance, councils, or boards, as~~
14 ~~appropriate.~~

15 Section 19. The Office of Legislative Services shall
16 contract for a business case study of the feasibility of
17 outsourcing the administrative, investigative, legal, and
18 prosecutorial functions and other tasks and services that are
19 necessary to carry out the regulatory responsibilities of the
20 Board of Dentistry; employing its own executive director and
21 other staff; and obtaining authority over collections and
22 expenditures of funds paid by professions regulated by the
23 Board of Dentistry into the Medical Quality Assurance Trust
24 Fund. This feasibility study must include a business plan and
25 an assessment of the direct and indirect costs associated with
26 outsourcing these functions. The sum of \$50,000 is
27 appropriated from the Board of Dentistry account within the
28 Medical Quality Assurance Trust Fund to the Office of
29 Legislative Services for the purpose of contracting for the
30 study. The Office of Legislative Services shall submit the
31 completed study to the Governor, the President of the Senate,

1 and the Speaker of the House of Representatives by January 1,
2 2003.

3 Section 20. (1) On or before January 1, 2003, the
4 Department of Health shall contract with one or more private
5 entities to implement the electronic continuing education
6 tracking system required under s. 456.025(7), Florida
7 Statutes. The electronic continuing education tracking system
8 or systems must be compatible with the Department of Health's
9 licensure and renewal system no later than March 1, 2003. On
10 or before July 1, 2003, the Department of Health shall
11 integrate such system or systems into the Department of
12 Health's licensure and renewal system.

13 (2) The continuing education tracking system shall
14 provide access for a licensee to review the licensee's
15 continuing education credits or courses which have been
16 reported by providers of continuing education and shall
17 provide a mechanism for a licensee to self-report courses or
18 credits which have not yet been reported by a provider of
19 continuing education.

20 (3) The private entities under contract with the
21 Department of Health may fund the development and operation of
22 the continuing education tracking system through private
23 grants or funds or through funds paid by a provider of
24 continuing education courses. The Department of Health is
25 authorized to use continuing education provider fees and
26 licensure renewal fees to fund the operation of the continuing
27 education tracking system, subject to legislative
28 appropriation.

29 (4) The Department of Health may enter into more than
30 one contract if the department determines that it would be
31 more efficient, practical, or cost-effective to use one vendor

1 for professions which use board-approved providers and one
2 vendor for professions which allow licensees to take courses
3 approved by other entities.

4 Section 21. Subsection (19) of section 456.057,
5 Florida Statutes, is amended to read:

6 456.057 Ownership and control of patient records;
7 report or copies of records to be furnished.--

8 (19) The board, or department when there is no board,
9 may temporarily or permanently appoint a person or entity as a
10 custodian of medical records in the event of the death of a
11 practitioner, the mental or physical incapacitation of the
12 practitioner, or the abandonment of medical records by a
13 practitioner. The custodian appointed shall comply with all
14 provisions of this section, including the release of patient
15 records. Any person or entity having possession or physical
16 control of the medical records may release them to the
17 custodian upon presentment of an order signed by the board
18 giving the custodian access to the records. A person or
19 entity is not liable in tort or contract for providing the
20 records to a validly appointed custodian.

21 Section 22. Subsection (7) is added to section
22 456.072, Florida Statutes, to read:

23 456.072 Grounds for discipline; penalties;
24 enforcement.--

25 (7) In addition to any other discipline imposed
26 through final order or citation entered on or after July 1,
27 2002, pursuant to this section or for a violation of any
28 practice act, the board, or the department when there is no
29 board, shall require, in appropriate cases, any licensee who
30 is a records owner, as defined in s. 456.057, to notify his or
31 her patients of the requirements imposed by s. 456.057(11).

1 Section 23. Paragraph (a) of subsection (3) of section
2 456.076, Florida Statutes, is amended to read:

3 456.076 Treatment programs for impaired
4 practitioners.--

5 (3)(a) Whenever the department receives a written or
6 oral legally sufficient complaint alleging that a licensee
7 under the jurisdiction of the Division of Medical Quality
8 Assurance within the department is impaired as a result of the
9 misuse or abuse of alcohol or drugs, or both, or due to a
10 mental or physical condition which could affect the licensee's
11 ability to practice with skill and safety, and no complaint
12 against the licensee other than impairment exists, the
13 reporting of such information shall not constitute grounds for
14 discipline pursuant to s. 456.072 or the corresponding grounds
15 for discipline within the applicable practice act if the
16 probable cause panel of the appropriate board, or the
17 department when there is no board, finds:

18 1. The licensee has acknowledged the impairment
19 problem.

20 2. The licensee has voluntarily enrolled in an
21 appropriate, approved treatment program.

22 3. The licensee has voluntarily withdrawn from
23 practice or limited the scope of practice as required by the
24 consultant, in each case, until such time as the panel, or the
25 department when there is no board, is satisfied the licensee
26 has successfully completed an approved treatment program.

27 4. The licensee has executed releases for medical
28 records, authorizing the release of all records of
29 evaluations, diagnoses, and treatment of the licensee,
30 including records of treatment for emotional or mental
31 conditions, to the consultant. The consultant shall make no

1 copies or reports of records that do not regard the issue of
2 the licensee's impairment and his or her participation in a
3 treatment program.

4 5. The licensee has voluntarily notified his or her
5 patients of the requirements imposed by s. 456.057(11) on a
6 records owner who is terminating practice, retiring, or
7 relocating and is no longer available to patients.

8 Section 24. Paragraph (b) of subsection (1) of section
9 456.0375, Florida Statutes, is amended to read:

10 456.0375 Registration of certain clinics;
11 requirements; discipline; exemptions.--

12 (1)

13 (b) For purposes of this section, the term "clinic"
14 does not include and the registration requirements herein do
15 not apply to:

16 1. Entities licensed or registered by the state
17 pursuant to chapter 390, chapter 394, chapter 395, chapter
18 397, chapter 400, chapter 463, chapter 465, chapter 466,
19 chapter 478, ~~chapter 480~~, or chapter 484.

20 2. Entities exempt from federal taxation under 26
21 U.S.C. s. 501(c)(3), as well as all public college and
22 university clinics.

23 3. Sole proprietorships, group practices,
24 partnerships, or corporations that provide health care
25 services by licensed health care practitioners pursuant to
26 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 480,
27 484, 486, 490, 491, or part I, part III, part X, part XIII, or
28 part XIV of chapter 468, or s. 464.012, which are wholly owned
29 by licensed health care practitioners or the licensed health
30 care practitioner and the spouse, parent, or child of a
31 licensed health care practitioner, so long as one of the

1 owners who is a licensed health care practitioner is
2 supervising the services performed therein and is legally
3 responsible for the entity's compliance with all federal and
4 state laws. However, no health care practitioner may supervise
5 the delivery of health care services beyond the scope of the
6 practitioner's license. Nothing in this section shall be
7 construed to prohibit a health care practitioner from
8 providing administrative or managerial supervision for
9 personnel purposes.

10 4. Massage establishments licensed pursuant to s.
11 480.043 so long as the massage establishment is only providing
12 massage as defined in s. 480.033(3) and no other medical or
13 health care service.

14 Section 25. Paragraphs (aa) and (bb) of subsection (1)
15 of section 456.072, Florida Statutes, are amended to read:

16 456.072 Grounds for discipline; penalties;
17 enforcement.--

18 (1) The following acts shall constitute grounds for
19 which the disciplinary actions specified in subsection (2) may
20 be taken:

21 (aa) ~~Performing or attempting to perform~~ health care
22 services on the wrong patient, a wrong-site procedure, a wrong
23 procedure, or an unauthorized procedure or a procedure that is
24 medically unnecessary or otherwise unrelated to the patient's
25 diagnosis or medical condition. For the purposes of this
26 paragraph, ~~performing or attempting to perform~~ health care
27 services includes the preparation of the patient.

28 (bb) Leaving a foreign body in a patient, such as a
29 sponge, clamp, forceps, surgical needle, or other
30 paraphernalia commonly used in surgical, examination, or other
31 diagnostic procedures, unless leaving the foreign body is

1 medically indicated and documented in the patient record. For
2 the purposes of this paragraph, it shall be legally presumed
3 that retention of a foreign body is not in the best interest
4 of the patient and is not within the standard of care of the
5 profession, unless medically indicated and documented in the
6 patient record ~~regardless of the intent of the professional.~~

7 Section 26. Subsection (7) is added to section 631.57,
8 Florida Statutes, to read:

9 631.57 Powers and duties of the association.--

10 (7) Notwithstanding any other provision of law, the
11 net direct written premiums of medical malpractice insurance
12 are not subject to assessment under this section to cover
13 claims and administrative costs for the type of insurance
14 defined in s. 624.604.

15 Section 27. Subsections (22) through (33) of section
16 395.002, Florida Statutes, are renumbered as subsections (23)
17 through (34), respectively, and a new subsection (22) is added
18 to said section to read:

19 395.002 Definitions.--As used in this chapter:

20 (22) "Medically unnecessary procedure" means a
21 surgical or other invasive procedure that a reasonable
22 physician, in light of the patient's history and available
23 diagnostic information, would not deem to be indicated in
24 order to treat, cure, or palliate the patient's condition or
25 disease.

26 Section 28. Subsection (7) of section 394.4787,
27 Florida Statutes, is amended to read:

28 394.4787 Definitions; ss. 394.4786, 394.4787,
29 394.4788, and 394.4789.--As used in this section and ss.
30 394.4786, 394.4788, and 394.4789:

31 (7) "Specialty psychiatric hospital" means a hospital

1 licensed by the agency pursuant to s. 395.002(30)(29) as a
2 specialty psychiatric hospital.

3 Section 29. Subsection (5) is added to section
4 395.0161, Florida Statutes, to read:

5 395.0161 Licensure inspection.--

6 (5)(a) The agency shall adopt rules governing the
7 conduct of inspections or investigations it initiates in
8 response to:

9 1. Reports filed pursuant to s. 395.0197.

10 2. Complaints alleging violations of state or federal
11 emergency access laws.

12 3. Complaints made by the public alleging violations
13 of law by licensed facilities or personnel.

14 (b) Such rules shall set forth the procedures to be
15 used in such investigations or inspections in order to protect
16 the due process rights of licensed facilities and personnel
17 and to minimize, to the greatest reasonable extent possible,
18 the disruption of facility operations and the cost to
19 facilities resulting from such investigations.

20 Section 30. Subsections (2), (14), and (16) of section
21 395.0197, Florida Statutes, are amended to read:

22 395.0197 Internal risk management program.--

23 (2) The internal risk management program is the
24 responsibility of the governing board of the health care
25 facility. Each licensed facility shall utilize the services of
26 ~~hire~~ a risk manager, licensed under s. 395.10974, who is
27 responsible for implementation and oversight of such
28 facility's internal risk management program as required by
29 this section. ~~A risk manager must not be made responsible for~~
30 ~~more than four internal risk management programs in separate~~
31 ~~licensed facilities, unless the facilities are under one~~

1 ~~corporate ownership or the risk management programs are in~~
2 ~~rural hospitals.~~

3 (14) The agency shall have access, as set forth in
4 rules adopted pursuant to s. 395.0161(5), to all licensed
5 facility records necessary to carry out the provisions of this
6 section. The records obtained by the agency under subsection
7 (6), subsection (8), or subsection (10) are not available to
8 the public under s. 119.07(1), nor shall they be discoverable
9 or admissible in any civil or administrative action, except in
10 disciplinary proceedings by the agency or the appropriate
11 regulatory board, nor shall records obtained pursuant to s.
12 456.071 be available to the public as part of the record of
13 investigation for and prosecution in disciplinary proceedings
14 made available to the public by the agency or the appropriate
15 regulatory board. However, the agency or the appropriate
16 regulatory board shall make available, upon written request by
17 a health care professional against whom probable cause has
18 been found, any such records which form the basis of the
19 determination of probable cause, except that, with respect to
20 medical review committee records, s. 766.101 controls.

21 (16) The agency shall review, as part of its licensure
22 inspection process, the internal risk management program at
23 each licensed facility regulated by this section to determine
24 whether the program meets standards established in statutes
25 and rules, whether the program is being conducted in a manner
26 designed to reduce adverse incidents, and whether the program
27 is appropriately reporting incidents under this section. Only
28 a risk manager licensed under s. 395.10974 and employed by or
29 under contract with the agency may conduct inspections to
30 determine whether a program meets the requirements of this
31 section. Such determination shall be based on that level of

1 care, skill, and judgment which, in light of all relevant
2 surrounding circumstances, is recognized as acceptable and
3 appropriate by reasonably prudent similar licensed risk
4 managers. By July 1, 2004, the agency shall employ or contract
5 with a minimum of three licensed risk managers in each
6 district to conduct inspections pursuant to this section.

7 Section 31. Paragraph (b) of subsection (2) of section
8 465.019, Florida Statutes, is amended to read:

9 465.019 Institutional pharmacies; permits.--

10 (2) The following classes of institutional pharmacies
11 are established:

12 (b) "Class II institutional pharmacies" are those
13 institutional pharmacies which employ the services of a
14 registered pharmacist or pharmacists who, in practicing
15 institutional pharmacy, shall provide dispensing and
16 consulting services on the premises to patients of that
17 institution and to patients receiving care in a hospice
18 licensed under part VI of chapter 400 which is located or
19 providing services on the premises of that institution, for
20 use on the premises of that institution. However, an
21 institutional pharmacy located in an area or county included
22 in an emergency order or proclamation of a state of emergency
23 declared by the Governor may provide dispensing and consulting
24 services to individuals who are not patients of the
25 institution. However, a single dose of a medicinal drug may be
26 obtained and administered to a patient on a valid physician's
27 drug order under the supervision of a physician or charge
28 nurse, consistent with good institutional practice procedures.
29 The obtaining and administering of such single dose of a
30 medicinal drug shall be pursuant to drug-handling procedures
31 established by a consultant pharmacist. Medicinal drugs may

1 be dispensed in a Class II institutional pharmacy, but only in
2 accordance with the provisions of this section.

3 Section 32. Paragraph (a) of subsection (2) of section
4 499.007, Florida Statutes, is amended to read:

5 499.007 Misbranded drug or device.--A drug or device
6 is misbranded:

7 (2) Unless, if in package form, it bears a label
8 containing:

9 (a) The name and place of business of the manufacturer
10 or distributor; ~~in addition, for a medicinal drug, as defined~~
11 ~~in s. 499.003, the label must contain the name and place of~~
12 ~~business of the manufacturer~~ of the finished dosage form of
13 the drug. For the purpose of this paragraph, the finished
14 dosage form of a medicinal drug is that form of the drug which
15 is, or is intended to be, dispensed or administered to the
16 patient and requires no further manufacturing or processing
17 other than packaging, reconstitution, and labeling; and

18 Section 33. Responsiveness to emergencies and
19 disasters; legislative findings.--The Legislature finds that
20 it is critical that Florida be prepared to respond
21 appropriately to a health crisis and injuries in the event of
22 an emergency or disaster. The Legislature finds that there is
23 a need to better educate health care practitioners on diseases
24 and conditions that might be caused by nuclear, biological,
25 and chemical terrorism so that health care practitioners can
26 more effectively care for patients and better educate patients
27 as to prevention and treatment. Additionally, the Legislature
28 finds that not all health care practitioners have been
29 recently trained in life support and first aid and that all
30 health care practitioners should be encouraged to obtain such
31 training. The Legislature finds that health care practitioners

1 who are willing to respond in emergencies or disasters should
2 not be penalized for providing their assistance.

3 Section 34. Section 381.0011, Florida Statutes, is
4 amended to read:

5 381.0011 Duties and powers of the Department of
6 Health; authority of State Health Officer.--

7 (1) It is the duty of the Department of Health to:

8 (a)~~(1)~~ Assess the public health status and needs of
9 the state through statewide data collection and other
10 appropriate means, with special attention to future needs that
11 may result from population growth, technological advancements,
12 new societal priorities, or other changes.

13 (b)~~(2)~~ Formulate general policies affecting the public
14 health of the state.

15 (c)~~(3)~~ Include in the department's strategic plan
16 developed under s. 186.021 a summary of all aspects of the
17 public health mission and health status objectives to direct
18 the use of public health resources with an emphasis on
19 prevention.

20 (d)~~(4)~~ Administer and enforce laws and rules relating
21 to sanitation, control of communicable diseases, illnesses and
22 hazards to health among humans and from animals to humans, and
23 the general health of the people of the state.

24 (e)~~(5)~~ Cooperate with and accept assistance from
25 federal, state, and local officials for the prevention and
26 suppression of communicable and other diseases, illnesses,
27 injuries, and hazards to human health.

28 (f)~~(6)~~ Declare, enforce, modify, and abolish
29 quarantine of persons, animals, and premises as the
30 circumstances indicate for controlling communicable diseases
31 or providing protection from unsafe conditions that pose a

1 threat to public health, except as provided in ss. 384.28 and
2 392.545-392.60.

3 ~~1.(a)~~ The department shall adopt rules to specify the
4 conditions and procedures for imposing and releasing a
5 quarantine. The rules must include provisions related to:

6 ~~a.1.~~ The closure of premises.

7 ~~b.2.~~ The movement of persons or animals exposed to or
8 infected with a communicable disease.

9 ~~c.3.~~ The tests or ~~prophylactic treatment, including~~
10 vaccination, for communicable disease required prior to
11 employment or admission to the premises or to comply with a
12 quarantine.

13 ~~d.4.~~ Testing or destruction of animals with or
14 suspected of having a disease transmissible to humans.

15 ~~e.5.~~ Access by the department to quarantined premises.

16 ~~f.6.~~ The disinfection of quarantined animals, persons,
17 or premises.

18 ~~g.~~ Methods of quarantine.

19 ~~2.(b)~~ Any health regulation that restricts travel or
20 trade within the state may not be adopted or enforced in this
21 state except by authority of the department.

22 ~~(g)(7)~~ Provide for a thorough investigation and study
23 of the incidence, causes, modes of propagation and
24 transmission, and means of prevention, control, and cure of
25 diseases, illnesses, and hazards to human health.

26 ~~(h)(8)~~ Provide for the dissemination of information to
27 the public relative to the prevention, control, and cure of
28 diseases, illnesses, and hazards to human health. The
29 department shall conduct a workshop before issuing any health
30 alert or advisory relating to food-borne illness or
31 communicable disease in public lodging or food service

1 establishments in order to inform persons, trade associations,
2 and businesses of the risk to public health and to seek the
3 input of affected persons, trade associations, and businesses
4 on the best methods of informing and protecting the public,
5 except in an emergency, in which case the workshop must be
6 held within 14 days after the issuance of the emergency alert
7 or advisory.

8 (i)~~(9)~~ Act as registrar of vital statistics.

9 (j)~~(10)~~ Cooperate with and assist federal health
10 officials in enforcing public health laws and regulations.

11 (k)~~(11)~~ Cooperate with other departments, local
12 officials, and private boards and organizations for the
13 improvement and preservation of the public health.

14 (l)~~(12)~~ Cooperate with other departments, local
15 officials, and private organizations in developing and
16 implementing a statewide injury control program.

17 (m)~~(13)~~ Adopt rules pursuant to ss. 120.536(1) and
18 120.54 to implement the provisions of law conferring duties
19 upon it. This paragraph ~~subsection~~ does not authorize the
20 department to require a permit or license unless such
21 requirement is specifically provided by law.

22 (n)~~(14)~~ Perform any other duties prescribed by law.

23 (2) The State Health Officer is authorized to take the
24 following actions to protect the public health:

25 (a) Notwithstanding chapters 465 and 499 and rules
26 adopted thereunder, the State Health Officer may direct
27 pharmacists employed by the department to compound bulk
28 prescription drugs and provide these bulk prescription drugs
29 to county health department physicians, physician assistants,
30 and nurses for administration to persons as part of a
31 prophylactic or treatment regimen when there is a significant

1 risk to the public health from a disease, an environmental
2 contaminant, or a suspected act of nuclear, biological, or
3 chemical terrorism.

4 (b) The State Health Officer, upon declaration of a
5 public health emergency pursuant to s. 381.00315, may take
6 such actions as are necessary to protect the public health.
7 Such actions shall include, but are not limited to:

8 1. Directing Florida manufacturers and wholesalers of
9 prescription and over-the-counter drugs permitted under
10 chapter 499 to give priority to shipping such drugs to
11 pharmacies and health care providers located in geographic
12 areas identified by the State Health Officer. Florida
13 manufacturers and wholesalers must respond to the State Health
14 Officer's priority shipping directive before shipping the
15 specified drugs to other pharmacies or health care providers
16 in Florida.

17 2. Notwithstanding s. 456.036, temporarily
18 reactivating the inactive licenses of physicians licensed
19 under chapter 458 or chapter 459; physician assistants
20 licensed under chapter 458 or chapter 459; licensed practical
21 nurses, registered nurses, and advanced registered nurse
22 practitioners licensed under chapter 464; respiratory
23 therapists licensed under part V of chapter 468; and emergency
24 medical technicians and paramedics licensed under chapter 401
25 when such practitioners are needed to respond to the public
26 health emergency. Only those licensees referenced in this
27 subparagraph who request reactivation and have unencumbered
28 inactive licenses are eligible for reactivation. Any inactive
29 license reactivated pursuant to this subparagraph shall return
30 to inactive status when the public health emergency ends or
31 prior to the end of the public health emergency if the State

1 Health Officer determines that the health care practitioner is
2 no longer needed to provide services during the emergency. The
3 license may only be reactivated for a period not to exceed 90
4 days without meeting the requirements of s. 456.036 or chapter
5 401. If a physician assistant or advanced registered nurse
6 practitioner requests reactivation and volunteers during the
7 declared public health emergency, the county health department
8 medical director, if appropriate, shall serve as the
9 supervising physician for the physician assistant and shall be
10 authorized to delegate acts of medical diagnosis and treatment
11 to the advanced registered nurse practitioner.

12 3. Notwithstanding any law to the contrary, compelling
13 an individual to be examined, tested, vaccinated, treated, or
14 quarantined for communicable diseases that have significant
15 morbidity or mortality and present a severe danger to public
16 health. Prior to taking action under this subparagraph, the
17 State Health Officer shall, to the extent possible, consult
18 with the Governor.

19 a. Examination, testing, vaccination, or treatment may
20 be performed by any qualified person authorized by the State
21 Health Officer. Individuals who are unable or unwilling to be
22 examined, tested, vaccinated, or treated for reasons of
23 health, religion, or conscience may be subjected to
24 quarantine.

25 b. If the individual poses a danger to public health,
26 the State Health Officer may subject the individual to
27 quarantine. If there is no practicable method to quarantine
28 the individual, the State Health Officer may use any means
29 necessary to vaccinate or treat the individual.

30 c. Any order of the State Health Officer given to
31 effectuate this subparagraph shall be immediately enforceable

1 by law enforcement.

2

3 Individuals who assist the State Health Officer at his or her
4 request on a volunteer basis during a public health emergency
5 declared pursuant to s. 381.00315 shall be entitled to the
6 benefits in s. 110.504(2), (3), (4), and (5).

7 Section 35. Section 381.00315, Florida Statutes, is
8 amended to read:

9 381.00315 Public health advisories; public health
10 emergencies.--The State Health Officer is responsible for
11 declaring public health emergencies and issuing public health
12 advisories.

13 (1) As used in this section, the term:

14 (a) "Public health advisory" means any warning or
15 report giving information to the public about a potential
16 public health threat.Prior to issuing any public health
17 advisory, the State Health Officer must consult with any state
18 or local agency regarding areas of responsibility which may be
19 affected by such advisory. Upon determining that issuing a
20 public health advisory is necessary to protect the public
21 health and safety, and prior to issuing the advisory, the
22 State Health Officer must notify each county health department
23 within the area which is affected by the advisory of the State
24 Health Officer's intent to issue the advisory. The State
25 Health Officer is authorized to take any action appropriate to
26 enforce any public health advisory.

27 (b) "Public health emergency" means any occurrence, or
28 threat thereof, whether natural or manmade, which results or
29 may result in substantial injury or harm to the public health
30 from infectious disease, chemical agents, nuclear agents,
31 biological toxins, or situations involving mass casualties or

1 natural disasters. Prior to declaring a public health
2 emergency, the State Health Officer shall, to the extent
3 possible, consult with the Governor and shall notify the Chief
4 of Domestic Security Initiatives as created in s. 943.03. The
5 declaration of a public health emergency shall continue until
6 the State Health Officer finds that the threat or danger has
7 been dealt with to the extent that the emergency conditions no
8 longer exist and he or she terminates the declaration.
9 However, a declaration of a public health emergency may not
10 continue for longer than 60 days unless the Governor concurs
11 in the renewal of the declaration.

12 Section 36. Section 381.0034, Florida Statutes, is
13 amended to read:

14 381.0034 Requirement for instruction on conditions
15 caused by nuclear, biological, and chemical terrorism and on
16 human immunodeficiency virus and acquired immune deficiency
17 syndrome.--

18 (1) ~~As of July 1, 1991,~~The Department of Health shall
19 require each person licensed or certified under chapter 401,
20 chapter 467, part IV of chapter 468, or chapter 483, as a
21 condition of biennial relicensure, to complete an educational
22 course approved by the department on conditions caused by
23 nuclear, biological, and chemical terrorism. The course shall
24 consist of education on diagnosis and treatment, the modes of
25 transmission, infection control procedures, and clinical
26 management. Such course shall also include information on
27 reporting suspected cases of conditions caused by nuclear,
28 biological, or chemical terrorism to the appropriate health
29 and law enforcement authorities, and prevention of human
30 immunodeficiency virus and acquired immune deficiency
31 syndrome. Such course shall include information on current

1 ~~Florida law on acquired immune deficiency syndrome and its~~
2 ~~impact on testing, confidentiality of test results, and~~
3 ~~treatment of patients.~~ Each such licensee or certificateholder
4 shall submit confirmation of having completed said course, on
5 a form provided by the department, when submitting fees or
6 application for each biennial renewal.

7 (2) Failure to complete the requirements of this
8 section shall be grounds for disciplinary action contained in
9 the chapters specified in subsection (1). In addition to
10 discipline by the department, the licensee or
11 certificateholder shall be required to complete the required
12 ~~said course or courses.~~

13 (3) The department shall require, as a condition of
14 granting a license under the chapters specified in subsection
15 (1), that an applicant making initial application for
16 licensure complete respective an educational courses course
17 acceptable to the department on conditions caused by nuclear,
18 biological, and chemical terrorism and on human
19 immunodeficiency virus and acquired immune deficiency
20 syndrome. An applicant who has not taken such courses a
21 ~~course~~ at the time of licensure shall, upon an affidavit
22 showing good cause, be allowed 6 months to complete this
23 requirement.

24 (4) The department shall have the authority to adopt
25 rules to carry out the provisions of this section.

26 (5) Any professional holding two or more licenses or
27 certificates subject to the provisions of this section shall
28 be permitted to show proof of having taken one
29 department-approved course on conditions caused by nuclear,
30 biological, and chemical terrorism human immunodeficiency
31 ~~virus and acquired immune deficiency syndrome,~~ for purposes of

1 relicensure or recertification for the additional licenses.

2 Section 37. Section 381.0035, Florida Statutes, is
3 amended to read:

4 381.0035 Educational courses ~~course~~ on human
5 immunodeficiency virus and acquired immune deficiency syndrome
6 and on conditions caused by nuclear, biological, and chemical
7 terrorism; employees and clients of certain health care
8 facilities.--

9 (1)(a) The Department of Health shall require all
10 ~~employees and~~ clients of facilities licensed under chapters
11 393, 394, and 397 ~~and employees of facilities licensed under~~
12 ~~chapter 395 and parts II, III, IV, and VI of chapter 400~~ to
13 complete, biennially, a continuing educational course on the
14 modes of transmission, infection control procedures, clinical
15 management, and prevention of human immunodeficiency virus and
16 acquired immune deficiency syndrome with an emphasis on
17 appropriate behavior and attitude change. Such instruction
18 shall include information on current Florida law and its
19 impact on testing, confidentiality of test results, and
20 treatment of patients and any protocols and procedures
21 applicable to human immunodeficiency counseling and testing,
22 reporting, the offering of HIV testing to pregnant women, and
23 partner notification issues pursuant to ss. 381.004 and
24 384.25.

25 (b) The department shall require all employees of
26 facilities licensed under chapters 393, 394, 395, and 397 and
27 parts II, III, IV, and VI of chapter 400 to complete,
28 biennially, a continuing educational course on conditions
29 caused by nuclear, biological, and chemical terrorism. The
30 course shall consist of education on diagnosis and treatment,
31 modes of transmission, infection control procedures, and

1 clinical management. Such course shall also include
2 information on reporting suspected cases of conditions caused
3 by nuclear, biological, or chemical terrorism to the
4 appropriate health and law enforcement authorities.

5 (2) New employees of facilities licensed under
6 chapters 393, 394, 395, and 397 and parts II, III, IV, and VI
7 of chapter 400 shall be required to complete a course on human
8 immunodeficiency virus and acquired immune deficiency
9 syndrome, with instruction to include information on current
10 Florida law and its impact on testing, confidentiality of test
11 results, and treatment of patients. New employees of such
12 facilities shall also be required to complete a course on
13 conditions caused by nuclear, biological, and chemical
14 terrorism, with instruction to include information on
15 reporting suspected cases to the appropriate health and law
16 enforcement authorities.

17 (3) Facilities licensed under chapters 393, 394, 395,
18 and 397, and parts II, III, IV, and VI of chapter 400 shall
19 maintain a record of employees and dates of attendance at
20 human immunodeficiency virus and acquired immune deficiency
21 syndrome educational courses on human immunodeficiency virus
22 and acquired immune deficiency syndrome and on conditions
23 caused by nuclear, biological, and chemical terrorism.

24 (4) The department shall have the authority to review
25 the records of each facility to determine compliance with the
26 requirements of this section. The department may adopt rules
27 to carry out the provisions of this section.

28 (5) In lieu of completing a course as required in
29 paragraph (1)(b), the employee may complete a course on
30 end-of-life care and palliative health care or a course on
31 HIV/AIDS so long as the employee completed an approved course

1 on conditions caused by nuclear, biological, and chemical
2 terrorism in the immediately preceding biennium.

3 Section 38. Section 381.0421, Florida Statutes, is
4 created to read:

5 381.0421 Vaccination against meningococcal meningitis
6 and hepatitis B.--

7 (1) A postsecondary educational institution shall
8 provide detailed information concerning the risks associated
9 with meningococcal meningitis and hepatitis B and the
10 availability, effectiveness, and known contraindications of
11 any required or recommended vaccine against meningococcal
12 meningitis and hepatitis B to every student, or to the
13 student's parent or guardian if the student is a minor, who
14 has been accepted for admission.

15 (2) An individual enrolled in a postsecondary
16 educational institution who will be residing in on-campus
17 housing shall provide documentation of vaccinations against
18 meningococcal meningitis and hepatitis B unless the
19 individual, if the individual is 18 years of age or older, or
20 the individual's parent or guardian, if the individual is a
21 minor, declines the vaccinations by signing a separate waiver
22 for each of these vaccines provided by the institution
23 acknowledging receipt and review of the information provided.

24 (3) This section does not require any postsecondary
25 educational institution to provide or pay for vaccinations
26 against meningococcal meningitis or hepatitis B.

27 Section 39. Subsection (4) of section 395.1027,
28 Florida Statutes, is amended to read:

29 395.1027 Regional poison control centers.--

30 (4) By October 1, 1999, each regional poison control
31 center shall develop a prehospital emergency dispatch protocol

1 with each licensee defined by s. 401.23(14)(13)in the
2 geographic area covered by the regional poison control center.
3 The prehospital emergency dispatch protocol shall be developed
4 by each licensee's medical director in conjunction with the
5 designated regional poison control center responsible for the
6 geographic area in which the licensee operates. The protocol
7 shall define toxic substances and describe the procedure by
8 which the designated regional poison control center may be
9 consulted by the licensee. If a call is transferred to the
10 designated regional poison control center in accordance with
11 the protocol established under this section and s. 401.268,
12 the designated regional poison control center shall assume
13 responsibility and liability for the call.

14 Section 40. Section 401.23, Florida Statutes, is
15 amended to read:

16 401.23 Definitions.--As used in this part, the term:

17 (1) "Advanced life support" means the use of skills
18 and techniques described in the most recent United States
19 Department of Transportation National Standard Paramedic
20 Curriculum by a paramedic under the supervision of a
21 licensee's medical director as required by rules of the
22 department. The term "advanced life support" also includes
23 other techniques that have been approved and are performed
24 under conditions specified by rules of the department. The
25 term "advanced life support" also includes provision of care
26 by a paramedic under the supervision of a licensee's medical
27 director to a person experiencing an emergency medical
28 condition as defined in subsection (11) ~~treatment of~~
29 life-threatening medical emergencies through the use of
30 techniques such as endotracheal intubation, the administration
31 of drugs or intravenous fluids, telemetry, cardiac monitoring,

1 ~~and cardiac defibrillation by a qualified person, pursuant to~~
2 ~~rules of the department.~~

3 (2) "Advanced life support service" means any
4 emergency medical transport or nontransport service which uses
5 advanced life support techniques.

6 (3) "Air ambulance" means any fixed-wing or
7 rotary-wing aircraft used for, or intended to be used for, air
8 transportation of sick or injured persons requiring or likely
9 to require medical attention during transport.

10 (4) "Air ambulance service" means any publicly or
11 privately owned service, licensed in accordance with the
12 provisions of this part, which operates air ambulances to
13 transport persons requiring or likely to require medical
14 attention during transport.

15 (5) "Ambulance" or "emergency medical services
16 vehicle" means any privately or publicly owned land or water
17 vehicle that is designed, constructed, reconstructed,
18 maintained, equipped, or operated for, and is used for, or
19 intended to be used for, land or water transportation of sick
20 or injured persons requiring or likely to require medical
21 attention during transport.

22 (6) "Ambulance driver" means any person who meets the
23 requirements of s. 401.281.

24 (7) "Basic life support" means the use of skills and
25 techniques described in the most recent United States
26 Department of Transportation National Standard EMT-Basic
27 Curriculum by an emergency medical technician or paramedic
28 under the supervision of a licensee's medical director as
29 required by rules of the department. The term "basic life
30 support" also includes other techniques that have been
31 approved and are performed under conditions specified by rules

1 of the department. The term "basic life support" also includes
2 provision of care by a paramedic or emergency medical
3 technician under the supervision of a licensee's medical
4 director to a person experiencing an emergency medical
5 condition as defined in subsection (11)~~treatment of medical~~
6 ~~emergencies by a qualified person through the use of~~
7 ~~techniques such as patient assessment, cardiopulmonary~~
8 ~~resuscitation (CPR), splinting, obstetrical assistance,~~
9 ~~bandaging, administration of oxygen, application of medical~~
10 ~~antishock trousers, administration of a subcutaneous injection~~
11 ~~using a premeasured autoinjector of epinephrine to a person~~
12 ~~suffering an anaphylactic reaction, and other techniques~~
13 ~~described in the Emergency Medical Technician Basic Training~~
14 ~~Course Curriculum of the United States Department of~~
15 ~~Transportation. The term "basic life support" also includes~~
16 ~~other techniques which have been approved and are performed~~
17 ~~under conditions specified by rules of the department.~~

18 (8) "Basic life support service" means any emergency
19 medical service which uses only basic life support techniques.

20 (9) "Certification" means any authorization issued
21 pursuant to this part to a person to act as an emergency
22 medical technician or a paramedic.

23 (10) "Department" means the Department of Health.

24 (11) "Emergency medical condition" means:

25 (a) A medical condition manifesting itself by acute
26 symptoms of sufficient severity, which may include severe
27 pain, psychiatric disturbances, symptoms of substance abuse,
28 or other acute symptoms, such that the absence of immediate
29 medical attention could reasonably be expected to result in
30 any of the following:

31 1. Serious jeopardy to the health of a patient,

1 including a pregnant woman or fetus.

2 2. Serious impairment to bodily functions.

3 3. Serious dysfunction of any bodily organ or part.

4 (b) With respect to a pregnant woman, that there is
5 evidence of the onset and persistence of uterine contractions
6 or rupture of the membranes.

7 (c) With respect to a person exhibiting acute
8 psychiatric disturbance or substance abuse, that the absence
9 of immediate medical attention could reasonably be expected to
10 result in:

11 1. Serious jeopardy to the health of a patient; or

12 2. Serious jeopardy to the health of others.

13 (12)(11) "Emergency medical technician" means a person
14 who is certified by the department to perform basic life
15 support pursuant to this part.

16 (13)(12) "Interfacility transfer" means the
17 transportation by ambulance of a patient between two
18 facilities licensed under chapter 393, chapter 395, or chapter
19 400, pursuant to this part.

20 (14)(13) "Licensee" means any basic life support
21 service, advanced life support service, or air ambulance
22 service licensed pursuant to this part.

23 (15)(14) "Medical direction" means direct supervision
24 by a physician through two-way voice communication or, when
25 such voice communication is unavailable, through established
26 standing orders, pursuant to rules of the department.

27 (16)(15) "Medical director" means a physician who is
28 employed or contracted by a licensee and who provides medical
29 supervision, including appropriate quality assurance but not
30 including administrative and managerial functions, for daily
31 operations and training pursuant to this part.

1 ~~(17)~~~~(16)~~ "Mutual aid agreement" means a written
2 agreement between two or more entities whereby the signing
3 parties agree to lend aid to one another under conditions
4 specified in the agreement and as sanctioned by the governing
5 body of each affected county.

6 ~~(18)~~~~(17)~~ "Paramedic" means a person who is certified
7 by the department to perform basic and advanced life support
8 pursuant to this part.

9 ~~(19)~~~~(18)~~ "Permit" means any authorization issued
10 pursuant to this part for a vehicle to be operated as a basic
11 life support or advanced life support transport vehicle or an
12 advanced life support nontransport vehicle providing basic or
13 advanced life support.

14 ~~(20)~~~~(19)~~ "Physician" means a practitioner who is
15 licensed under the provisions of chapter 458 or chapter 459.
16 For the purpose of providing "medical direction" as defined in
17 subsection~~(15)~~~~(14)~~for the treatment of patients immediately
18 prior to or during transportation to a United States
19 Department of Veterans Affairs medical facility, "physician"
20 also means a practitioner employed by the United States
21 Department of Veterans Affairs.

22 ~~(21)~~~~(20)~~ "Registered nurse" means a practitioner who
23 is licensed to practice professional nursing pursuant to part
24 I of chapter 464.

25 ~~(22)~~~~(21)~~ "Secretary" means the Secretary of Health.

26 ~~(23)~~~~(22)~~ "Service location" means any permanent
27 location in or from which a licensee solicits, accepts, or
28 conducts business under this part.

29 Section 41. Paragraph (b) of subsection (2) of section
30 401.245, Florida Statutes, is amended to read:

31 401.245 Emergency Medical Services Advisory Council.--

1 (2)
2 (b) Representation on the Emergency Medical Services
3 Advisory Council shall include: two licensed physicians who
4 are "medical directors" as defined in s. 401.23(16)~~(15)~~or
5 whose medical practice is closely related to emergency medical
6 services; two emergency medical service administrators, one of
7 whom is employed by a fire service; two certified paramedics,
8 one of whom is employed by a fire service; two certified
9 emergency medical technicians, one of whom is employed by a
10 fire service; one emergency medical services educator; one
11 emergency nurse; one hospital administrator; one
12 representative of air ambulance services; one representative
13 of a commercial ambulance operator; and two laypersons who are
14 in no way connected with emergency medical services, one of
15 whom is a representative of the elderly. Ex officio members of
16 the advisory council from state agencies shall include, but
17 shall not be limited to, representatives from the Department
18 of Education, the Department of Management Services, the
19 Department of Insurance, the Department of Highway Safety and
20 Motor Vehicles, the Department of Transportation, and the
21 Department of Community Affairs.

22 Section 42. Subsection (1) of section 401.252, Florida
23 Statutes, is amended to read:

24 401.252 Interfacility transfer.--

25 (1) A licensed basic or advanced life support
26 ambulance service may conduct interfacility transfers in a
27 permitted ambulance, using a registered nurse or physician
28 assistant in place of an emergency medical technician or
29 paramedic, if:

30 (a) The registered nurse or physician assistant holds
31 a current certificate of successful course completion in

1 advanced cardiac life support;

2 (b) The physician in charge has granted permission for
3 such a transfer, has designated the level of service required
4 for such transfer, and has deemed the patient to be in such a
5 condition appropriate to this type of ambulance staffing; and

6 (c) The registered nurse operates within the scope of
7 part I of chapter 464 or the physician assistant operates
8 within the physician assistant's scope of practice under
9 chapter 458 or chapter 459.

10 Section 43. Subsection (6) of section 401.27, Florida
11 Statutes, is amended to read:

12 401.27 Personnel; standards and certification.--

13 (6)(a) The department shall establish by rule a
14 procedure for biennial renewal certification of emergency
15 medical technicians. Such rules must require a United States
16 Department of Transportation refresher training program of at
17 least 30 hours as approved by the department every 2 years.
18 Completion of the course required by s. 381.0034(1) shall
19 count toward the 30 hours.The refresher program may be
20 offered in multiple presentations spread over the 2-year
21 period. The rules must also provide that the refresher course
22 requirement may be satisfied by passing a challenge
23 examination.

24 (b) The department shall establish by rule a procedure
25 for biennial renewal certification of paramedics. Such rules
26 must require candidates for renewal to have taken at least 30
27 hours of continuing education units during the 2-year period.
28 Completion of the course required by s. 381.0034(1) shall
29 count toward the 30 hours.The rules must provide that the
30 continuing education requirement may be satisfied by passing a
31 challenge examination.

1 Section 44. Section 456.033, Florida Statutes, is
2 amended to read:

3 456.033 Requirement for instruction for certain
4 licensees on conditions caused by nuclear, biological, and
5 chemical terrorism and on HIV and AIDS.--

6 (1) The appropriate board shall require each person
7 licensed or certified under chapter 457; chapter 458; chapter
8 459; chapter 460; chapter 461; chapter 463; part I of chapter
9 464; chapter 465; chapter 466; part II, part III, part V, or
10 part X of chapter 468; or chapter 486 to complete a continuing
11 educational course, approved by the board, on conditions
12 caused by nuclear, biological, and chemical terrorism ~~human~~
13 ~~immunodeficiency virus and acquired immune deficiency syndrome~~
14 as part of biennial relicensure or recertification. The course
15 shall consist of education on diagnosis and treatment, the
16 modes of transmission, infection control procedures, and
17 clinical management. Such course shall also include
18 information on reporting suspected cases of conditions caused
19 by nuclear, biological, or chemical terrorism to the
20 appropriate health and law enforcement authorities, and
21 ~~prevention of human immunodeficiency virus and acquired immune~~
22 ~~deficiency syndrome. Such course shall include information on~~
23 ~~current Florida law on acquired immune deficiency syndrome and~~
24 ~~its impact on testing, confidentiality of test results,~~
25 ~~treatment of patients, and any protocols and procedures~~
26 ~~applicable to human immunodeficiency virus counseling and~~
27 ~~testing, reporting, the offering of HIV testing to pregnant~~
28 ~~women, and partner notification issues pursuant to ss. 381.004~~
29 ~~and 384.25.~~

30 (2) Each such licensee or certificateholder shall
31 submit confirmation of having completed said course, on a form

1 as provided by the board, when submitting fees for each
2 biennial renewal.

3 (3) The board shall have the authority to approve
4 additional equivalent courses that may be used to satisfy the
5 requirements in subsection (1). Each licensing board that
6 requires a licensee to complete an educational course pursuant
7 to this section may count the hours required for completion of
8 the course included in the total continuing educational
9 requirements as required by law.

10 (4) Any person holding two or more licenses subject to
11 the provisions of this section shall be permitted to show
12 proof of having taken one board-approved course on conditions
13 caused by nuclear, biological, and chemical terrorism ~~human~~
14 ~~immunodeficiency virus and acquired immune deficiency~~
15 ~~syndrome~~, for purposes of relicensure or recertification for
16 additional licenses.

17 (5) Failure to comply with the ~~above~~ requirements of
18 this section shall constitute grounds for disciplinary action
19 under each respective licensing chapter and s. 456.072(1)(e).
20 In addition to discipline by the board, the licensee shall be
21 required to complete the required course or courses.

22 (6) The board shall require as a condition of granting
23 a license under the chapters and parts specified in subsection
24 (1) that an applicant making initial application for licensure
25 complete respective ~~an~~ educational courses ~~course~~ acceptable
26 to the board on conditions caused by nuclear, biological, and
27 chemical terrorism and on human immunodeficiency virus and
28 acquired immune deficiency syndrome. An applicant who has not
29 taken such courses ~~a course~~ at the time of licensure shall,
30 upon an affidavit showing good cause, be allowed 6 months to
31 complete this requirement.

1 (7) The board shall have the authority to adopt rules
2 to carry out the provisions of this section.

3 (8) The board shall report to the Legislature by March
4 1 of each year as to the implementation and compliance with
5 the requirements of this section.

6 (9)(a) In lieu of completing a course as required in
7 subsection (1), the licensee may complete a course on in
8 end-of-life care and palliative health care or a course on
9 HIV/AIDS, so long as the licensee completed an approved
10 AIDS/HIV course on conditions caused by nuclear, biological,
11 and chemical terrorism in the immediately preceding biennium.

12 (b) In lieu of completing a course as required by
13 subsection (1), a person licensed under chapter 466 ~~who has~~
14 ~~completed an approved AIDS/HIV course in the immediately~~
15 ~~preceding 2 years~~ may complete a course approved by the Board
16 of Dentistry.

17 Section 45. Subsection (3) is added to section
18 381.003, Florida Statutes, to read:

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

21 (3) The department shall by rule adopt the
22 blood-borne-pathogen standard set forth in subpart Z of 29
23 C.F.R. part 1910, as amended by Pub. L. No. 106-430, which
24 shall apply to all public-sector employers. The department
25 shall compile and maintain a list of existing needleless
26 systems and sharps with engineered sharps-injury protection
27 which shall be available to assist employers, including the
28 department and the Department of Corrections, in complying
29 with the applicable requirements of the blood-borne-pathogen
30 standard. The list may be developed from existing sources of
31 information, including, without limitation, the United States

1 Food and Drug Administration, the Centers for Disease Control
2 and Prevention, the Occupational Safety and Health
3 Administration, and the United States Department of Veterans
4 Affairs.

5 Section 46. Section 456.0345, Florida Statutes, is
6 created to read:

7 456.0345 Life support training.--Health care
8 practitioners who obtain training in advanced cardiac life
9 support, cardiopulmonary resuscitation, or emergency first aid
10 shall receive an equivalent number of continuing education
11 course credits which may be applied toward licensure renewal
12 requirements.

13 Section 47. Paragraph (e) of subsection (1) of section
14 456.072, Florida Statutes, is amended to read:

15 456.072 Grounds for discipline; penalties;
16 enforcement.--

17 (1) The following acts shall constitute grounds for
18 which the disciplinary actions specified in subsection (2) may
19 be taken:

20 (e) Failing to comply with the educational course
21 requirements for conditions caused by nuclear, biological, and
22 chemical terrorism or for human immunodeficiency virus and
23 acquired immune deficiency syndrome.

24 Section 48. Section 456.38, Florida Statutes, is
25 amended to read:

26 456.38 Practitioner registry for disasters and
27 emergencies.--The Department of Health shall ~~may~~ include on
28 its application and renewal forms for the licensure or
29 certification of health care practitioners licensed pursuant
30 to chapter 458, chapter 459, chapter 464, or part V of chapter
31 468, as defined in s. 456.001, who could assist the department

1 in the event of a disaster a question asking if the
2 practitioner would be available to provide health care
3 services in special needs shelters or to help staff disaster
4 medical assistance teams during times of emergency or major
5 disaster. The names of practitioners who answer affirmatively
6 shall be maintained by the department as a health care
7 practitioner registry for disasters and emergencies. A health
8 care practitioner who volunteers his or her services in a
9 special needs shelter or as part of a disaster medical
10 assistance team during a time of emergency or disaster shall
11 not be terminated or discriminated against by his or her
12 employer for such volunteer work, provided that the health
13 care practitioner returns to his or her regular employment
14 within 2 weeks or within a longer period that has been
15 previously approved by the employer in writing.

16 Section 49. Subsection (4) of section 458.319, Florida
17 Statutes, is amended to read:

18 458.319 Renewal of license.--

19 (4) Notwithstanding the provisions of s. 456.033, a
20 physician may complete continuing education on end-of-life
21 care and palliative care in lieu of continuing education in
22 conditions caused by nuclear, biological, and chemical
23 terrorism ~~AIDS/HIV~~, if that physician has completed the
24 ~~AIDS/HIV~~ continuing education in conditions caused by nuclear,
25 biological, and chemical terrorism in the immediately
26 preceding biennium.

27 Section 50. Subsection (5) of section 459.008, Florida
28 Statutes, is amended to read:

29 459.008 Renewal of licenses and certificates.--

30 (5) Notwithstanding the provisions of s. 456.033, an
31 osteopathic physician may complete continuing education on

1 end-of-life and palliative care in lieu of continuing
2 education in conditions caused by nuclear, biological, and
3 chemical terrorism AIDS/HIV, if that physician has completed
4 the ~~AIDS/HIV~~ continuing education in conditions caused by
5 nuclear, biological, and chemical terrorism in the immediately
6 preceding biennium.

7 Section 51. Subsection (4) is added to section
8 401.2715, Florida Statutes, to read:

9 401.2715 Recertification training of emergency medical
10 technicians and paramedics.--

11 (4) Any certified emergency medical technician or
12 paramedic may, as a condition of recertification, complete up
13 to 8 hours of training to respond to terrorism, as defined in
14 s. 775.30, and such hours completed may be substituted on an
15 hour-for-hour basis for any other areas of training required
16 for recertification. The department may adopt rules necessary
17 to administer this subsection.

18 Section 52. Subsection (1) of section 633.35, Florida
19 Statutes, is amended to read:

20 633.35 Firefighter training and certification.--

21 (1) The division shall establish a firefighter
22 training program of not less than 360 hours, administered by
23 such agencies and institutions as it approves for the purpose
24 of providing basic employment training for firefighters. Any
25 firefighter may, as a condition of certification, complete up
26 to 8 hours of training to respond to terrorism, as defined in
27 s. 775.30, and such hours completed may be substituted on an
28 hour-for-hour basis for any other areas of training required
29 for certification. The division may adopt rules necessary to
30 administer this subsection. Nothing herein shall require a
31 public employer to pay the cost of such training.

1 Section 53. Subsection (1) of section 943.135, Florida
2 Statutes, is amended to read:

3 943.135 Requirements for continued employment.--

4 (1) The commission shall, by rule, adopt a program
5 that requires all officers, as a condition of continued
6 employment or appointment as officers, to receive periodic
7 commission-approved continuing training or education. Such
8 continuing training or education shall be required at the rate
9 of 40 hours every 4 years, up to 8 hours of which may consist
10 of training to respond to terrorism as defined in s. 775.30.

11 No officer shall be denied a reasonable opportunity by the
12 employing agency to comply with this section. The employing
13 agency must document that the continuing training or education
14 is job-related and consistent with the needs of the employing
15 agency. The employing agency must maintain and submit, or
16 electronically transmit, the documentation to the commission,
17 in a format approved by the commission. The rule shall also
18 provide:

19 (a) Assistance to an employing agency in identifying
20 each affected officer, the date of his or her employment or
21 appointment, and his or her most recent date for successful
22 completion of continuing training or education;

23 (b) A procedure for reactivation of the certification
24 of an officer who is not in compliance with this section; and

25 (c) A remediation program supervised by the training
26 center director within the geographic area for any officer who
27 is attempting to comply with the provisions of this subsection
28 and in whom learning disabilities are identified. The officer
29 shall be assigned nonofficer duties, without loss of employee
30 benefits, and the program shall not exceed 90 days.

31 Section 54. Subsections (1), (2), and (6) of section

1 765.512, Florida Statutes, are amended to read:

2 765.512 Persons who may make an anatomical gift.--

3 (1) Any person who may make a will may give all or
4 part of his or her body for any purpose specified in s.
5 765.510, the gift to take effect upon death. An anatomical
6 gift made by an adult donor and not revoked by the donor as
7 provided in s. 765.516 is irrevocable ~~and does not require the~~
8 ~~consent or concurrence of any person~~ after the donor's death.
9 A family member, guardian, representative ad litem, or health
10 care surrogate of a decedent who has made an anatomical gift
11 may not modify the decedent's wishes or deny or prevent the
12 anatomical gift from being made.

13 (2) If the decedent has executed an agreement
14 concerning an anatomical gift, by including signing an organ
15 and tissue donor card, by expressing his or her wish to donate
16 in a living will or advance directive, or by signifying his or
17 her intent to donate on his or her driver's license or in some
18 other written form has indicated his or her wish to make an
19 anatomical gift, and in the absence of actual notice of
20 contrary indications by the decedent, the document is evidence
21 of legally sufficient informed consent to donate an anatomical
22 gift and is legally binding. Any surrogate designated by the
23 decedent pursuant to part II of this chapter may give all or
24 any part of the decedent's body for any purpose specified in
25 s. 765.510.

26 (6) A gift of all or part of a body authorizes:

27 (a) Any examination necessary to assure medical
28 acceptability of the gift for the purposes intended.

29 (b) The decedent's medical provider, family, or a
30 third party to furnish medical records requested concerning
31 the decedent's medical and social history.

1 Section 55. Subsection (1) of section 765.516, Florida
2 Statutes, is amended to read:

3 765.516 Amendment of the terms of or the revocation of
4 the gift.--

5 (1) A donor may amend the terms of or revoke an
6 anatomical gift by:

7 (a) The execution and delivery to the donee of a
8 signed statement.

9 (b) An oral statement that is+

10 ~~1. Made to the donor's spouse; or~~

11 ~~2. made in the presence of two persons and~~
12 communicated to the donor's family or attorney or to the
13 donee.

14 (c) A statement during a terminal illness or injury
15 addressed to an attending physician, who must communicate the
16 revocation of the gift to the procurement organization that is
17 certified by the state.

18 (d) A signed document found on or about the donor's
19 person ~~or in the donor's effects.~~

20 Section 56. 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 60 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 Section 57. The Office of Program Policy Analysis and
9 Government Accountability and the Auditor General shall
10 conduct a joint audit of all hearings and billings therefor
11 conducted by the Division of Administrative Hearings for all
12 state agencies and nonstate agencies and shall present a
13 report to the President of the Senate and the Speaker of the
14 House of Representatives on or before January 1, 2003, which
15 contains findings and recommendations regarding the manner in
16 which the division charges for its services. The report shall
17 recommend alternative billing formulas.

18 Section 58. Subsection (7) is added to section
19 456.076, Florida Statutes, to read:

20 456.076 Treatment programs for impaired
21 practitioners.--

22 (7) Each licensee participating in an impaired
23 practitioner program pursuant to this section shall pay a
24 portion of the costs of the consultant and impaired
25 practitioner program, as determined by rule of the department,
26 incurred as a result of that licensee, unless the consultant
27 finds the licensee to be financially unable to pay in
28 accordance with rules set forth by the department. Payment of
29 these costs shall be a condition of the contract between the
30 impaired practitioner program and the impaired practitioner.
31 Failure to pay the required costs shall be a violation of the

1 contract, unless prior arrangements have been made with the
2 impaired practitioner program. If the licensee has entered
3 the impaired practitioner program as a result of a
4 disciplinary investigation, such payment shall be included in
5 the final order imposing discipline. The remaining costs
6 shall be paid out of the Medical Quality Assurance Trust Fund
7 or other federal, state, or private program funds. Each
8 licensee shall pay the full cost of the approved treatment
9 program or other treatment plan required by the impaired
10 practitioner program, unless private funds are available to
11 assist with such payment.

12 Section 59. Section 456.047, Florida Statutes, is
13 repealed.

14 Section 60. All revenues associated with s. 456.047,
15 Florida Statutes, and collected by the Department of Health on
16 or before July 1, 2002, shall remain in the Medical Quality
17 Assurance Trust Fund, and no refunds shall be given.

18 Section 61. Paragraph (d) of subsection (4) of section
19 456.039, Florida Statutes, is amended to read:

20 456.039 Designated health care professionals;
21 information required for licensure.--

22 (4)

23 (d) Any applicant for initial licensure or renewal of
24 licensure as a health care practitioner who submits to the
25 Department of Health a set of fingerprints or information
26 required for the criminal history check required under this
27 section shall not be required to provide a subsequent set of
28 fingerprints or other duplicate information required for a
29 criminal history check to the Agency for Health Care
30 Administration, the Department of Juvenile Justice, or the
31 Department of Children and Family Services for employment or

1 licensure with such agency or department if the applicant has
2 undergone a criminal history check as a condition of initial
3 licensure or licensure renewal as a health care practitioner
4 with the Department of Health or any of its regulatory boards,
5 notwithstanding any other provision of law to the contrary. In
6 lieu of such duplicate submission, the Agency for Health Care
7 Administration, the Department of Juvenile Justice, and the
8 Department of Children and Family Services shall obtain
9 criminal history information for employment or licensure of
10 health care practitioners by such agency and departments from
11 the Department of Health ~~Health's health care practitioner~~
12 ~~credentialing system.~~

13 Section 62. Paragraph (d) of subsection (4) of section
14 456.0391, Florida Statutes, is amended to read:

15 456.0391 Advanced registered nurse practitioners;
16 information required for certification.--

17 (4)

18 (d) Any applicant for initial certification or renewal
19 of certification as an advanced registered nurse practitioner
20 who submits to the Department of Health a set of fingerprints
21 and information required for the criminal history check
22 required under this section shall not be required to provide a
23 subsequent set of fingerprints or other duplicate information
24 required for a criminal history check to the Agency for Health
25 Care Administration, the Department of Juvenile Justice, or
26 the Department of Children and Family Services for employment
27 or licensure with such agency or department, if the applicant
28 has undergone a criminal history check as a condition of
29 initial certification or renewal of certification as an
30 advanced registered nurse practitioner with the Department of
31 Health, notwithstanding any other provision of law to the

1 contrary. In lieu of such duplicate submission, the Agency for
2 Health Care Administration, the Department of Juvenile
3 Justice, and the Department of Children and Family Services
4 shall obtain criminal history information for employment or
5 licensure of persons certified under s. 464.012 by such agency
6 or department from the Department of Health ~~Health's health~~
7 ~~care practitioner credentialing system.~~

8 Section 63. Paragraph (v) of subsection (1) of section
9 456.072, Florida Statutes, is amended to read:

10 456.072 Grounds for discipline; penalties;
11 enforcement.--

12 (1) The following acts shall constitute grounds for
13 which the disciplinary actions specified in subsection (2) may
14 be taken:

15 (v) Failing to comply with the requirements for
16 profiling ~~and credentialing~~, including, but not limited to,
17 failing to provide initial information, failing to timely
18 provide updated information, or making misleading, untrue,
19 deceptive, or fraudulent representations on a profile,
20 ~~credentialing~~, or initial or renewal licensure application.

21 Section 64. Subsection (2) of section 456.077, Florida
22 Statutes, is amended to read:

23 456.077 Authority to issue citations.--

24 (2) The board, or the department if there is no board,
25 shall adopt rules designating violations for which a citation
26 may be issued. Such rules shall designate as citation
27 violations those violations for which there is no substantial
28 threat to the public health, safety, and welfare. Violations
29 for which a citation may be issued shall include violations of
30 continuing education requirements; failure to timely pay
31 required fees and fines; failure to comply with the

1 requirements of ss. 381.026 and 381.0261 regarding the
2 dissemination of information regarding patient rights; failure
3 to comply with advertising requirements; failure to timely
4 update practitioner profile ~~and credentialing~~ files; failure
5 to display signs, licenses, and permits; failure to have
6 required reference books available; and all other violations
7 that do not pose a direct and serious threat to the health and
8 safety of the patient.

9 Section 65. Subsection (3) of section 458.309, Florida
10 Statutes, is amended to read:

11 458.309 Authority to make rules.--

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

1 pursuant to ss. 120.536(1) and 120.54 to implement this
2 subsection.

3 Section 66. Subsection (2) of section 459.005, Florida
4 Statutes, is amended to read:

5 459.005 Rulemaking authority.--

6 (2) All osteopathic physicians who perform level 2
7 procedures lasting more than 5 minutes and all level 3
8 surgical procedures in an office setting must register the
9 office with the department unless that office is licensed as a
10 facility pursuant to chapter 395. Each office that is
11 required under this subsection to be registered must be ~~The~~
12 ~~department shall inspect the physician's office annually~~
13 ~~unless the office is~~ accredited by a nationally recognized
14 accrediting agency approved by the Board of Medicine or the
15 Board of Osteopathic Medicine by rule or an accrediting
16 organization ~~subsequently~~ approved by the Board of Medicine or
17 the Board of Osteopathic Medicine by rule. Each office
18 registered but not accredited as required by this subsection
19 must achieve full and unconditional accreditation no later
20 than July 1, 2003, and must maintain unconditional
21 accreditation as long as procedures described in this
22 subsection that require the office to be registered and
23 accredited are performed. Accreditation reports shall be
24 submitted to the department. The actual costs for
25 registration ~~and inspection~~ or accreditation shall be paid by
26 the person seeking to register and operate the office setting
27 in which office surgery is performed. The Board of
28 Osteopathic Medicine may adopt rules pursuant to ss.
29 120.536(1) and 120.54 to implement this subsection.

30 Section 67. Subsections (11) and (12) are added to
31 section 456.004, Florida Statutes, to read:

1 456.004 Department; powers and duties.--The
2 department, for the professions under its jurisdiction, shall:

3 (11) Require objective performance measures for all
4 bureaus, units, boards, contracted entities, and board
5 executive directors that reflect the expected quality and
6 quantity of services.

7 (12) Consider all board requests to use private
8 vendors for particular regulatory functions. In considering a
9 board request, the department shall conduct an analysis to
10 determine if the function could be appropriately and
11 successfully performed by a private entity at a lower cost or
12 with improved efficiency. If after reviewing the department's
13 analysis the board desires to contract with a vendor for a
14 particular regulatory function and the board has a positive
15 cash balance, the department shall enter into a contract for
16 the service. The contract shall include objective performance
17 measures that reflect the expected quality and quantity of the
18 service and shall include a provision that terminates the
19 contract if the service falls below expected levels. For
20 purposes of this subsection, a "regulatory function" shall be
21 defined to include licensure, licensure renewal, examination,
22 complaint analysis, investigation, or prosecution.

23 Section 68. Subsection (1) of section 456.009, Florida
24 Statutes, is amended to read:

25 456.009 Legal and investigative services.--

26 (1) The department shall provide board counsel for
27 boards within the department by contracting with the
28 Department of Legal Affairs, by retaining private counsel
29 pursuant to s. 287.059, or by providing department staff
30 counsel. The primary responsibility of board counsel shall be
31 to represent the interests of the citizens of the state. A

1 board shall provide for the periodic review and evaluation of
2 the services provided by its board counsel. Fees and costs of
3 such counsel shall be paid from a trust fund used by the
4 department to implement this chapter, subject to the
5 provisions of s. 456.025. All contracts for independent
6 counsel shall provide for periodic review and evaluation by
7 the board and the department of services provided. All legal
8 and investigative services shall be reviewed by the department
9 annually to determine if such services are meeting the
10 performance measures specified in law and in the contract. All
11 contracts for legal and investigative services must include
12 objective performance measures that reflect the expected
13 quality and quantity of the contracted services.

14 Section 69. Subsection (6) is added to section
15 456.011, Florida Statutes, to read:

16 456.011 Boards; organization; meetings; compensation
17 and travel expenses.--

18 (6) Meetings of board committees, including probable
19 cause panels, shall be conducted electronically unless held
20 concurrently with, or on the day immediately before or after,
21 a regularly scheduled in-person board meeting. However, if a
22 particular committee meeting is expected to last more than 5
23 hours and cannot be held before or after the in-person board
24 meeting, the chair of the committee may request special
25 permission from the director of the Division of Medical
26 Quality Assurance to hold an in-person committee meeting. The
27 meeting shall be held in Tallahassee unless the chair of the
28 committee determines that another location is necessary due to
29 the subject matter to be discussed at the meeting and the
30 director authorizes the additional costs, if any.

31 Section 70. Subsection (11) is added to section

1 456.026, Florida Statutes, to read:

2 456.026 Annual report concerning finances,
3 administrative complaints, disciplinary actions, and
4 recommendations.--The department is directed to prepare and
5 submit a report to the President of the Senate and the Speaker
6 of the House of Representatives by November 1 of each year. In
7 addition to finances and any other information the Legislature
8 may require, the report shall include statistics and relevant
9 information, profession by profession, detailing:

10 (11) The performance measures for all bureaus, units,
11 boards, and contracted entities required by the department to
12 reflect the expected quality and quantity of services, and a
13 description of any effort to improve the performance of such
14 services.

15 Section 71. Section 458.3093, Florida Statutes, is
16 created to read:

17 458.3093 Licensure credentials verification.--All
18 applicants for initial physician licensure pursuant to this
19 chapter must submit their credentials to the Federation of
20 State Medical Boards. Effective January 1, 2003, the board
21 and the department shall only consider applications for
22 initial physician licensure pursuant to this chapter that have
23 been verified by the Federation of State Medical Boards
24 Credentials Verification Service or an equivalent program
25 approved by the board.

26 Section 72. Section 459.0053, Florida Statutes, is
27 created to read:

28 459.0053 Licensure credentials verification.--All
29 applicants for initial osteopathic physician licensure
30 pursuant to this chapter must submit their credentials to the
31 Federation of State Medical Boards. Effective January 1,

1 2003, the board and the department shall only consider
2 applications for initial osteopathic physician licensure
3 pursuant to this chapter that have been verified by the
4 Federation of State Medical Boards Credentials Verification
5 Service, the American Osteopathic Association, or an
6 equivalent program approved by the board.

7 Section 73. Paragraph (t) of subsection (1) of section
8 458.331, Florida Statutes, is amended to read:

9 458.331 Grounds for disciplinary action; action by the
10 board and department.--

11 (1) The following acts constitute grounds for denial
12 of a license or disciplinary action, as specified in s.
13 456.072(2):

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

1 construed to require that a physician be incompetent to
2 practice medicine in order to be disciplined pursuant to this
3 paragraph.

4 Section 74. Paragraph (x) of subsection (1) of section
5 459.015, Florida Statutes, is amended to read:

6 459.015 Grounds for disciplinary action; action by the
7 board and department.--

8 (1) The following acts constitute grounds for denial
9 of a license or disciplinary action, as specified in s.
10 456.072(2):

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

1 disciplined pursuant to this paragraph. A recommended order
2 by an administrative law judge or a final order of the board
3 finding a violation under this paragraph shall specify whether
4 the licensee was found to have committed "gross malpractice,"
5 "repeated malpractice," or "failure to practice osteopathic
6 medicine with that level of care, skill, and treatment which
7 is recognized as being acceptable under similar conditions and
8 circumstances," or any combination thereof, and any
9 publication by the board shall so specify.

10 Section 75. Subsection (1) of section 627.912, Florida
11 Statutes, is amended to read:

12 627.912 Professional liability claims and actions;
13 reports by insurers.--

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

1 (a) A final judgment in any amount.

2 (b) A settlement in any amount.

3

4 Reports shall be filed with the Department of Insurance.~~and,~~
5 If the insured party is licensed under chapter 458, chapter
6 459, or chapter 461, or ~~chapter 466,~~with the Department of
7 Health, and the final judgment or settlement was in an amount
8 exceeding \$50,000, the report shall also be filed with the
9 Department of Health. If the insured is licensed under chapter
10 466 and the final judgment or settlement was in an amount
11 exceeding \$25,000, the report shall also be filed with the
12 Department of Health. Reports must be filed no later than 30
13 days following the occurrence of any event listed in this
14 subsection paragraph (a) or paragraph (b). The Department of
15 Health shall review each report and determine whether any of
16 the incidents that resulted in the claim potentially involved
17 conduct by the licensee that is subject to disciplinary
18 action, in which case the provisions of s. 456.073 shall
19 apply. The Department of Health, as part of the annual report
20 required by s. 456.026, shall publish annual statistics,
21 without identifying licensees, on the reports it receives,
22 including final action taken on such reports by the Department
23 of Health or the appropriate regulatory board.

24 Section 76. Subsections (14) and (15) are added to
25 section 456.073, Florida Statutes, to read:

26 456.073 Disciplinary proceedings.--Disciplinary
27 proceedings for each board shall be within the jurisdiction of
28 the department.

29 (14) When the probable cause panel determines that
30 probable cause exists that a violation of law occurred but
31 decides to issue a letter of guidance in lieu of finding

1 probable cause as a result of mitigating circumstances, the
2 probable cause panel may require the subject to pay up to \$300
3 of the costs of the investigation and prosecution of the case
4 within a time certain but not less than 30 days after the
5 execution of the closing order. If the subject fails to pay
6 the costs within the time set by the probable cause panel,
7 the case may be reopened and the department may file an
8 administrative complaint against the subject based on the
9 underlying case. No additional charges may be added as a
10 result of the subject failing to pay the costs. The issuance
11 of a letter of guidance and the assessment of costs under this
12 subsection shall not be considered discipline, nor shall it be
13 considered a final order of discipline.

14 (15) All cases in which no probable cause is found
15 shall be closed within 14 days following the probable cause
16 panel meeting at which such determination was made. The
17 department shall mail a copy of the closing order to the
18 subject within 14 days after such probable cause panel
19 meeting.

20 Section 77. The Office of Program Policy Analysis and
21 Governmental Accountability shall review the investigative
22 field office structure and organization of the Agency for
23 Health Care Administration to determine the feasibility of
24 eliminating all or some field offices, the feasibility of
25 combining field offices, and the feasibility of requiring
26 field inspectors and investigators to telecommute from home in
27 lieu of paying for office space. The review shall include all
28 agency programs that have field offices, including health
29 practitioner regulation even if health practitioner regulation
30 is transferred to the Department of Health. The review shall
31 be completed and a report issued to the President of the

1 Senate and the Speaker of the House of Representatives no
2 later than January 1, 2003.

3 Section 78. Subsection (1) of section 456.025, Florida
4 Statutes, is amended to read:

5 456.025 Fees; receipts; disposition.--

6 (1) It is the intent of the Legislature that all costs
7 of regulating health care professions and practitioners shall
8 be borne solely by licensees and licensure applicants. It is
9 also the intent of the Legislature that fees should be
10 reasonable and not serve as a barrier to licensure. Moreover,
11 it is the intent of the Legislature that the department
12 operate as efficiently as possible and regularly report to the
13 Legislature additional methods to streamline operational
14 costs. Therefore, the boards in consultation with the
15 department, or the department if there is no board, shall, by
16 rule, set renewal fees which:

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

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

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

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

26 (e) Shall be similar to fees imposed on similar
27 licensure types; and

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

30 ~~(g) Shall not be more than 10 percent greater than the~~
31 ~~actual cost to regulate that profession for the previous~~

1 ~~biennium; and~~

2 (f)(h) Shall be subject to challenge pursuant to
3 chapter 120.

4 Section 79. Section 456.0165, Florida Statutes, is
5 created to read:

6 456.0165 Examination location.--A college, university,
7 or vocational school in this state may serve as the host
8 school for a health care practitioner licensure examination.
9 However, the college, university, or vocational school may not
10 charge the department for rent, space, reusable equipment,
11 utilities, or janitorial services. The college, university,
12 or vocational school may only charge the department the actual
13 cost of nonreusable supplies provided by the school at the
14 request of the department.

15 Section 80. Effective July 1, 2002, all licensure and
16 licensure renewal fees for professions within the Division of
17 Medical Quality Assurance shall be set at a level equal to at
18 least 85 percent of the profession's statutory fee cap or at a
19 level equal to at least 85 percent of the actual per licensee
20 cost to regulate that profession, whichever is less. Effective
21 July 1, 2005, all licensure and licensure renewal fees shall
22 be set at the profession's statutory fee cap or at a level
23 equal to 100 percent of the actual per licensee cost to
24 regulate that profession, whichever is less.

25 Section 81. Paragraph (g) of subsection (3) and
26 paragraph (c) of subsection (6) of section 468.302, Florida
27 Statutes, are amended to read:

28 468.302 Use of radiation; identification of certified
29 persons; limitations; exceptions.--

30 (3)

31 (g) A person holding a certificate as a nuclear

1 medicine technologist may only:

2 1. Conduct in vivo and in vitro measurements of
3 radioactivity and administer radiopharmaceuticals to human
4 beings for diagnostic and therapeutic purposes.

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

11
12 However, the authority of a nuclear medicine technologist
13 under this paragraph excludes radioimmunoassay and other
14 clinical laboratory testing regulated pursuant to chapter 483.

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

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

1 licensed practitioner:

2 1. Principles of X-ray production and equipment
3 operation.

4 2. Biological effects of radiation.

5 3. Radiation exposure and monitoring.

6 4. Radiation safety and protection.

7 5. Evaluation of radiographic equipment and
8 accessories.

9 6. Radiographic exposure and technique factors.

10 7. Film processing.

11 8. Image quality assurance.

12 9. Patient positioning.

13 10. Administration and complications of contrast
14 media.

15 11. Specific fluoroscopic and digital X-ray imaging
16 procedures related to invasive cardiovascular technology.

17 Section 82. Section 468.352, Florida Statutes, is
18 amended to read:

19 (Substantial rewording of section. See
20 s. 468.352, F.S., for present text.)

21 468.352 Definitions.--As used in this part the term:

22 (1) "Board" means the Board of Respiratory Care.

23 (2) "Certified respiratory therapist" means any person
24 licensed pursuant to this part who is certified by the
25 National Board for Respiratory Care or its successor, who is
26 employed to deliver respiratory care services, under the order
27 of a physician licensed pursuant to 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 (3) "Critical care" means care given to a patient in
2 any setting involving a life-threatening emergency.

3 (4) "Department" means the Department of Health.

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

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

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

26 (8) "Registered respiratory therapist" means any
27 person licensed under this part who is registered by the
28 National Board for Respiratory Care or its successor, and who
29 is employed to deliver respiratory care services under the
30 order of a physician licensed under chapter 458 or chapter
31 459, in accordance with protocols established by a hospital or

1 other health care provider or the board, and who functions in
2 situations of unsupervised patient contact requiring
3 individual judgment.

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

9 (10) "Respiratory care services" includes:

10 (a) Evaluation and disease management.

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

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

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

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

26 (f) Cardiopulmonary rehabilitation.

27 (g) Cardiopulmonary resuscitation, advanced cardiac
28 life support, neonatal resuscitation, and pediatric advanced
29 life support, or equivalent functions.

30 (h) Insertion and maintenance of artificial airways
31 and intravascular catheters.

1 (i) Performing sleep-disorder studies.

2 (j) Education of patients, families, the public, or
3 other health care providers, including disease process and
4 management programs and smoking prevention and cessation
5 programs.

6 (k) Initiation and management of hyperbaric oxygen.

7 Section 83. Section 468.355, Florida Statutes, is
8 amended to read:

9 (Substantial rewording of section. See
10 s. 468.355, F.S., for present text.)

11 468.355 Licensure requirements.--To be eligible for
12 licensure by the board, an applicant must be certified as a
13 "Certified Respiratory Therapist" or be registered as a
14 "Registered Respiratory Therapist" by the National Board for
15 Respiratory Care, or its successor.

16 Section 84. Section 468.368, Florida Statutes, is
17 amended to read:

18 (Substantial rewording of section. See
19 s. 468.368, F.S., for present text.)

20 468.368 Exemptions.--This part may not be construed to
21 prevent or restrict the practice, service, or activities of:

22 (1) Any person licensed in this state by any other law
23 from engaging in the profession or occupation for which he or
24 she is licensed.

25 (2) Any legally qualified person in the state or
26 another state or territory who is employed by the United
27 States Government or any agency thereof while such person is
28 discharging his or her official duties.

29 (3) A friend or family member who is providing
30 respiratory care services to an ill person and who does not
31 represent himself or herself to be a respiratory care

1 practitioner or respiratory therapist.

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

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

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

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

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

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

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

31 Section 85. Sections 468.356 and 468.357, Florida

1 Statutes, are repealed.

2 Section 86. Subsection (4) of section 468.80, Florida
3 Statutes, is amended to read:

4 468.80 Definitions.--As used in this act, the term:

5 (4) "Orthosis" means a medical device used to provide
6 support, correction, or alleviation of neuromuscular or
7 musculoskeletal dysfunction, disease, injury, or deformity,
8 but does not include the following assistive technology
9 devices: upper extremity adaptive equipment used to
10 facilitate the activities of daily living, including
11 specialized utensils, combs, and brushes; finger splints; a
12 device to treat injuries to the musculoskeletal system made of
13 either plaster of paris bandage or roll fiberglass bandage and
14 fabricated directly on the patient;wheelchair seating and
15 equipment that is an integral part of the wheelchair and not
16 worn by the patient; elastic abdominal supports that do not
17 have metal or plastic reinforcing stays; arch supports;
18 nontherapeutic accommodative inlays and nontherapeutic
19 accommodative footwear, regardless of method of manufacture;
20 unmodified, over-the-counter shoes; prefabricated foot care
21 products; durable medical equipment such as canes, crutches,
22 or walkers; dental appliances; or devices implanted into the
23 body by a physician. For purposes of this subsection,
24 "accommodative" means designed with the primary goal of
25 conforming to the individual's anatomy and "inlay" means any
26 removable material upon which the foot directly rests inside
27 the shoe and which may be an integral design component of the
28 shoe.

29 Section 87. Beginning July 1, 2003, application forms
30 for initial licensure and licensure renewal for the
31 professions regulated by the Department of Health, Division of

1 Medical Quality Assurance, shall be submitted electronically
2 through the World Wide Web unless the applicant states on the
3 application form that he or she does not have access to the
4 World Wide Web, in which case a paper application may be
5 submitted. The department shall issue the license or renew a
6 license only if the licensee provides satisfactory evidence
7 that all conditions and requirements of licensure or renewal
8 have been met, including, but not limited to, the payment of
9 required fees, the completion of required continuing education
10 coursework, and, if applicable, the maintenance of financial
11 responsibility. This section shall not be construed to reduce
12 or eliminate any requirement set forth in chapter 456, Florida
13 Statutes, or the applicable practice act.

14 Section 88. In order to maximize the state's return on
15 investment, to increase the efficiency and timeliness of the
16 conversion to electronic licensure, and to promote fiscal
17 responsibility during the transition to electronic licensure,
18 the Department of Health may convert its practitioner
19 credentialing technology into an electronic licensure and
20 licensure renewal system. This section shall take effect upon
21 this act becoming a law.

22 Section 89. (1) Effective July 1, 2004, and each July
23 1 thereafter, the fee caps established in the following
24 sections are increased by 2.5 percent: ss. 456.025, 457.105,
25 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,
26 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,
27 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
28 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
29 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
30 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
31 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,

1 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
2 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
3 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
4 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
5 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
6 491.0085, and 491.0145, Florida Statutes.

7 (2) The increases in fees provided in this section are
8 in addition to any other change in the fees which are enacted
9 into law. The actual amount of a fee shall be rounded to the
10 nearest dollar.

11 Section 90. Sections 381.0602, 381.6021, 381.6022,
12 381.6023, 381.6024, and 381.6026, Florida Statutes, are
13 renumbered as sections 765.53, 765.541, 765.542, 765.544,
14 765.545, and 765.547, Florida Statutes, respectively.

15 Section 91. Section 381.60225, Florida Statutes, is
16 renumbered as section 765.543, Florida Statutes, and
17 subsection (2) of said section is amended to read:

18 765.543 ~~381.60225~~ Background screening.--

19 (2) An organ procurement organization, tissue bank, or
20 eye bank certified by the Agency for Health Care
21 Administration in accordance with ss. 381.6021 and 765.542
22 ~~381.6022~~ is not subject to the requirements of this section if
23 the entity has no direct patient care responsibilities and
24 does not bill patients or insurers directly for services under
25 the Medicare or Medicaid programs, or for privately insured
26 services.

27 Section 92. Section 381.6025, Florida Statutes, is
28 renumbered as section 765.546, Florida Statutes, and amended
29 to read:

30 765.546 ~~381.6025~~ Physician supervision of cadaveric
31 organ and tissue procurement coordinators.--Organ procurement

1 organizations, tissue banks, and eye banks may employ
2 coordinators, who are registered nurses, physician's
3 assistants, or other medically trained personnel who meet the
4 relevant standards for organ procurement organizations, tissue
5 banks, or eye banks as adopted by the Agency for Health Care
6 Administration under s. 765.541 ~~381.6021~~, to assist in the
7 medical management of organ donors or in the surgical
8 procurement of cadaveric organs, tissues, or eyes for
9 transplantation or research. A coordinator who assists in the
10 medical management of organ donors or in the surgical
11 procurement of cadaveric organs, tissues, or eyes for
12 transplantation or research must do so under the direction and
13 supervision of a licensed physician medical director pursuant
14 to rules and guidelines to be adopted by the Agency for Health
15 Care Administration. With the exception of organ procurement
16 surgery, this supervision may be indirect supervision. For
17 purposes of this section, the term "indirect supervision"
18 means that the medical director is responsible for the medical
19 actions of the coordinator, that the coordinator is operating
20 under protocols expressly approved by the medical director,
21 and that the medical director or his or her physician designee
22 is always available, in person or by telephone, to provide
23 medical direction, consultation, and advice in cases of organ,
24 tissue, and eye donation and procurement. Although indirect
25 supervision is authorized under this section, direct physician
26 supervision is to be encouraged when appropriate.

27 Section 93. Subsection (2) of section 395.2050,
28 Florida Statutes, is amended to read:

29 395.2050 Routine inquiry for organ and tissue
30 donation; certification for procurement activities.--

31 (2) Every hospital licensed under this chapter that is

1 engaged in the procurement of organs, tissues, or eyes shall
2 comply with the certification requirements of ss.
3 765.541-765.547 ~~381.6021-381.6026~~.

4 Section 94. Paragraph (e) of subsection (2) of section
5 409.815, Florida Statutes, is amended to read:

6 409.815 Health benefits coverage; limitations.--

7 (2) BENCHMARK BENEFITS.--In order for health benefits
8 coverage to qualify for premium assistance payments for an
9 eligible child under ss. 409.810-409.820, the health benefits
10 coverage, except for coverage under Medicaid and Medikids,
11 must include the following minimum benefits, as medically
12 necessary.

13 (e) Organ transplantation services.--Covered services
14 include pretransplant, transplant, and postdischarge services
15 and treatment of complications after transplantation for
16 transplants deemed necessary and appropriate within the
17 guidelines set by the Organ Transplant Advisory Council under
18 s. 765.53 ~~381.0602~~ or the Bone Marrow Transplant Advisory
19 Panel under s. 627.4236.

20 Section 95. Subsection (2) of section 765.5216,
21 Florida Statutes, is amended to read:

22 765.5216 Organ and tissue donor education panel.--

23 (2) There is created within the Agency for Health Care
24 Administration a statewide organ and tissue donor education
25 panel, consisting of 12 members, to represent the interests of
26 the public with regard to increasing the number of organ and
27 tissue donors within the state. The panel and the Organ and
28 Tissue Procurement and Transplantation Advisory Board
29 established in s. 765.544 ~~381.6023~~ shall jointly develop,
30 subject to the approval of the Agency for Health Care
31 Administration, education initiatives pursuant to s. 732.9215,

1 which the agency shall implement. The membership must be
2 balanced with respect to gender, ethnicity, and other
3 demographic characteristics so that the appointees reflect the
4 diversity of the population of this state. The panel members
5 must include:

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

8 (b) A representative from a Florida licensed organ
9 procurement organization.

10 (c) A representative from a Florida licensed tissue
11 bank.

12 (d) A representative from a Florida licensed eye bank.

13 (e) A representative from a Florida licensed hospital.

14 (f) A representative from the Division of Driver
15 Licenses of the Department of Highway Safety and Motor
16 Vehicles, who possesses experience and knowledge in dealing
17 with the public.

18 (g) A representative from the family of an organ,
19 tissue, or eye donor.

20 (h) A representative who has been the recipient of a
21 transplanted organ, tissue, or eye, or is a family member of a
22 recipient.

23 (i) A representative who is a minority person as
24 defined in s. 381.81.

25 (j) A representative from a professional association
26 or public relations or advertising organization.

27 (k) A representative from a community service club or
28 organization.

29 (l) A representative from the Department of Education.
30 Section 96. Subsection (5) of section 765.522, Florida
31 Statutes, is amended to read:

1 765.522 Duty of certain hospital administrators;
2 liability of hospital administrators, organ procurement
3 organizations, eye banks, and tissue banks.--

4 (5) There shall be no civil or criminal liability
5 against any organ procurement organization, eye bank, or
6 tissue bank certified under s. 765.542 ~~381.6022~~, or against
7 any hospital or hospital administrator or designee, when
8 complying with the provisions of this part and the rules of
9 the Agency for Health Care Administration or when, in the
10 exercise of reasonable care, a request for organ donation is
11 inappropriate and the gift is not made according to this part
12 and the rules of the Agency for Health Care Administration.

13 Section 97. (1) This section may be cited as the
14 "Jennifer Knight Medicaid Lung Transplant Act."

15 (2) Subject to the availability of funds and subject
16 to any limitations or directions provided for in the General
17 Appropriations Act or chapter 216, Florida Statutes, the
18 Medicaid program of the Agency for Health Care Administration
19 shall pay for medically necessary lung transplant services for
20 Medicaid recipients.

21 Section 98. Subsection (1) of section 409.915, Florida
22 Statutes, is amended to read:

23 409.915 County contributions to Medicaid.--Although
24 the state is responsible for the full portion of the state
25 share of the matching funds required for the Medicaid program,
26 in order to acquire a certain portion of these funds, the
27 state shall charge the counties for certain items of care and
28 service as provided in this section.

29 (1) Each county shall participate in the following
30 items of care and service:

31 (a) For both health maintenance members and

1 fee-for-service beneficiaries, payments for inpatient
2 hospitalization in excess of 10 days, but not in excess of 45
3 days, with the exception of payments for:

4 1. Pregnant women and children whose income is in
5 excess of the federal poverty level and who do not participate
6 in the Medicaid medically needy program.

7 2. Adult lung transplant services.

8 (b) Payments for nursing home or intermediate
9 facilities care in excess of \$170 per month, with the
10 exception of skilled nursing care for children under age 21.

11 Section 99. Effective upon this act becoming a law and
12 applicable to any loan or scholarship that is in default on or
13 after the effective date, subsection (4) is added to section
14 456.074, Florida Statutes, to read:

15 456.074 Certain health care practitioners; immediate
16 suspension of license.--

17 (4) Upon receipt of information that a
18 Florida-licensed health care practitioner has defaulted on a
19 student loan issued or guaranteed by the state or the Federal
20 Government, the department shall notify the licensee by
21 certified mail that he or she shall be subject to immediate
22 suspension of license unless, within 45 days after the date of
23 mailing, the licensee provides proof that new payment terms
24 have been agreed upon by all parties to the loan. The
25 department shall issue an emergency order suspending the
26 license of any licensee who, after 45 days following the date
27 of mailing from the department, has failed to provide such
28 proof. Production of such proof shall not prohibit the
29 department from proceeding with disciplinary action against
30 the licensee pursuant to s. 456.073.

31 Section 100. Effective upon this act becoming a law

1 and applicable to any loan or scholarship that is in default
2 on or after the effective date, paragraph (k) of subsection
3 (1) of section 456.072, Florida Statutes, is amended, and
4 subsection (2) of said section is reenacted, to read:

5 456.072 Grounds for discipline; penalties;
6 enforcement.--

7 (1) The following acts shall constitute grounds for
8 which the disciplinary actions specified in subsection (2) may
9 be taken:

10 (k) Failing to perform any statutory or legal
11 obligation placed upon a licensee. For purposes of this
12 section, failing to repay a student loan issued or guaranteed
13 by the state or the Federal Government in accordance with the
14 terms of the loan or failing to comply with service
15 scholarship obligations shall be considered a failure to
16 perform a statutory or legal obligation, and the minimum
17 disciplinary action imposed shall be a suspension of the
18 license until new payment terms are agreed upon or the
19 scholarship obligation is resumed, followed by probation for
20 the duration of the student loan or remaining scholarship
21 obligation period, and a fine equal to 10 percent of the
22 defaulted loan amount. Fines collected shall be deposited
23 into the Medical Quality Assurance Trust Fund. The provisions
24 of this paragraph relating to students loans and service
25 obligations shall not be construed to apply to a student who
26 opts to repay a loan or scholarship in lieu of fulfillment of
27 service obligations, provided the student complies with the
28 repayment provisions of the loan or scholarship.

29 (2) When the board, or the department when there is no
30 board, finds any person guilty of the grounds set forth in
31 subsection (1) or of any grounds set forth in the applicable

1 practice act, including conduct constituting a substantial
2 violation of subsection (1) or a violation of the applicable
3 practice act which occurred prior to obtaining a license, it
4 may enter an order imposing one or more of the following
5 penalties:

6 (a) Refusal to certify, or to certify with
7 restrictions, an application for a license.

8 (b) Suspension or permanent revocation of a license.

9 (c) Restriction of practice or license, including, but
10 not limited to, restricting the licensee from practicing in
11 certain settings, restricting the licensee to work only under
12 designated conditions or in certain settings, restricting the
13 licensee from performing or providing designated clinical and
14 administrative services, restricting the licensee from
15 practicing more than a designated number of hours, or any
16 other restriction found to be necessary for the protection of
17 the public health, safety, and welfare.

18 (d) Imposition of an administrative fine not to exceed
19 \$10,000 for each count or separate offense. If the violation
20 is for fraud or making a false or fraudulent representation,
21 the board, or the department if there is no board, must impose
22 a fine of \$10,000 per count or offense.

23 (e) Issuance of a reprimand or letter of concern.

24 (f) Placement of the licensee on probation for a
25 period of time and subject to such conditions as the board, or
26 the department when there is no board, may specify. Those
27 conditions may include, but are not limited to, requiring the
28 licensee to undergo treatment, attend continuing education
29 courses, submit to be reexamined, work under the supervision
30 of another licensee, or satisfy any terms which are reasonably
31 tailored to the violations found.

- 1 (g) Corrective action.
- 2 (h) Imposition of an administrative fine in accordance
- 3 with s. 381.0261 for violations regarding patient rights.
- 4 (i) Refund of fees billed and collected from the
- 5 patient or a third party on behalf of the patient.
- 6 (j) Requirement that the practitioner undergo remedial
- 7 education.

8
9 In determining what action is appropriate, the board, or
10 department when there is no board, must first consider what
11 sanctions are necessary to protect the public or to compensate
12 the patient. Only after those sanctions have been imposed may
13 the disciplining authority consider and include in the order
14 requirements designed to rehabilitate the practitioner. All
15 costs associated with compliance with orders issued under this
16 subsection are the obligation of the practitioner.

17 Section 101. The Department of Health shall obtain
18 from the United States Department of Health and Human Services
19 information necessary to investigate and prosecute health care
20 practitioners for failing to repay a student loan or comply
21 with scholarship service obligations pursuant to s.
22 456.072(1)(k), Florida Statutes. The department shall obtain
23 from the United States Department of Health and Human Services
24 a list of default health care practitioners each month, along
25 with the information necessary to investigate a complaint in
26 accordance with s. 456.073, Florida Statutes. The department
27 may obtain evidence to support the investigation and
28 prosecution from any financial institution or educational
29 institution involved in providing the loan or education to the
30 practitioner. The department shall report to the Legislature
31 as part of the annual report required by s. 456.026, Florida

1 Statutes, the number of practitioners in default, along with
2 the results of the department's investigations and
3 prosecutions, and the amount of fines collected from
4 practitioners prosecuted for violating s. 456.072(1)(k),
5 Florida Statutes.

6 Section 102. Section 456.026, Florida Statutes, is
7 reenacted to read:

8 456.026 Annual report concerning finances,
9 administrative complaints, disciplinary actions, and
10 recommendations.--The department is directed to prepare and
11 submit a report to the President of the Senate and the Speaker
12 of the House of Representatives by November 1 of each year. In
13 addition to finances and any other information the Legislature
14 may require, the report shall include statistics and relevant
15 information, profession by profession, detailing:

16 (1) The revenues, expenditures, and cash balances for
17 the prior year, and a review of the adequacy of existing fees.

18 (2) The number of complaints received and
19 investigated.

20 (3) The number of findings of probable cause made.

21 (4) The number of findings of no probable cause made.

22 (5) The number of administrative complaints filed.

23 (6) The disposition of all administrative complaints.

24 (7) A description of disciplinary actions taken.

25 (8) A description of any effort by the department to
26 reduce or otherwise close any investigation or disciplinary
27 proceeding not before the Division of Administrative Hearings
28 under chapter 120 or otherwise not completed within 1 year
29 after the initial filing of a complaint under this chapter.

30 (9) The status of the development and implementation
31 of rules providing for disciplinary guidelines pursuant to s.

1 456.079.

2 (10) Such recommendations for administrative and
3 statutory changes necessary to facilitate efficient and
4 cost-effective operation of the department and the various
5 boards.

6 Section 103. Section 456.073, Florida Statutes, is
7 reenacted to read:

8 456.073 Disciplinary proceedings.--Disciplinary
9 proceedings for each board shall be within the jurisdiction of
10 the department.

11 (1) The department, for the boards under its
12 jurisdiction, shall cause to be investigated any complaint
13 that is filed before it if the complaint is in writing, signed
14 by the complainant, and legally sufficient. A complaint is
15 legally sufficient if it contains ultimate facts that show
16 that a violation of this chapter, of any of the practice acts
17 relating to the professions regulated by the department, or of
18 any rule adopted by the department or a regulatory board in
19 the department has occurred. In order to determine legal
20 sufficiency, the department may require supporting information
21 or documentation. The department may investigate, and the
22 department or the appropriate board may take appropriate final
23 action on, a complaint even though the original complainant
24 withdraws it or otherwise indicates a desire not to cause the
25 complaint to be investigated or prosecuted to completion. The
26 department may investigate an anonymous complaint if the
27 complaint is in writing and is legally sufficient, if the
28 alleged violation of law or rules is substantial, and if the
29 department has reason to believe, after preliminary inquiry,
30 that the violations alleged in the complaint are true. The
31 department may investigate a complaint made by a confidential

1 informant if the complaint is legally sufficient, if the
2 alleged violation of law or rule is substantial, and if the
3 department has reason to believe, after preliminary inquiry,
4 that the allegations of the complainant are true. The
5 department may initiate an investigation if it has reasonable
6 cause to believe that a licensee or a group of licensees has
7 violated a Florida statute, a rule of the department, or a
8 rule of a board. Except as provided in ss. 458.331(9),
9 459.015(9), 460.413(5), and 461.013(6), when an investigation
10 of any subject is undertaken, the department shall promptly
11 furnish to the subject or the subject's attorney a copy of the
12 complaint or document that resulted in the initiation of the
13 investigation. The subject may submit a written response to
14 the information contained in such complaint or document within
15 20 days after service to the subject of the complaint or
16 document. The subject's written response shall be considered
17 by the probable cause panel. The right to respond does not
18 prohibit the issuance of a summary emergency order if
19 necessary to protect the public. However, if the secretary, or
20 the secretary's designee, and the chair of the respective
21 board or the chair of its probable cause panel agree in
22 writing that such notification would be detrimental to the
23 investigation, the department may withhold notification. The
24 department may conduct an investigation without notification
25 to any subject if the act under investigation is a criminal
26 offense.

27 (2) The department shall allocate sufficient and
28 adequately trained staff to expeditiously and thoroughly
29 determine legal sufficiency and investigate all legally
30 sufficient complaints. For purposes of this section, it is the
31 intent of the Legislature that the term "expeditiously" means

1 that the department complete the report of its initial
2 investigative findings and recommendations concerning the
3 existence of probable cause within 6 months after its receipt
4 of the complaint. The failure of the department, for
5 disciplinary cases under its jurisdiction, to comply with the
6 time limits of this section while investigating a complaint
7 against a licensee constitutes harmless error in any
8 subsequent disciplinary action unless a court finds that
9 either the fairness of the proceeding or the correctness of
10 the action may have been impaired by a material error in
11 procedure or a failure to follow prescribed procedure. When
12 its investigation is complete and legally sufficient, the
13 department shall prepare and submit to the probable cause
14 panel of the appropriate regulatory board the investigative
15 report of the department. The report shall contain the
16 investigative findings and the recommendations of the
17 department concerning the existence of probable cause. The
18 department shall not recommend a letter of guidance in lieu of
19 finding probable cause if the subject has already been issued
20 a letter of guidance for a related offense. At any time after
21 legal sufficiency is found, the department may dismiss any
22 case, or any part thereof, if the department determines that
23 there is insufficient evidence to support the prosecution of
24 allegations contained therein. The department shall provide a
25 detailed report to the appropriate probable cause panel prior
26 to dismissal of any case or part thereof, and to the subject
27 of the complaint after dismissal of any case or part thereof,
28 under this section. For cases dismissed prior to a finding of
29 probable cause, such report is confidential and exempt from s.
30 119.07(1). The probable cause panel shall have access, upon
31 request, to the investigative files pertaining to a case prior

1 to dismissal of such case. If the department dismisses a case,
2 the probable cause panel may retain independent legal counsel,
3 employ investigators, and continue the investigation and
4 prosecution of the case as it deems necessary.

5 (3) As an alternative to the provisions of subsections
6 (1) and (2), when a complaint is received, the department may
7 provide a licensee with a notice of noncompliance for an
8 initial offense of a minor violation. Each board, or the
9 department if there is no board, shall establish by rule those
10 minor violations under this provision which do not endanger
11 the public health, safety, and welfare and which do not
12 demonstrate a serious inability to practice the profession.
13 Failure of a licensee to take action in correcting the
14 violation within 15 days after notice may result in the
15 institution of regular disciplinary proceedings.

16 (4) The determination as to whether probable cause
17 exists shall be made by majority vote of a probable cause
18 panel of the board, or by the department, as appropriate. Each
19 regulatory board shall provide by rule that the determination
20 of probable cause shall be made by a panel of its members or
21 by the department. Each board may provide by rule for multiple
22 probable cause panels composed of at least two members. Each
23 board may provide by rule that one or more members of the
24 panel or panels may be a former board member. The length of
25 term or repetition of service of any such former board member
26 on a probable cause panel may vary according to the direction
27 of the board when authorized by board rule. Any probable cause
28 panel must include one of the board's former or present
29 consumer members, if one is available, is willing to serve,
30 and is authorized to do so by the board chair. Any probable
31 cause panel must include a present board member. Any probable

1 cause panel must include a former or present professional
2 board member. However, any former professional board member
3 serving on the probable cause panel must hold an active valid
4 license for that profession. All proceedings of the panel are
5 exempt from s. 286.011 until 10 days after probable cause has
6 been found to exist by the panel or until the subject of the
7 investigation waives his or her privilege of confidentiality.
8 The probable cause panel may make a reasonable request, and
9 upon such request the department shall provide such additional
10 investigative information as is necessary to the determination
11 of probable cause. A request for additional investigative
12 information shall be made within 15 days from the date of
13 receipt by the probable cause panel of the investigative
14 report of the department or the agency. The probable cause
15 panel or the department, as may be appropriate, shall make its
16 determination of probable cause within 30 days after receipt
17 by it of the final investigative report of the department. The
18 secretary may grant extensions of the 15-day and the 30-day
19 time limits. In lieu of a finding of probable cause, the
20 probable cause panel, or the department if there is no board,
21 may issue a letter of guidance to the subject. If, within the
22 30-day time limit, as may be extended, the probable cause
23 panel does not make a determination regarding the existence of
24 probable cause or does not issue a letter of guidance in lieu
25 of a finding of probable cause, the department must make a
26 determination regarding the existence of probable cause within
27 10 days after the expiration of the time limit. If the
28 probable cause panel finds that probable cause exists, it
29 shall direct the department to file a formal complaint against
30 the licensee. The department shall follow the directions of
31 the probable cause panel regarding the filing of a formal

1 complaint. If directed to do so, the department shall file a
2 formal complaint against the subject of the investigation and
3 prosecute that complaint pursuant to chapter 120. However, the
4 department may decide not to prosecute the complaint if it
5 finds that probable cause has been improvidently found by the
6 panel. In such cases, the department shall refer the matter to
7 the board. The board may then file a formal complaint and
8 prosecute the complaint pursuant to chapter 120. The
9 department shall also refer to the board any investigation or
10 disciplinary proceeding not before the Division of
11 Administrative Hearings pursuant to chapter 120 or otherwise
12 completed by the department within 1 year after the filing of
13 a complaint. The department, for disciplinary cases under its
14 jurisdiction, must establish a uniform reporting system to
15 quarterly refer to each board the status of any investigation
16 or disciplinary proceeding that is not before the Division of
17 Administrative Hearings or otherwise completed by the
18 department within 1 year after the filing of the complaint.
19 Annually, the department, in consultation with the applicable
20 probable cause panel, must establish a plan to expedite or
21 otherwise close any investigation or disciplinary proceeding
22 that is not before the Division of Administrative Hearings or
23 otherwise completed by the department within 1 year after the
24 filing of the complaint. A probable cause panel or a board
25 may retain independent legal counsel, employ investigators,
26 and continue the investigation as it deems necessary; all
27 costs thereof shall be paid from a trust fund used by the
28 department to implement this chapter. All proceedings of the
29 probable cause panel are exempt from s. 120.525.

30 (5) A formal hearing before an administrative law
31 judge from the Division of Administrative Hearings shall be

1 held pursuant to chapter 120 if there are any disputed issues
2 of material fact. The administrative law judge shall issue a
3 recommended order pursuant to chapter 120. If any party raises
4 an issue of disputed fact during an informal hearing, the
5 hearing shall be terminated and a formal hearing pursuant to
6 chapter 120 shall be held.

7 (6) The appropriate board, with those members of the
8 panel, if any, who reviewed the investigation pursuant to
9 subsection (4) being excused, or the department when there is
10 no board, shall determine and issue the final order in each
11 disciplinary case. Such order shall constitute final agency
12 action. Any consent order or agreed-upon settlement shall be
13 subject to the approval of the department.

14 (7) The department shall have standing to seek
15 judicial review of any final order of the board, pursuant to
16 s. 120.68.

17 (8) Any proceeding for the purpose of summary
18 suspension of a license, or for the restriction of the
19 license, of a licensee pursuant to s. 120.60(6) shall be
20 conducted by the secretary of the Department of Health or his
21 or her designee, as appropriate, who shall issue the final
22 summary order.

23 (9)(a) The department shall periodically notify the
24 person who filed the complaint, as well as the patient or the
25 patient's legal representative, of the status of the
26 investigation, indicating whether probable cause has been
27 found and the status of any civil action or administrative
28 proceeding or appeal.

29 (b) In any disciplinary case for which probable cause
30 has been found, the department shall provide to the person who
31 filed the complaint a copy of the administrative complaint

1 and:

2 1. A written explanation of how an administrative
3 complaint is resolved by the disciplinary process.

4 2. A written explanation of how and when the person
5 may participate in the disciplinary process.

6 3. A written notice of any hearing before the Division
7 of Administrative Hearings or the regulatory board at which
8 final agency action may be taken.

9 (c) In any disciplinary case for which probable cause
10 is not found, the department shall so inform the person who
11 filed the complaint and notify that person that he or she may,
12 within 60 days, provide any additional information to the
13 department which may be relevant to the decision. To
14 facilitate the provision of additional information, the person
15 who filed the complaint may receive, upon request, a copy of
16 the department's expert report that supported the
17 recommendation for closure, if such a report was relied upon
18 by the department. In no way does this require the department
19 to procure an expert opinion or report if none was used.
20 Additionally, the identity of the expert shall remain
21 confidential. In any administrative proceeding under s.
22 120.57, the person who filed the disciplinary complaint shall
23 have the right to present oral or written communication
24 relating to the alleged disciplinary violations or to the
25 appropriate penalty.

26 (10) The complaint and all information obtained
27 pursuant to the investigation by the department are
28 confidential and exempt from s. 119.07(1) until 10 days after
29 probable cause has been found to exist by the probable cause
30 panel or by the department, or until the regulated
31 professional or subject of the investigation waives his or her

1 privilege of confidentiality, whichever occurs first. Upon
2 completion of the investigation and a recommendation by the
3 department to find probable cause, and pursuant to a written
4 request by the subject or the subject's attorney, the
5 department shall provide the subject an opportunity to inspect
6 the investigative file or, at the subject's expense, forward
7 to the subject a copy of the investigative file.
8 Notwithstanding s. 456.057, the subject may inspect or receive
9 a copy of any expert witness report or patient record
10 connected with the investigation if the subject agrees in
11 writing to maintain the confidentiality of any information
12 received under this subsection until 10 days after probable
13 cause is found and to maintain the confidentiality of patient
14 records pursuant to s. 456.057. The subject may file a written
15 response to the information contained in the investigative
16 file. Such response must be filed within 20 days of mailing by
17 the department, unless an extension of time has been granted
18 by the department. This subsection does not prohibit the
19 department from providing such information to any law
20 enforcement agency or to any other regulatory agency.

21 (11) A privilege against civil liability is hereby
22 granted to any complainant or any witness with regard to
23 information furnished with respect to any investigation or
24 proceeding pursuant to this section, unless the complainant or
25 witness acted in bad faith or with malice in providing such
26 information.

27 (12)(a) No person who reports in any capacity, whether
28 or not required by law, information to the department with
29 regard to the incompetence, impairment, or unprofessional
30 conduct of any health care provider licensed under chapter
31 458, chapter 459, chapter 460, chapter 461, chapter 462,

1 chapter 463, chapter 464, chapter 465, or chapter 466 shall be
2 held liable in any civil action for reporting against such
3 health care provider if such person acts without intentional
4 fraud or malice.

5 (b) No facility licensed under chapter 395, health
6 maintenance organization certificated under part I of chapter
7 641, physician licensed under chapter 458, or osteopathic
8 physician licensed under chapter 459 shall discharge, threaten
9 to discharge, intimidate, or coerce any employee or staff
10 member by reason of such employee's or staff member's report
11 to the department about a physician licensed under chapter
12 458, chapter 459, chapter 460, chapter 461, or chapter 466 who
13 may be guilty of incompetence, impairment, or unprofessional
14 conduct so long as such report is given without intentional
15 fraud or malice.

16 (c) In any civil suit brought outside the protections
17 of paragraphs (a) and (b) in which intentional fraud or malice
18 is alleged, the person alleging intentional fraud or malice
19 shall be liable for all court costs and for the other party's
20 reasonable attorney's fees if intentional fraud or malice is
21 not proved.

22 (13) Notwithstanding any provision of law to the
23 contrary, an administrative complaint against a licensee shall
24 be filed within 6 years after the time of the incident or
25 occurrence giving rise to the complaint against the licensee.
26 If such incident or occurrence involved criminal actions,
27 diversion of controlled substances, sexual misconduct, or
28 impairment by the licensee, this subsection does not apply to
29 bar initiation of an investigation or filing of an
30 administrative complaint beyond the 6-year timeframe. In those
31 cases covered by this subsection in which it can be shown that

1 fraud, concealment, or intentional misrepresentation of fact
2 prevented the discovery of the violation of law, the period of
3 limitations is extended forward, but in no event to exceed 12
4 years after the time of the incident or occurrence.

5 Section 104. Subsection (8) of section 400.925,
6 Florida Statutes, is amended to read:

7 400.925 Definitions.--As used in this part, the term:

8 (8) "Home medical equipment" includes any product as
9 defined by the Federal Drug Administration's Drugs, Devices
10 and Cosmetics Act, any products reimbursed under the Medicare
11 Part B Durable Medical Equipment benefits, or any products
12 reimbursed under the Florida Medicaid durable medical
13 equipment program. Home medical equipment includes, but is not
14 limited to, oxygen and related respiratory equipment; manual,
15 motorized, or. ~~Home medical equipment includes~~ customized
16 wheelchairs and related seating and positioning, but does not
17 include prosthetics or orthotics or any splints, braces, or
18 aids custom fabricated by a licensed health care practitioner.
19 ~~Home medical equipment includes assistive technology devices,~~
20 ~~including: manual wheelchairs, motorized wheelchairs,~~
21 ~~motorized scooters, voice-synthesized computer modules,~~
22 ~~optical scanners, talking software, braille printers,~~
23 ~~environmental control devices for use by person with~~
24 ~~quadriplegia, motor vehicle adaptive transportation aids,~~
25 ~~devices that enable persons with severe speech disabilities to~~
26 ~~in effect speak, personal transfer systems and specialty beds,~~
27 ~~including demonstrator, for use by a person with a medical~~
28 ~~need.~~

29 Section 105. Subsection (4) is added to section
30 765.104, Florida Statutes, to read:

31 765.104 Amendment or revocation.--

1 (4) Any patient for whom a medical proxy has been
2 recognized under s. 765.401 and for whom any previous legal
3 disability that precluded the patient's ability to consent is
4 removed may amend or revoke the recognition of the medical
5 proxy and any uncompleted decision made by that proxy. The
6 amendment or revocation takes effect when it is communicated
7 to the proxy, the health care provider, or the health care
8 facility in writing or, if communicated orally, in the
9 presence of a third person.

10 Section 106. Subsections (1) and (3) of section
11 765.401, Florida Statutes, are amended to read:

12 765.401 The proxy.--

13 (1) If an incapacitated or developmentally disabled
14 ~~the~~ patient has not executed an advance directive, or
15 designated a surrogate to execute an advance directive, or the
16 designated or alternate surrogate is no longer available to
17 make health care decisions, health care decisions may be made
18 for the patient by any of the following individuals, in the
19 following order of priority, if no individual in a prior class
20 is reasonably available, willing, or competent to act:

21 (a) The judicially appointed guardian of the patient
22 or the guardian advocate of the person having a developmental
23 disability as defined in s. 393.063, who has been authorized
24 to consent to medical treatment, if such guardian has
25 previously been appointed; however, this paragraph shall not
26 be construed to require such appointment before a treatment
27 decision can be made under this subsection;

28 (b) The patient's spouse;

29 (c) An adult child of the patient, or if the patient
30 has more than one adult child, a majority of the adult
31 children who are reasonably available for consultation;

- 1 (d) A parent of the patient;
- 2 (e) The adult sibling of the patient or, if the
- 3 patient has more than one sibling, a majority of the adult
- 4 siblings who are reasonably available for consultation.
- 5 (f) An adult relative of the patient who has exhibited
- 6 special care and concern for the patient and who has
- 7 maintained regular contact with the patient and who is
- 8 familiar with the patient's activities, health, and religious
- 9 or moral beliefs; or
- 10 (g) A close friend of the patient.

11 (3) Before exercising the incapacitated patient's

12 rights to select or decline health care, the proxy must comply

13 with the provisions of ss. 765.205 and 765.305, except that a

14 proxy's decision to withhold or withdraw life-prolonging

15 procedures must be supported by clear and convincing evidence

16 that the decision would have been the one the patient would

17 have chosen had the patient been competent or, if there is no

18 indication of what the patient would have chosen, that the

19 decision is in the patient's best interest. Before exercising

20 the rights of a person who has a developmental disability as

21 defined under s. 393.063(12) to withhold or withdraw

22 life-prolonging procedures, a proxy must comply with s.

23 393.12.

24 Section 107. Section 457.1085, Florida Statutes, is

25 amended to read:

26 457.1085 Infection control.--~~Prior to November 1,~~

27 ~~1986,~~The board shall adopt rules relating to the prevention

28 of infection, the safe disposal of any potentially infectious

29 materials, and other requirements to protect the health,

30 safety, and welfare of the public. ~~Beginning October 1, 1997,~~

31 All acupuncture needles that are to be used on a patient must

1 be sterile and disposable, and each needle may be used only
2 once.

3 Section 108. Paragraph (y) is added to subsection (1)
4 of section 457.109, Florida Statutes, to read:

5 457.109 Disciplinary actions; grounds; action by the
6 board.--

7 (1) The following acts constitute grounds for denial
8 of a license or disciplinary action, as specified in s.
9 456.072(2):

10 (y) Using the specialty titles of "Diplomate in
11 Acupuncture" or "National Board-Certified Diplomate in
12 Acupuncture" or "Board-Certified Diplomate in Acupuncture" in
13 conjunction with one's name, place of business, or acupuncture
14 practice unless the licensee holds an active license under
15 this chapter and is also an active holder of such board
16 certification from the National Certification Commission for
17 Acupuncture and Oriental Medicine (NCCAOM).

18 Section 109. Section 457.116, Florida Statutes, is
19 amended to read:

20 457.116 Prohibited acts; penalty.--

21 (1) A person may not:

22 (a) Practice acupuncture unless the person is licensed
23 under ss. 457.101-457.118;

24 (b) Use, in connection with his or her name or place
25 of business, any title or description of services which
26 incorporates the words "acupuncture," "acupuncturist,"
27 "certified acupuncturist," "licensed acupuncturist," "oriental
28 medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.,"
29 or "D.O.M."; or any other words, letters, abbreviations, or
30 insignia indicating or implying that he or she practices
31 acupuncture unless he or she is a holder of a valid license

1 issued pursuant to ss. 457.101-457.118;

2 (c) Present as his or her own the license of another;

3 (d) Knowingly give false or forged evidence to the
4 board or a member thereof;

5 (e) Use or attempt to use a license that has been
6 suspended, revoked, or placed on inactive or delinquent
7 status;

8 (f) Employ any person who is not licensed pursuant to
9 ss. 457.101-457.118 to engage in the practice of acupuncture;
10 or

11 (g) Conceal information relating to any violation of
12 ss. 457.101-457.118.

13 (2) A person who violates this section commits a
14 ~~felony misdemeanor~~ of the third ~~second~~ degree, punishable as
15 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

16 Section 110. Subsections (31), (32), and (33) of
17 section 395.002, Florida Statutes, are renumbered as
18 subsections (32), (33), and (34), respectively, and a new
19 subsection (31) is added to said section, to read:

20 395.002 Definitions.--As used in this chapter:

21 (31) "Surgical first assistant" means the first
22 assistant to the surgeon during a surgical operation.

23 ~~(32)~~ ~~(31)~~ "Utilization review" means a system for
24 reviewing the medical necessity or appropriateness in the
25 allocation of health care resources of hospital services given
26 or proposed to be given to a patient or group of patients.

27 ~~(33)~~ ~~(32)~~ "Utilization review plan" means a description
28 of the policies and procedures governing utilization review
29 activities performed by a private review agent.

30 ~~(34)~~ ~~(33)~~ "Validation inspection" means an inspection
31 of the premises of a licensed facility by the agency to assess

1 whether a review by an accrediting organization has adequately
2 evaluated the licensed facility according to minimum state
3 standards.

4 Section 111. Paragraph (b) of subsection (1) of
5 section 395.0197, Florida Statutes, is amended to read:

6 395.0197 Internal risk management program.--

7 (1) Every licensed facility shall, as a part of its
8 administrative functions, establish an internal risk
9 management program that includes all of the following
10 components:

11 (b) The development of appropriate measures to
12 minimize the risk of adverse incidents to patients, including,
13 but not limited to:

14 1. Risk management and risk prevention education and
15 training of all nonphysician personnel as follows:

16 a. Such education and training of all nonphysician
17 personnel as part of their initial orientation; and

18 b. At least 1 hour of such education and training
19 annually for all personnel of the licensed facility working in
20 clinical areas and providing patient care, except those
21 persons licensed as health care practitioners who are required
22 to complete continuing education coursework pursuant to
23 chapter 456 or the respective practice act.

24 2. A prohibition, except when emergency circumstances
25 require otherwise, against a staff member of the licensed
26 facility attending a patient in the recovery room, unless the
27 staff member is authorized to attend the patient in the
28 recovery room and is in the company of at least one other
29 person. However, a licensed facility is exempt from the
30 two-person requirement if it has:

31 a. Live visual observation;

1 b. Electronic observation; or

2 c. Any other reasonable measure taken to ensure
3 patient protection and privacy.

4 3. A prohibition against an unlicensed person from
5 assisting or participating in any surgical procedure unless
6 the facility has authorized the person to do so following a
7 competency assessment, and such assistance or participation is
8 done under the direct and immediate supervision of a licensed
9 physician and is not otherwise an activity that may only be
10 performed by a licensed health care practitioner. Moreover,
11 the primary operating surgeon may select a surgical first
12 assistant from among available individuals who are approved or
13 credentialed by the facility.

14 4. Development, implementation, and ongoing evaluation
15 of procedures, protocols, and systems to accurately identify
16 patients, planned procedures, and the correct site of the
17 planned procedure so as to minimize the performance of a
18 surgical procedure on the wrong patient, a wrong surgical
19 procedure, a wrong-site surgical procedure, or a surgical
20 procedure otherwise unrelated to the patient's diagnosis or
21 medical condition.

22 Section 112. Effective upon this act becoming a law,
23 paragraphs (a) and (b) of subsection (2) of section 768.13,
24 Florida Statutes, are amended to read:

25 768.13 Good Samaritan Act; immunity from civil
26 liability.--

27 (2)(a) Any person, including those licensed to
28 practice medicine, who gratuitously and in good faith renders
29 emergency care or treatment either in direct response to
30 emergency situations related to and arising out of a public
31 health emergency declared pursuant to s. 381.00315, a state of

1 emergency which has been declared pursuant to s. 252.36 or at
2 the scene of an emergency outside of a hospital, doctor's
3 office, or other place having proper medical equipment,
4 without objection of the injured victim or victims thereof,
5 shall not be held liable for any civil damages as a result of
6 such care or treatment or as a result of any act or failure to
7 act in providing or arranging further medical treatment where
8 the person acts as an ordinary reasonably prudent person would
9 have acted under the same or similar circumstances.

10 (b)1. Any hospital licensed under chapter 395, any
11 employee of such hospital working in a clinical area within
12 the facility and providing patient care, and any person
13 licensed to practice medicine who in good faith renders
14 medical care or treatment necessitated by a sudden, unexpected
15 situation or occurrence resulting in a serious medical
16 condition demanding immediate medical attention, for which the
17 patient enters the hospital through its emergency room or
18 trauma center, or necessitated by a public health emergency
19 declared pursuant to s. 381.00315 shall not be held liable for
20 any civil damages as a result of such medical care or
21 treatment unless such damages result from providing, or
22 failing to provide, medical care or treatment under
23 circumstances demonstrating a reckless disregard for the
24 consequences so as to affect the life or health of another.

25 2. The immunity provided by this paragraph does not
26 apply to damages as a result of any act or omission of
27 providing medical care or treatment:

28 a. Which occurs after the patient is stabilized and is
29 capable of receiving medical treatment as a nonemergency
30 patient, unless surgery is required as a result of the
31 emergency within a reasonable time after the patient is

1 stabilized, in which case the immunity provided by this
2 paragraph applies to any act or omission of providing medical
3 care or treatment which occurs prior to the stabilization of
4 the patient following the surgery; or
5 b. Unrelated to the original medical emergency.
6 3. For purposes of this paragraph, "reckless
7 disregard" as it applies to a given health care provider
8 rendering emergency medical services shall be such conduct
9 which a health care provider knew or should have known, at the
10 time such services were rendered, would be likely to result in
11 injury so as to affect the life or health of another, taking
12 into account the following to the extent they may be present;
13 a. The extent or serious nature of the circumstances
14 prevailing.
15 b. The lack of time or ability to obtain appropriate
16 consultation.
17 c. The lack of a prior patient-physician relationship.
18 d. The inability to obtain an appropriate medical
19 history of the patient.
20 e. The time constraints imposed by coexisting
21 emergencies.
22 4. Every emergency care facility granted immunity
23 under this paragraph shall accept and treat all emergency care
24 patients within the operational capacity of such facility
25 without regard to ability to pay, including patients
26 transferred from another emergency care facility or other
27 health care provider pursuant to Pub. L. No. 99-272, s. 9121.
28 The failure of an emergency care facility to comply with this
29 subparagraph constitutes grounds for the department to
30 initiate disciplinary action against the facility pursuant to
31 chapter 395.

1 rules, and who has the experience, knowledge, and skills to
2 handle, deliver, and pick up sanitary portable restrooms, to
3 install, safely handle, and maintain portable holding tanks,
4 and to handle, transport, and dispose of domestic portable
5 restroom and portable holding tank wastewater.

6 489.662 Registration required.--A person shall not
7 hold himself or herself out as a portable restroom contractor
8 in this state unless he or she is registered by the department
9 in accordance with the provisions of this part. However,
10 nothing in this part prohibits any person licensed pursuant to
11 s. 489.105(3)(m) or ss. 489.551-489.558, in this state from
12 engaging in the profession for which he or she is licensed.

13 489.663 Administration of part; registration
14 qualifications; examination.--

15 (1) Each person desiring to be registered pursuant to
16 this part shall apply to the department in writing upon forms
17 prepared and furnished by the department.

18 (2) The department shall administer, coordinate, and
19 enforce the provisions of this part, provide qualifications
20 for applicants, administer the examination for applicants, and
21 be responsible for the granting of certificates of
22 registration to qualified persons.

23 (3) The department shall adopt reasonable rules
24 pursuant to ss. 120.536(1) and 120.54 to administer this part,
25 including, but not limited to, rules that establish ethical
26 standards of practice, requirements for registering as a
27 contractor, requirements for obtaining an initial or renewal
28 certificate of registration, disciplinary guidelines, and
29 requirements for the certification of partnerships and
30 corporations. The department may amend or repeal the rules in
31 accordance with chapter 120, the Administrative Procedure Act.

1 (4) To be eligible for registration by the department
2 as a portable restroom contractor, the applicant shall:

3 (a) Be of good moral character. In considering good
4 moral character, the department may consider any matter that
5 has a substantial connection between the good moral character
6 of the applicant and the professional responsibilities of a
7 registered contractor, including, but not limited to, the
8 applicant being convicted or found guilty of, or entering a
9 plea of nolo contendere to, regardless of adjudication, a
10 crime in any jurisdiction that directly relates to the
11 practice of contracting or the ability to practice
12 contracting, and previous disciplinary action involving
13 portable restroom contracting, where all judicial reviews have
14 been completed.

15 (b) Pass an examination approved by the department
16 that demonstrates that the applicant has a fundamental
17 knowledge of the state laws relating to the installation,
18 maintenance, and wastewater disposal of portable restrooms,
19 portable sinks, and portable holding tanks.

20 (c) Be at least 18 years of age.

21 (d) Have a total of at least 3 years of active
22 experience serving an apprenticeship as a skilled worker under
23 the supervision and control of a registered portable restroom
24 contractor. Related work experience or educational experience
25 may be substituted for no more than 2 years of active
26 contracting experience. Each 30 hours of coursework approved
27 by the department will substitute for 6 months of work
28 experience. Out-of-state work experience shall be accepted on
29 a year-for-year basis for any applicant who demonstrates that
30 he or she holds a current license issued by another state for
31 portable restroom contracting that was issued upon

1 satisfactory completion of an examination and continuing
2 education courses that are equivalent to the requirements in
3 this state. Individuals from a state with no state
4 certification who have successfully completed a written
5 examination provided by the Portable Sanitation Association
6 International shall only be required to take the written
7 portion of the examination that includes state health code law
8 and rules. For purposes of this section, an equivalent
9 examination must include the topics of state health code law
10 and rules applicable to portable restrooms and the knowledge
11 required to handle, deliver, and pick up sanitary portable
12 restrooms; to install, handle, and maintain portable holding
13 tanks; and to handle, transport, and dispose of domestic
14 portable restroom and portable holding tank wastewater. A
15 person employed by and under the supervision of a licensed
16 contractor shall be granted up to 2 years of related work
17 experience.

18 (e) Have not had a registration revoked, the effective
19 date of which was less than 5 years before the application.

20 (5) The department shall provide each applicant for
21 registration pursuant to this part with a copy of this part
22 and any rules adopted under this part. The department may
23 also prepare and disseminate such other material and
24 questionnaires as it deems necessary to effectuate the
25 registration provisions of this part.

26 (6) Any person who was employed one or more years in
27 this state by a portable restroom service holding a permit
28 issued by the department on or before October 1, 2002, has
29 until October 1, 2003, to be registered by the department in
30 accordance with the provisions of this act and may continue to
31 perform portable restroom contracting services until that

1 time. Such persons are exempt until October 1, 2003, from the
2 three years active work experience requirement of s.
3 489.663(4)(d).

4 489.664 Registration renewal.--The department shall
5 prescribe by rule the method for approval of continuing
6 education courses and for renewal of annual registration. At
7 a minimum, annual renewal shall include continuing education
8 requirements of not less than 6 classroom hours annually for
9 portable restroom contractors.

10 489.665 Certification of partnerships and
11 corporations.--

12 (1) The practice of or the offer to practice portable
13 restroom contracting services by registrants through a parent
14 corporation, corporation, subsidiary of a corporation, or
15 partnership offering portable restroom contracting services to
16 the public through registrants under this chapter as agents,
17 employers, officers, or partners is permitted, provided that
18 one or more of the principal officers of the corporation or
19 one or more partners of the partnership and all personnel of
20 the corporation or partnership who act on its behalf as
21 portable restroom contractors in this state are registered as
22 provided by this part, and further provided that the
23 corporation or partnership has been issued a certificate of
24 authorization by the department as provided in this section.
25 A registered contractor may not be the sole qualifying
26 contractor for more than one business that requests a
27 certificate of authorization. A business organization that
28 loses its qualifying contractor has 60 days following the date
29 the qualifier terminates his or her affiliation within which
30 to obtain another qualifying contractor. During this period,
31 the business organization may complete any existing contract

1 or continuing contract, but may not undertake any new
2 contract. This period may be extended once by the department
3 for an additional 60 days upon a showing of good cause.
4 Nothing in this section shall be construed to mean that a
5 certificate of registration to practice portable restroom
6 contracting shall be held by a corporation. No corporation or
7 partnership shall be relieved of responsibility for the
8 conduct or acts of its agents, employees, or officers by
9 reason of its compliance with this section, nor shall any
10 individual practicing portable restroom contracting be
11 relieved of responsibility for professional services performed
12 by reason of his or her employment or relationship with a
13 corporation or partnership.

14 (2) For the purposes of this section, a certificate of
15 authorization shall be required for a corporation,
16 partnership, association, or person practicing under a
17 fictitious name, offering portable restroom contracting
18 services to the public, except that when an individual is
19 practicing portable restroom contracting in his or her own
20 given name, he or she shall not be required to register under
21 this section.

22 (3) Each certification of authorization shall be
23 renewed every 2 years. Each partnership and corporation
24 certified under this section shall notify the department
25 within 1 month after any change in the information contained
26 in the application upon which the certification is based.

27 (4) Disciplinary action against a corporation or
28 partnership shall be administered in the same manner and on
29 the same grounds as disciplinary action against a registered
30 portable restroom contractor.

31 (5) When a certificate of authorization has been

1 revoked, any person authorized by law to provide portable
2 restroom contracting services may not use the name or
3 fictitious name of the entity whose certificate was revoked,
4 or any other identifiers for the entity, including telephone
5 numbers, advertisements, or logos.

6 489.666 Suspension or revocation of registration.--A
7 certificate of registration may be suspended or revoked upon a
8 showing that the registrant has:

9 (1) Violated any provision of this part.

10 (2) Violated any lawful order or rule rendered or
11 adopted by the department.

12 (3) Obtained his or her registration or any other
13 order, ruling, or authorization by means of fraud,
14 misrepresentation, or concealment of material facts.

15 (4) Been found guilty of gross misconduct in the
16 pursuit of his or her profession.

17 489.667 Fees; establishment.--

18 (1) The department shall, by rule, establish fees as
19 follows:

20 (a) For portable restroom contractor registration:

21 1. Application and examination fee: not less than \$25
22 nor more than \$75.

23 2. Initial registration fee: not less than \$50 nor
24 more than \$100.

25 3. Renewal of registration fee: not less than \$50 nor
26 more than \$100.

27 (b) Certification of partnerships and corporations:
28 not less than \$100 nor more than \$250.

29 (2) Fees established pursuant to subsection (1) shall
30 be based on the actual costs incurred by the department in
31 carrying out its registration and other related

1 responsibilities under this part.

2 489.668 Penalties and prohibitions.--

3 (1) Any person who violates any provision of this part
4 commits a misdemeanor of the first degree, punishable as
5 provided in s. 775.082 or s. 775.083.

6 (2) The department may deny a registration if it
7 determines that an applicant does not meet all requirements of
8 this part or has violated any provision of this part. Any
9 applicant aggrieved by such denial shall be entitled to a
10 hearing, after reasonable notice thereof, upon filing a
11 written request for such hearing in accordance with chapter
12 120.

13 Section 115. Subsection (3) is added to section
14 627.638, Florida Statutes, to read:

15 627.638 Direct payment for hospital, medical
16 services.--

17 (3) Under any health insurance policy insuring against
18 loss or expense due to hospital confinement or to medical and
19 related services, payment of benefits shall be made directly
20 to any recognized hospital, doctor, or other person who
21 provided services for the treatment of a psychological
22 disorder or treatment for substance abuse, including drug and
23 alcohol abuse, when the treatment is in accordance with the
24 provisions of the policy and the insured specifically
25 authorizes direct payment of benefits. Payments shall be made
26 under this section, notwithstanding any contrary provisions in
27 the health insurance contract. This subsection applies to all
28 health insurance policies now or hereafter in force as of
29 October 1, 2002.

30 Section 116. Subsection (1) of section 766.101,
31 Florida Statutes, is amended to read:

1 766.101 Medical review committee, immunity from
2 liability.--

3 (1) As used in this section:

4 (a) The term "medical review committee" or "committee"
5 means:

6 1.a. A committee of a hospital or ambulatory surgical
7 center licensed under chapter 395 or a health maintenance
8 organization certificated under part I of chapter 641,

9 b. A committee of a physician-hospital organization, a
10 provider-sponsored organization, or an integrated delivery
11 system,

12 c. A committee of a state or local professional
13 society of health care providers,

14 d. A committee of a medical staff of a licensed
15 hospital or nursing home, provided the medical staff operates
16 pursuant to written bylaws that have been approved by the
17 governing board of the hospital or nursing home,

18 e. A committee of the Department of Corrections or the
19 Correctional Medical Authority as created under s. 945.602, or
20 employees, agents, or consultants of either the department or
21 the authority or both,

22 f. A committee of a professional service corporation
23 formed under chapter 621 or a corporation organized under
24 chapter 607 or chapter 617, which is formed and operated for
25 the practice of medicine as defined in s. 458.305(3), and
26 which has at least 25 health care providers who routinely
27 provide health care services directly to patients,

28 g. A committee of a mental health treatment facility
29 licensed under chapter 394 or a community mental health center
30 as defined in s. 394.907, provided the quality assurance
31 program operates pursuant to the guidelines which have been

1 approved by the governing board of the agency,
2 h. A committee of a substance abuse treatment and
3 education prevention program licensed under chapter 397
4 provided the quality assurance program operates pursuant to
5 the guidelines which have been approved by the governing board
6 of the agency,
7 i. A peer review or utilization review committee
8 organized under chapter 440,
9 j. A committee of the Department of Health, a county
10 health department, healthy start coalition, or certified rural
11 health network, when reviewing quality of care, or employees
12 of these entities when reviewing mortality records, ~~or~~
13 k. A continuous quality improvement committee of a
14 pharmacy licensed pursuant to chapter 465,
15 l. A committee established by a university board of
16 trustees, or
17 m. A committee comprised of faculty, residents,
18 students, and administrators of an accredited college of
19 medicine, nursing, or other health care discipline,
20
21 which committee is formed to evaluate and improve the quality
22 of health care rendered by providers of health service or to
23 determine that health services rendered were professionally
24 indicated or were performed in compliance with the applicable
25 standard of care or that the cost of health care rendered was
26 considered reasonable by the providers of professional health
27 services in the area; or
28 2. A committee of an insurer, self-insurer, or joint
29 underwriting association of medical malpractice insurance, or
30 other persons conducting review under s. 766.106.
31 (b) The term "health care providers" means physicians

1 licensed under chapter 458, osteopathic physicians licensed
2 under chapter 459, podiatric physicians licensed under chapter
3 461, optometrists licensed under chapter 463, dentists
4 licensed under chapter 466, chiropractic physicians licensed
5 under chapter 460, pharmacists licensed under chapter 465, or
6 hospitals or ambulatory surgical centers licensed under
7 chapter 395.

8 Section 117. Effective upon this act becoming a law,
9 subsection (10) of section 627.357, Florida Statutes, is
10 amended to read:

11 627.357 Medical malpractice self-insurance.--

12 Section 118. (10)(a)1. An application to form a
13 self-insurance fund under this section must be filed with the
14 department before October 1, 2002. All self-insurance funds
15 authorized under this paragraph must apply for a certificate
16 of authority to become an authorized insurer by October 1,
17 2006. Any such fund failing to obtain a certificate of
18 authority as an authorized insurer within 1 year of the date
19 of application therefore shall wind down its affair and shall
20 not issue coverage after the expiration of the 1-year period.

21 2. Any self insurance fund established pursuant to
22 this section after April 1, 2002, shall also comply with ss.
23 624.460-624.489, notwithstanding s. 624.462(2)(a). In the
24 event of a conflict between the provisions of this section and
25 ss. 624.460-624.489, the latter sections shall govern. With
26 respect to those sections, provisions solely applicable to
27 workers' compensation and employers liability insurance shall
28 not apply to medical malpractice funds.~~A self insurance may~~
29 ~~not be formed under this section after October 1, 1992.~~

30 Section 119. Subsection (7) of section 631.54, Florida
31 Statutes, is amended to read:

1 631.54 Definitions.--As used in this part:
2 (7) "Member insurer" means any person who writes any
3 kind of insurance to which this part applies under s. 631.52,
4 including the exchange of reciprocal or interinsurance
5 contracts and any medical malpractice self-insurance fund
6 authorized after April 1, 2002 under s. 627.357, and is
7 licensed to transact insurance in this state. The Agency for
8 Health Care Administration shall conduct a study of health
9 care services provided to the medically fragile or
10 medical-technology-dependent children in the state and conduct
11 a pilot program in Dade County to provide subacute pediatric
12 transitional care to a maximum of 30 children at any one time.
13 The purpose of the study and the pilot program are to
14 determine ways to permit medically fragile or
15 medical-technology-dependent children to successfully make a
16 transition from acute care in a health care institution to
17 live with their families when possible, and to provide
18 cost-effective, subacute transitional care services.
19 Section 120. The Agency for Health Care
20 Administration, in cooperation with the Children's Medical
21 Services Program in the Department of Health, shall conduct a
22 study to identify the total number of medically fragile or
23 medical-technology-dependent children, from birth through age
24 21, in the state. By January 1, 2003, the agency must report
25 to the Legislature regarding the children's ages, the
26 locations where the children are served, the types of services
27 received, itemized costs of the services, and the sources of
28 funding that pay for the services, including the proportional
29 share when more than one funding source pays for a service.
30 The study must include information regarding medically fragile
31 or medical-technology-dependent children residing in

1 hospitals, nursing homes, and medical foster care, and those
2 who live with their parents. The study must describe children
3 served in prescribed pediatric extended-care centers,
4 including their ages and the services they receive. The report
5 must identify the total services provided for each child and
6 the method for paying for those services. The report must also
7 identify the number of such children who could, if appropriate
8 transitional services were available, return home or move to a
9 less-institutional setting.

10 Section 121. (1) Within 30 days after the effective
11 date of this act, the agency shall establish minimum staffing
12 standards and quality requirements for a subacute pediatric
13 transitional care center to be operated as a 2-year pilot
14 program in Dade County. The pilot program must operate under
15 the license of a hospital licensed under chapter 395, Florida
16 Statutes, or a nursing home licensed under chapter 400,
17 Florida Statutes, and shall use existing beds in the hospital
18 or nursing home. A child's placement in the subacute pediatric
19 transitional care center may not exceed 90 days. The center
20 shall arrange for an alternative placement at the end of a
21 child's stay and a transitional plan for children expected to
22 remain in the facility for the maximum allowed stay.

23 (2) Within 60 days after the effective date of this
24 act, the agency must amend the state Medicaid plan and request
25 any federal waivers necessary to implement and fund the pilot
26 program.

27 (3) The subacute pediatric transitional care center
28 must require level I background screening as provided in
29 chapter 435, Florida Statutes, for all employees or
30 prospective employees of the center who are expected to, or
31 whose responsibilities may require them to, provide personal

1 care or services to children, have access to children's living
2 areas, or have access to children's funds or personal
3 property.

4 Section 122. (1) The subacute pediatric transitional
5 care center must have an advisory board. Membership on the
6 advisory board must include, but need not be limited to:

7 (a) A physician and an advanced registered nurse
8 practitioner who is familiar with services for medically
9 fragile or medical-technology-dependent children;

10 (b) A registered nurse who has experience in the care
11 of medically fragile or medical-technology-dependent children;

12 (c) A child development specialist who has experience
13 in the care of medically fragile or
14 medical-technology-dependent children and their families;

15 (d) A social worker who has experience in the care of
16 medically fragile or medical-technology-dependent children and
17 their families; and

18 (e) A consumer representative who is a parent or
19 guardian of a child placed in the center.

20 (2) The advisory board shall:

21 (a) Review the policy and procedure components of the
22 center to assure conformance with applicable standards
23 developed by the Agency for Health Care Administration; and

24 (b) Provide consultation with respect to the
25 operational and programmatic components of the center.

26 Section 123. (1) The subacute pediatric transitional
27 care center must have written policies and procedures
28 governing the admission, transfer, and discharge of children.

29 (2) The admission of each child to the center must be
30 under the supervision of the center nursing administrator or
31 his or her designee, and must be in accordance with the

1 center's policies and procedures. Each Medicaid admission must
2 be approved by the Department of Health, Children's Medical
3 Services Multidisciplinary Assessment Team, in conjunction
4 with the Agency for Health Care Administration, as appropriate
5 for placement in the facility.

6 (3) Each child admitted to the center shall be
7 admitted upon prescription of the Medical Director of the
8 center, licensed pursuant to chapter 458 or 459, and the child
9 shall remain under the care of the medical director and
10 advanced registered nurse practitioner for the duration of his
11 or her stay in the center.

12 (4) Each child admitted to the center must meet at
13 least the following criteria:

14 (a) The child must be medically fragile or
15 medical-technology-dependent.

16 (b) The child may not, prior to admission, present
17 significant risk of infection to other children or personnel.
18 The medical and nursing directors shall review, on a
19 case-by-case basis, the condition of any child who is
20 suspected of having an infectious disease to determine whether
21 admission is appropriate.

22 (c) The child must be medically stabilized and require
23 skilled nursing care or other interventions.

24 (5) If the child meets the criteria specified in
25 paragraphs (4)(a), (b), and (c), the medical director or
26 nursing director of the center shall implement a preadmission
27 plan that delineates services to be provided and appropriate
28 sources for such services.

29 (a) If the child is hospitalized at the time of
30 referral, preadmission planning must include the participation
31 of the child's parent or guardian and relevant medical,

1 nursing, social services, and developmental staff to assure
2 that the hospital's discharge plans will be implemented
3 following the child's placement in the center.

4 (b) A consent form, outlining the purpose of the
5 center, family responsibilities, authorized treatment,
6 appropriate release of liability, and emergency disposition
7 plans, must be signed by the parent or guardian and witnessed
8 before the child is admitted to the center. The parent or
9 guardian shall be provided a copy of the consent form.

10 Section 124. The provisions of this pilot program
11 relating to subacute pediatric transitional care shall be
12 implemented to the extent available appropriations contained
13 in the annual General Appropriations Act are specifically
14 designated for the purposes contained within the pilot
15 program.

16 Section 125. By January 1, 2003, the Agency for Health
17 Care Administration shall report to the Legislature concerning
18 the progress of the medically fragile or
19 medical-technology-dependent children pilot program. By
20 January 1, 2004, the agency shall submit to the Legislature a
21 report on the success of the pilot program.

22 Section 126. Subsection (5) of section 393.064,
23 Florida Statutes, is amended to read:

24 393.064 Prevention.--

25 (5) The Department of Health Children and Family
26 Services shall have the authority, within available resources,
27 to contract for the supervision and management of the Raymond
28 C. Philips Research and Education Unit, and such contract
29 shall include specific program objectives.

30 Section 127. Except as otherwise provided herein, this
31 act shall take effect July 1, 2002.

1 Section 128. Except as otherwise provided herein, this
2 act shall take effect October 1, 2002, and shall apply to
3 claims for services rendered after such date.

4

5

6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 remove: the entire title

9

10 and insert:

11 An act relating to health care; amending s.
12 408.036, F.S.; exempting certain services,
13 construction, or programs from
14 certificate-of-need review requirements for
15 existing health facilities under certain
16 circumstances; specifying requirements;
17 requiring the Agency for Health Care
18 Administration to adopt rules and monitor
19 programs for compliance; providing conditions
20 for expiration of an exemption and for
21 prohibiting another exemption for a specified
22 period; providing application; revising the
23 exemption from certificate-of-need requirements
24 for a satellite hospital; amending s. 408.043,
25 F.S.; specifying that certain hospitals in
26 certain counties may add additional beds
27 without agency review under certain
28 circumstances; amending s. 408.7057, F.S.;
29 redesignating a program title; revising
30 definitions; including preferred provider
31 organizations and health insurers in the claim

1 dispute resolution program; specifying
2 timeframes for submission of supporting
3 documentation necessary for dispute resolution;
4 providing consequences for failure to comply;
5 providing additional responsibilities for the
6 agency relating to patterns of claim disputes;
7 providing timeframes for review by the
8 resolution organization; directing the agency
9 to notify appropriate licensure and
10 certification entities as part of violation of
11 final orders; amending s. 626.88, F.S.;
12 redefining the term "administrator," with
13 respect to regulation of insurance
14 administrators; creating s. 627.6131, F.S.;
15 specifying payment of claims provisions
16 applicable to certain health insurers;
17 providing a definition; providing requirements
18 and procedures for paying, denying, or
19 contesting claims; providing criteria and
20 limitations; requiring payment within specified
21 periods; specifying rate of interest charged on
22 overdue payments; providing for electronic and
23 nonelectronic transmission of claims; providing
24 procedures for overpayment recovery; specifying
25 timeframes for adjudication of claims,
26 internally and externally; prohibiting action
27 to collect payment from an insured under
28 certain circumstances; providing applicability;
29 prohibiting contractual modification of
30 provisions of law; specifying circumstances for
31 retroactive claim denial; specifying claim

1 payment requirements; providing for billing
2 review procedures; specifying claim content
3 requirements; establishing a permissible error
4 ratio, specifying its applicability, and
5 providing for fines; providing specified
6 exceptions from notice and acknowledgment
7 requirements for pharmacy benefit manager
8 claims; creating s. 627.6135, F.S., relating to
9 treatment authorization; providing a
10 definition; specifying circumstances for
11 authorization timeframes; specifying content
12 for response to authorization requests;
13 providing for an obligation for payment, with
14 exception; providing authorization procedure
15 notice requirements; amending s. 627.6425,
16 F.S., relating to renewability of individual
17 coverage; providing for circumstances relating
18 to nonrenewal or discontinuance of coverage;
19 amending s. 627.651, F.S.; correcting a cross
20 reference, to conform; amending s. 627.662,
21 F.S.; specifying application of certain
22 additional provisions to group, blanket, and
23 franchise health insurance; amending s.
24 627.638, F.S.; revising requirements relating
25 to direct payment of benefits to specified
26 providers under certain circumstances; amending
27 s. 641.185, F.S.; specifying that health
28 maintenance organization subscribers should
29 receive prompt payment from the organization;
30 amending s. 641.234, F.S.; specifying
31 responsibility of a health maintenance

1 organization for certain violations under
2 certain circumstances; amending s. 641.30,
3 F.S.; conforming a cross reference; amending s.
4 641.3154, F.S.; modifying the circumstances
5 under which a provider knows that an
6 organization is liable for service
7 reimbursement; amending s. 641.3155, F.S.;
8 revising payment of claims provisions
9 applicable to certain health maintenance
10 organizations; providing a definition;
11 providing requirements and procedures for
12 paying, denying, or contesting claims;
13 providing criteria and limitations; requiring
14 payment within specified periods; revising rate
15 of interest charged on overdue payments;
16 providing for electronic and nonelectronic
17 transmission of claims; providing procedures
18 for overpayment recovery; specifying timeframes
19 for adjudication of claims, internally and
20 externally; prohibiting action to collect
21 payment from a subscriber under certain
22 circumstances; prohibiting contractual
23 modification of provisions of law; specifying
24 circumstances for retroactive claim denial;
25 specifying claim payment requirements;
26 providing for billing review procedures;
27 specifying claim content requirements;
28 establishing a permissible error ratio,
29 specifying its applicability, and providing for
30 fines; providing specified exceptions from
31 notice and acknowledgment requirements for

1 pharmacy benefit manager claims; amending s.
2 641.3156, F.S., relating to treatment
3 authorization; providing a definition;
4 specifying circumstances for authorization
5 timeframes; specifying content for response to
6 authorization requests; providing for an
7 obligation for payment, with exception;
8 providing authorization procedure notice
9 requirements; transferring to the Department of
10 Health the powers, duties, functions, and
11 assets that relate to the consumer complaint
12 services, investigations, and prosecutorial
13 services performed by the Agency for Health
14 Care Administration under contract with the
15 department; transferring full-time equivalent
16 positions and the practitioner regulation
17 component from the agency to the department;
18 amending s. 20.43, F.S.; deleting the provision
19 authorizing the department to enter into such
20 contract with the agency, to conform; updating
21 a reference to provide the name of a regulatory
22 board under the Division of Medical Quality
23 Assurance; requiring the Office of Legislative
24 Services to contract for an outsourcing
25 feasibility study relating to the regulatory
26 responsibilities of the Board of Dentistry;
27 providing an appropriation; requiring a report
28 to the Governor and Legislature; requiring the
29 Department of Health to contract for the
30 implementation of the electronic continuing
31 education tracking system and requiring said

1 system to be compatible and integrated with the
2 department's licensure and renewal system;
3 amending s. 456.057, F.S.; authorizing
4 specified persons to release certain medical
5 records to a custodian upon board order;
6 exempting such persons from liability for the
7 release of such records; amending s. 456.072,
8 F.S.; providing additional penalties to be
9 imposed on certain health care practitioners
10 relating to notice to patients concerning
11 availability and access to medical records;
12 amending s. 456.076, F.S.; providing additional
13 conditions for impaired practitioners to enroll
14 in a treatment program as an alternative to
15 discipline; amending s. 456.0375, F.S.;
16 revising the definition of "clinic" to exempt
17 public college and university clinics from
18 medical clinic registration, to restrict the
19 exemption for massage establishments, and to
20 clarify when a health care practitioner may
21 supervise another health care practitioner;
22 amending s. 456.072, F.S.; revising grounds for
23 disciplinary action relating to performing
24 health care services improperly and to leaving
25 foreign bodies in patients; amending s. 631.57,
26 F.S.; exempting medical malpractice insurance
27 premiums from an assessment; amending s.
28 395.002, F.S.; defining "medically unnecessary
29 procedure"; amending s. 394.4787, F.S.;
30 conforming a cross reference; amending s.
31 395.0161, F.S.; providing rulemaking authority

1 relating to inspections and investigations of
2 facilities; amending s. 395.0197, F.S.;
3 revising requirements for internal risk
4 management programs; amending s. 465.019, F.S.;
5 revising the definition of "class II
6 institutional pharmacies" to allow dispensing
7 and consulting services to hospice patients
8 under certain circumstances; amending s.
9 499.007, F.S.; deleting requirement for
10 labeling of name and place of business of the
11 manufacturer; providing legislative findings
12 relating to responsiveness to emergencies and
13 disasters; amending s. 381.0011, F.S.; revising
14 duties of the Department of Health; authorizing
15 the State Health Officer to take specified
16 emergency actions to protect the public health;
17 amending s. 381.00315, F.S.; defining the terms
18 "public health advisory" and "public health
19 emergency"; specifying the terms under which a
20 public health emergency is declared; providing
21 for consultation for, and notice and duration
22 of, a declaration of a public health emergency;
23 amending s. 381.0034, F.S.; providing a
24 requirement for instruction of certain health
25 care licensees on conditions caused by nuclear,
26 biological, and chemical terrorism, as a
27 condition of initial licensure, and, in lieu of
28 the requirement for instruction on HIV and
29 AIDS, as a condition of relicensure; amending
30 s. 381.0035, F.S.; providing a requirement for
31 instruction of employees at certain health care

1 facilities on conditions caused by nuclear,
2 biological, and chemical terrorism, upon
3 initial employment, and, in lieu of the
4 requirement of instruction on HIV and AIDS, as
5 biennial continuing education; providing an
6 exception; creating s. 381.0421, F.S.;
7 requiring postsecondary education institutions
8 to provide information on meningococcal
9 meningitis and hepatitis B; requiring
10 individuals residing in on-campus housing to
11 document vaccinations against meningococcal
12 meningitis and hepatitis B or sign a waiver;
13 amending ss. 395.1027 and 401.245, F.S.;
14 correcting cross references; amending s.
15 401.23, F.S.; revising definitions of "advanced
16 life support" and "basic life support" and
17 defining "emergency medical condition";
18 amending s. 401.252, F.S.; authorizing
19 physician assistants to conduct interfacility
20 transfers in a permitted ambulance under
21 certain circumstances; amending s. 401.27,
22 F.S.; providing that the course on conditions
23 caused by nuclear, biological, and chemical
24 terrorism shall count toward the total required
25 hours for biennial recertification of emergency
26 medical technicians and paramedics; amending s.
27 456.033, F.S.; providing a requirement for
28 instruction of certain health care
29 practitioners on conditions caused by nuclear,
30 biological, and chemical terrorism, as a
31 condition of initial licensure, and, in lieu of

1 the requirement for instruction on HIV and
2 AIDS, as part of biennial relicensure; amending
3 s. 381.003, F.S.; requiring the Department of
4 Health to adopt certain standards applicable to
5 all public-sector employers; requiring the
6 compilation and maintenance of certain
7 information by the department for use by
8 employers; creating s. 456.0345, F.S.;
9 providing continuing education credits to
10 health care practitioners for certain life
11 support training; amending s. 456.072, F.S.;
12 conforming provisions relating to grounds for
13 disciplinary actions to changes in health care
14 practitioners' course requirements; amending s.
15 456.38, F.S.; revising provisions relating to
16 the health care practitioner registry for
17 disasters and emergencies; prohibiting certain
18 termination of or discrimination against a
19 practitioner providing disaster medical
20 assistance; amending ss. 458.319 and 459.008,
21 F.S.; conforming provisions relating to
22 exceptions to continuing education requirements
23 for physicians and osteopathic physicians;
24 amending ss. 401.2715, 633.35, and 943.135,
25 F.S.; authorizing certain substitution of
26 terrorism response training for other training
27 required for recertification of emergency
28 medical technicians and paramedics,
29 certification of firefighters, and continued
30 employment or appointment of law enforcement
31 officers, correctional officers, and

1 correctional probation officers; authorizing
2 rulemaking; amending s. 765.512, F.S., relating
3 to anatomical gifts; prohibiting modification
4 of a donor's intent; providing that a donor
5 document is legally binding; authorizing
6 specified persons to furnish donors' medical
7 records upon request; amending s. 765.516,
8 F.S.; revising procedures by which the terms of
9 an anatomical gift may be amended or the gift
10 may be revoked; amending s. 456.073, F.S.;
11 revising procedures and timeframes for formal
12 hearings of health care practitioner
13 disciplinary cases; requiring a joint audit of
14 hearings and their billing formulas and a
15 report to the Legislature; amending s. 456.076,
16 F.S.; requiring each impaired practitioner to
17 pay a portion of the cost of the consultant and
18 impaired practitioner program and the full cost
19 of the required treatment program or plan;
20 providing certain exceptions; repealing s.
21 456.047, F.S., to terminate the standardized
22 credentialing program for health care
23 practitioners; prohibiting the refund of moneys
24 collected through the credentialing program;
25 amending ss. 456.039, 456.0391, 456.072, and
26 456.077, F.S.; removing references, to conform;
27 amending s. 458.309, F.S.; requiring
28 accreditation of physician offices in which
29 surgery is performed; amending s. 459.005,
30 F.S.; requiring accreditation of osteopathic
31 physician offices in which surgery is

1 performed; amending s. 456.004, F.S., relating
2 to powers and duties of the department;
3 requiring performance measures for certain
4 entities; providing procedures for considering
5 board requests to privatize regulatory
6 functions; amending s. 456.009, F.S.; requiring
7 performance measures for certain legal and
8 investigative services and annual review of
9 such services to determine whether such
10 performance measures are being met; amending s.
11 456.011, F.S.; requiring regulatory board
12 committee meetings, including probable cause
13 panels, to be held electronically unless
14 certain conditions are met; providing for
15 determination of location of in-person
16 meetings; amending s. 456.026, F.S.; requiring
17 inclusion of performance measures for certain
18 entities in the department's annual report to
19 the Legislature; creating s. 458.3093, F.S.;
20 requiring submission of credentials for initial
21 physician licensure to a national licensure
22 verification service; requiring verification of
23 such credentials by that service or an
24 equivalent program; creating s. 459.0053, F.S.;
25 requiring submission of credentials for initial
26 osteopathic physician licensure to a national
27 licensure verification service; requiring
28 verification of such credentials by that
29 service, a specified association, or an
30 equivalent program; amending ss. 458.331,
31 459.015, and 627.912, F.S.; raising the

1 malpractice closed claims reporting requirement
2 amount; amending s. 456.073, F.S.; requiring
3 health care practitioner licensees to pay
4 certain costs of investigation and prosecution
5 under certain circumstances; requiring cases in
6 which no probable cause has been found to be
7 closed within a specified period of time;
8 requiring a study of the field office structure
9 and organization of the Agency for Health Care
10 Administration and a report to the Legislature;
11 amending s. 456.025, F.S.; eliminating certain
12 restrictions on the setting of licensure
13 renewal fees for health care practitioners;
14 creating s. 456.0165, F.S.; restricting the
15 costs that may be charged by educational
16 institutions hosting health care practitioner
17 licensure examinations; requiring health care
18 practitioner licensure and licensure renewal
19 fees to be set at graduated levels of the
20 statutory fee cap or actual regulatory costs,
21 whichever is less; amending s. 468.302, F.S.;
22 authorizing certified nuclear medicine
23 technologists to administer X radiation from
24 certain devices under certain circumstances;
25 exempting certain persons from radiologic
26 technologist certification and providing
27 certain training requirements for such
28 exemption; amending s. 468.352, F.S.; revising
29 and providing definitions applicable to the
30 regulation of respiratory therapy; amending s.
31 468.355, F.S.; revising provisions relating to

1 respiratory therapy licensure and testing
2 requirements; amending s. 468.368, F.S.;
3 revising exemptions from respiratory therapy
4 licensure requirements; repealing s. 468.356,
5 F.S., relating to the approval of educational
6 programs; repealing s. 468.357, F.S., relating
7 to licensure by examination; amending s.
8 468.80, F.S.; expanding a definition; requiring
9 applications for health care practitioner
10 licensure and licensure renewal to be submitted
11 electronically beginning July 1, 2003, with
12 certain exceptions; providing for transition to
13 such electronic licensure; annually adjusting
14 by 2.5 percent the statutory fee caps
15 applicable to regulation of health care
16 practitioners; renumbering ss. 381.0602,
17 381.6021, 381.6022, 381.6023, 381.6024, and
18 381.6026, F.S., and renumbering and amending
19 ss. 381.60225 and 381.6025, F.S., to move
20 provisions relating to organ and tissue
21 procurement, donation, and transplantation to
22 part V, ch. 765, F.S., relating to anatomical
23 gifts; revising cross references, to conform;
24 amending ss. 395.2050, 409.815, 765.5216, and
25 765.522, F.S.; revising cross references, to
26 conform; providing a short title and providing
27 coverage for certain organ transplant services;
28 amending s. 409.915, F.S.; exempting counties
29 from contributions for such services; amending
30 s. 456.074, F.S.; providing for an emergency
31 order suspending the license of any health care

1 practitioner who has defaulted on a student
2 loan issued or guaranteed by the state or the
3 Federal Government; amending s. 456.072, F.S.,
4 and reenacting subsection (2), relating to
5 disciplinary actions; clarifying the ground for
6 disciplinary action for failing to perform a
7 statutory or legal obligation to include
8 failing to repay a student loan issued or
9 guaranteed by the state or the Federal
10 Government in accordance with the terms of the
11 loan and for failing to comply with service
12 scholarship obligations; providing penalties;
13 directing the Department of Health to obtain
14 certain information from the United States
15 Department of Health and Human Services on a
16 monthly basis and to include certain
17 information in its annual report to the
18 Legislature; reenacting ss. 456.026 and
19 456.073, F.S., relating to the annual report
20 and disciplinary proceedings, respectively, to
21 conform; providing applicability; amending s.
22 400.925, F.S.; eliminating the regulation of
23 certain home medical equipment by the Agency
24 for Health Care Administration; amending s.
25 765.104, F.S.; authorizing a patient whose
26 legal disability is removed to amend or revoke
27 the recognition of a medical proxy and any
28 uncompleted decision made by that proxy;
29 specifying when the amendment or revocation
30 takes effect; amending s. 765.401, F.S.;

31 providing for health care decisions for persons

1 having a developmental disability; amending s.
2 457.1085, F.S.; removing obsolete dates
3 relating to adoption of rules relating to
4 infection control; amending s. 457.109, F.S.;
5 prohibiting the use of certain titles relating
6 to the practice of acupuncture unless properly
7 licensed and certified; providing penalties;
8 amending s. 457.116, F.S.; increasing the
9 penalties applicable to prohibited acts
10 relating to the practice of acupuncture;
11 amending s. 395.002, F.S., to provide a
12 definition of "surgical first assistant;"
13 amending s. 395.0197, F.S., to allow an
14 operating surgeon to choose the surgical first
15 assistant under certain conditions; amending s.
16 768.13, F.S.; providing immunity from civil
17 damages under the Good Samaritan Act for
18 actions taken in response to situations during
19 a declared public health emergency; revising
20 the circumstances under which immunity from
21 civil damages is extended to actions taken by
22 persons licensed to practice medicine; amending
23 s. 381.0066, F.S.; authorizing the continuation
24 of permit fees for system construction permits
25 for onsite sewage treatment and disposal
26 systems; creating part IV of chapter 489, F.S.,
27 relating to portable restroom contracting;
28 providing definitions; requiring registration
29 and providing requirements therefor, including
30 an examination; providing for administration;
31 providing rulemaking authority; providing for

1 renewal of registration, including continuing
2 education; providing for certification of
3 partnerships and corporations; providing
4 grounds for suspension or revocation of
5 registration; providing fees; providing
6 penalties and prohibitions; amending s.
7 491.0057, F.S.; revising requirements relating
8 to dual licensure as a marriage and family
9 therapist; amending s. 627.638, F.S., to
10 require direct payment of benefits for hospital
11 or medical services under certain
12 circumstances; amending s. 766.101, F.S.;
13 expanding the definition of the term "medical
14 review committee" for purposes of immunity from
15 liability; amending s. 627.357, F.S., relating
16 to medical malpractice insurance; providing
17 requirements to apply to form a self-insurance
18 fund; amending s. 631.54, F.S.; amending
19 definition of member insurer; requiring the
20 Agency for Health Care Administration to
21 conduct a study of health care services
22 provided to medically fragile or
23 medical-technology-dependent children;
24 requiring the Agency for Health Care
25 Administration to conduct a pilot program for a
26 subacute pediatric transitional care center;
27 requiring background screening of center
28 personnel; requiring the agency to amend the
29 Medicaid state plan and seek federal waivers as
30 necessary; requiring the center to have an
31 advisory board; providing for membership on the

1 advisory board; providing requirements for the
2 admission, transfer, and discharge of a child
3 to the center; requiring the agency to submit
4 certain reports to the Legislature; amending s.
5 393.064, F.S.; changing contract authority
6 between the Department of Children and Families
7 and the Department of Health; providing
8 effective dates. providing effective dates.
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