

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Sobel offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

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

(2)(a) Effective July 1, 2002, 279 full-time equivalent positions are eliminated from the Agency for Health Care Administration's total number of authorized positions.

1 Effective July 1, 2002, 279 full-time equivalent positions are
2 authorized for the Department of Health, to be added to the
3 department's total number of authorized positions. However,
4 should the General Appropriations Act for fiscal year
5 2002-2003 reduce the number of positions from the practitioner
6 regulation component at the Agency for Health Care
7 Administration, that provision shall be construed to eliminate
8 the full-time equivalent positions from the practitioner
9 regulation component which is hereby transferred to the
10 Department of Health, thereby resulting in no more than 279
11 positions being eliminated from the agency and no more than
12 279 positions being authorized to the department.

13 (b) All records, personnel, and funds of the consumer
14 complaint and investigative services units of the agency are
15 transferred and assigned to the Division of Medical Quality
16 Assurance of the Department of Health.

17 (c) All records, personnel, and funds of the health
18 care practitioner prosecutorial unit of the agency are
19 transferred and assigned to the Office of the General Counsel
20 of the Department of Health.

21 (3) The Department of Health is deemed the successor
22 in interest in all legal proceedings and contracts currently
23 involving the Agency for Health Care Administration and
24 relating to health care practitioner regulation. Except as
25 provided herein, no legal proceeding shall be dismissed, nor
26 any contract terminated, on the basis of this type two
27 transfer. The interagency agreement between the Department of
28 Health and the Agency for Health Care Administration shall
29 terminate on June 30, 2002.

30 Section 2. Paragraph (g) of subsection (3) of section
31 20.43, Florida Statutes, is amended to read:

- 1 20.43 Department of Health.--There is created a
2 Department of Health.
- 3 (3) The following divisions of the Department of
4 Health are established:
- 5 (g) Division of Medical Quality Assurance, which is
6 responsible for the following boards and professions
7 established within the division:
- 8 1. The Board of Acupuncture, created under chapter
9 457.
- 10 2. The Board of Medicine, created under chapter 458.
- 11 3. The Board of Osteopathic Medicine, created under
12 chapter 459.
- 13 4. The Board of Chiropractic Medicine, created under
14 chapter 460.
- 15 5. The Board of Podiatric Medicine, created under
16 chapter 461.
- 17 6. Naturopathy, as provided under chapter 462.
- 18 7. The Board of Optometry, created under chapter 463.
- 19 8. The Board of Nursing, created under part I of
20 chapter 464.
- 21 9. Nursing assistants, as provided under part II of
22 chapter 464.
- 23 10. The Board of Pharmacy, created under chapter 465.
- 24 11. The Board of Dentistry, created under chapter 466.
- 25 12. Midwifery, as provided under chapter 467.
- 26 13. The Board of Speech-Language Pathology and
27 Audiology, created under part I of chapter 468.
- 28 14. The Board of Nursing Home Administrators, created
29 under part II of chapter 468.
- 30 15. The Board of Occupational Therapy, created under
31 part III of chapter 468.

- 1 16. The Board of Respiratory Care therapy, as created
2 ~~provided~~ under part V of chapter 468.
- 3 17. Dietetics and nutrition practice, as provided
4 under part X of chapter 468.
- 5 18. The Board of Athletic Training, created under part
6 XIII of chapter 468.
- 7 19. The Board of Orthotists and Prosthetists, created
8 under part XIV of chapter 468.
- 9 20. Electrolysis, as provided under chapter 478.
- 10 21. The Board of Massage Therapy, created under
11 chapter 480.
- 12 22. The Board of Clinical Laboratory Personnel,
13 created under part III of chapter 483.
- 14 23. Medical physicists, as provided under part IV of
15 chapter 483.
- 16 24. The Board of Opticianry, created under part I of
17 chapter 484.
- 18 25. The Board of Hearing Aid Specialists, created
19 under part II of chapter 484.
- 20 26. The Board of Physical Therapy Practice, created
21 under chapter 486.
- 22 27. The Board of Psychology, created under chapter
23 490.
- 24 28. School psychologists, as provided under chapter
25 490.
- 26 29. The Board of Clinical Social Work, Marriage and
27 Family Therapy, and Mental Health Counseling, created under
28 chapter 491.
- 29
- 30 ~~The department may contract with the Agency for Health Care~~
31 ~~Administration who shall provide consumer complaint,~~

1 ~~investigative, and prosecutorial services required by the~~
2 ~~Division of Medical Quality Assurance, councils, or boards, as~~
3 ~~appropriate.~~

4 Section 3. The Office of Legislative Services shall
5 contract for a business case study of the feasibility of
6 outsourcing the administrative, investigative, legal, and
7 prosecutorial functions and other tasks and services that are
8 necessary to carry out the regulatory responsibilities of the
9 Board of Dentistry; employing its own executive director and
10 other staff; and obtaining authority over collections and
11 expenditures of funds paid by professions regulated by the
12 Board of Dentistry into the Medical Quality Assurance Trust
13 Fund. This feasibility study must include a business plan and
14 an assessment of the direct and indirect costs associated with
15 outsourcing these functions. The sum of \$50,000 is
16 appropriated from the Board of Dentistry account within the
17 Medical Quality Assurance Trust Fund to the Office of
18 Legislative Services for the purpose of contracting for the
19 study. The Office of Legislative Services shall submit the
20 completed study to the Governor, the President of the Senate,
21 and the Speaker of the House of Representatives by January 1,
22 2003.

23 Section 4. (1) On or before January 1, 2003, the
24 Department of Health shall contract with one or more private
25 entities to implement the electronic continuing education
26 tracking system required under s. 456.025(7), Florida
27 Statutes. The electronic continuing education tracking system
28 or systems must be compatible with the Department of Health's
29 licensure and renewal system no later than March 1, 2003. On
30 or before July 1, 2003, the Department of Health shall
31 integrate such system or systems into the Department of

1 Health's licensure and renewal system.

2 (2) The continuing education tracking system shall
3 provide access for a licensee to review the licensee's
4 continuing education credits or courses which have been
5 reported by providers of continuing education and shall
6 provide a mechanism for a licensee to self-report courses or
7 credits which have not yet been reported by a provider of
8 continuing education.

9 (3) The private entities under contract with the
10 Department of Health may fund the development and operation of
11 the continuing education tracking system through private
12 grants or funds or through funds paid by a provider of
13 continuing education courses. The Department of Health is
14 authorized to use continuing education provider fees and
15 licensure renewal fees to fund the operation of the continuing
16 education tracking system, subject to legislative
17 appropriation.

18 (4) The Department of Health may enter into more than
19 one contract if the department determines that it would be
20 more efficient, practical, or cost-effective to use one vendor
21 for professions which use board-approved providers and one
22 vendor for professions which allow licensees to take courses
23 approved by other entities.

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

26 456.057 Ownership and control of patient records;
27 report or copies of records to be furnished.--

28 (19) The board, or department when there is no board,
29 may temporarily or permanently appoint a person or entity as a
30 custodian of medical records in the event of the death of a
31 practitioner, the mental or physical incapacitation of the

1 practitioner, or the abandonment of medical records by a
2 practitioner. The custodian appointed shall comply with all
3 provisions of this section, including the release of patient
4 records. Any person or entity having possession or physical
5 control of the medical records may release them to the
6 custodian upon presentment of an order signed by the board
7 giving the custodian access to the records. A person or
8 entity is not liable in tort or contract for providing the
9 records to a validly appointed custodian.

10 Section 6. Subsection (7) is added to section 456.072,
11 Florida Statutes, to read:

12 456.072 Grounds for discipline; penalties;
13 enforcement.--

14 (7) In addition to any other discipline imposed
15 through final order or citation entered on or after July 1,
16 2002, pursuant to this section or for a violation of any
17 practice act, the board, or the department when there is no
18 board, shall require, in appropriate cases, any licensee who
19 is a records owner, as defined in s. 456.057, to notify his or
20 her patients of the requirements imposed by s. 456.057(11).

21 Section 7. Paragraph (a) of subsection (3) of section
22 456.076, Florida Statutes, is amended to read:

23 456.076 Treatment programs for impaired
24 practitioners.--

25 (3)(a) Whenever the department receives a written or
26 oral legally sufficient complaint alleging that a licensee
27 under the jurisdiction of the Division of Medical Quality
28 Assurance within the department is impaired as a result of the
29 misuse or abuse of alcohol or drugs, or both, or due to a
30 mental or physical condition which could affect the licensee's
31 ability to practice with skill and safety, and no complaint

1 against the licensee other than impairment exists, the
2 reporting of such information shall not constitute grounds for
3 discipline pursuant to s. 456.072 or the corresponding grounds
4 for discipline within the applicable practice act if the
5 probable cause panel of the appropriate board, or the
6 department when there is no board, finds:

7 1. The licensee has acknowledged the impairment
8 problem.

9 2. The licensee has voluntarily enrolled in an
10 appropriate, approved treatment program.

11 3. The licensee has voluntarily withdrawn from
12 practice or limited the scope of practice as required by the
13 consultant, in each case, until such time as the panel, or the
14 department when there is no board, is satisfied the licensee
15 has successfully completed an approved treatment program.

16 4. The licensee has executed releases for medical
17 records, authorizing the release of all records of
18 evaluations, diagnoses, and treatment of the licensee,
19 including records of treatment for emotional or mental
20 conditions, to the consultant. The consultant shall make no
21 copies or reports of records that do not regard the issue of
22 the licensee's impairment and his or her participation in a
23 treatment program.

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

28 Section 8. Paragraph (b) of subsection (1) of section
29 456.0375, Florida Statutes, is amended to read:

30 456.0375 Registration of certain clinics;
31 requirements; discipline; exemptions.--

1 (1)

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

5 1. Entities licensed or registered by the state
6 pursuant to chapter 390, chapter 394, chapter 395, chapter
7 397, chapter 400, chapter 463, chapter 465, chapter 466,
8 chapter 478, ~~chapter 480~~, or chapter 484.

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

12 3. Sole proprietorships, group practices,
13 partnerships, or corporations that provide health care
14 services by licensed health care practitioners pursuant to
15 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 480,
16 484, 486, 490, 491, or part I, part III, part X, part XIII, or
17 part XIV of chapter 468, or s. 464.012, which are wholly owned
18 by licensed health care practitioners or the licensed health
19 care practitioner and the spouse, parent, or child of a
20 licensed health care practitioner, so long as one of the
21 owners who is a licensed health care practitioner is
22 supervising the services performed therein and is legally
23 responsible for the entity's compliance with all federal and
24 state laws. However, no health care practitioner may supervise
25 the delivery of health care services beyond the scope of the
26 practitioner's license. Nothing in this section shall be
27 construed to prohibit a health care practitioner from
28 providing administrative or managerial supervision for
29 personnel purposes.

30 4. Massage establishments licensed pursuant to s.
31 480.043 so long as the massage establishment is only providing

1 massage as defined in s. 480.033(3) and no other medical or
2 health care service.

3 Section 9. Paragraphs (aa) and (bb) of subsection (1)
4 of section 456.072, Florida Statutes, are amended 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 (aa) ~~Performing or attempting to perform~~ health care
11 services on the wrong patient, a wrong-site procedure, a wrong
12 procedure, or an unauthorized procedure or a procedure that is
13 medically unnecessary or otherwise unrelated to the patient's
14 diagnosis or medical condition. For the purposes of this
15 paragraph, ~~performing or attempting to perform~~ health care
16 services includes the preparation of the patient.

17 (bb) Leaving a foreign body in a patient, such as a
18 sponge, clamp, forceps, surgical needle, or other
19 paraphernalia commonly used in surgical, examination, or other
20 diagnostic procedures, unless leaving the foreign body is
21 medically indicated and documented in the patient record. For
22 the purposes of this paragraph, it shall be legally presumed
23 that retention of a foreign body is not in the best interest
24 of the patient and is not within the standard of care of the
25 profession, unless medically indicated and documented in the
26 patient record ~~regardless of the intent of the professional.~~

27 Section 10. Subsection (7) is added to section 631.57,
28 Florida Statutes, to read:

29 631.57 Powers and duties of the association.--

30 (7) Notwithstanding any other provision of law, the
31 net direct written premiums of medical malpractice insurance

1 are not subject to assessment under this section to cover
2 claims and administrative costs for the type of insurance
3 defined in s. 624.604.

4 Section 11. Subsections (22) through (33) of section
5 395.002, Florida Statutes, are renumbered as subsections (23)
6 through (34), respectively, and a new subsection (22) is added
7 to said section to read:

8 395.002 Definitions.--As used in this chapter:

9 (22) "Medically unnecessary procedure" means a
10 surgical or other invasive procedure that a reasonable
11 physician, in light of the patient's history and available
12 diagnostic information, would not deem to be indicated in
13 order to treat, cure, or palliate the patient's condition or
14 disease.

15 Section 12. Subsection (7) of section 394.4787,
16 Florida Statutes, is amended to read:

17 394.4787 Definitions; ss. 394.4786, 394.4787,
18 394.4788, and 394.4789.--As used in this section and ss.
19 394.4786, 394.4788, and 394.4789:

20 (7) "Specialty psychiatric hospital" means a hospital
21 licensed by the agency pursuant to s. 395.002(30)~~(29)~~ as a
22 specialty psychiatric hospital.

23 Section 13. Subsection (5) is added to section
24 395.0161, Florida Statutes, to read:

25 395.0161 Licensure inspection.--

26 (5)(a) The agency shall adopt rules governing the
27 conduct of inspections or investigations it initiates in
28 response to:

29 1. Reports filed pursuant to s. 395.0197.

30 2. Complaints alleging violations of state or federal
31 emergency access laws.

1 3. Complaints made by the public alleging violations
2 of law by licensed facilities or personnel.

3 (b) Such rules shall set forth the procedures to be
4 used in such investigations or inspections in order to protect
5 the due process rights of licensed facilities and personnel
6 and to minimize, to the greatest reasonable extent possible,
7 the disruption of facility operations and the cost to
8 facilities resulting from such investigations.

9 Section 14. Subsections (2), (14), and (16) of section
10 395.0197, Florida Statutes, are amended to read:

11 395.0197 Internal risk management program.--

12 (2) The internal risk management program is the
13 responsibility of the governing board of the health care
14 facility. Each licensed facility shall utilize the services of
15 ~~hire~~ a risk manager, licensed under s. 395.10974, who is
16 responsible for implementation and oversight of such
17 facility's internal risk management program as required by
18 this section. ~~A risk manager must not be made responsible for~~
19 ~~more than four internal risk management programs in separate~~
20 ~~licensed facilities, unless the facilities are under one~~
21 ~~corporate ownership or the risk management programs are in~~
22 ~~rural hospitals.~~

23 (14) The agency shall have access, as set forth in
24 rules adopted pursuant to s. 395.0161(5), to all licensed
25 facility records necessary to carry out the provisions of this
26 section. The records obtained by the agency under subsection
27 (6), subsection (8), or subsection (10) are not available to
28 the public under s. 119.07(1), nor shall they be discoverable
29 or admissible in any civil or administrative action, except in
30 disciplinary proceedings by the agency or the appropriate
31 regulatory board, nor shall records obtained pursuant to s.

1 456.071 be available to the public as part of the record of
2 investigation for and prosecution in disciplinary proceedings
3 made available to the public by the agency or the appropriate
4 regulatory board. However, the agency or the appropriate
5 regulatory board shall make available, upon written request by
6 a health care professional against whom probable cause has
7 been found, any such records which form the basis of the
8 determination of probable cause, except that, with respect to
9 medical review committee records, s. 766.101 controls.

10 (16) The agency shall review, as part of its licensure
11 inspection process, the internal risk management program at
12 each licensed facility regulated by this section to determine
13 whether the program meets standards established in statutes
14 and rules, whether the program is being conducted in a manner
15 designed to reduce adverse incidents, and whether the program
16 is appropriately reporting incidents under this section. Only
17 a risk manager licensed under s. 395.10974 and employed by or
18 under contract with the agency may conduct inspections to
19 determine whether a program meets the requirements of this
20 section. Such determination shall be based on that level of
21 care, skill, and judgment which, in light of all relevant
22 surrounding circumstances, is recognized as acceptable and
23 appropriate by reasonably prudent similar licensed risk
24 managers. By July 1, 2004, the agency shall employ or contract
25 with a minimum of three licensed risk managers in each
26 district to conduct inspections pursuant to this section.

27 Section 15. Paragraph (b) of subsection (2) of section
28 465.019, Florida Statutes, is amended to read:

29 465.019 Institutional pharmacies; permits.--

30 (2) The following classes of institutional pharmacies
31 are established:

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

23 Section 16. Paragraph (a) of subsection (2) of section
24 499.007, Florida Statutes, is amended to read:

25 499.007 Misbranded drug or device.--A drug or device
26 is misbranded:

27 (2) Unless, if in package form, it bears a label
28 containing:

29 (a) The name and place of business of the manufacturer
30 or distributor ~~in addition, for a medicinal drug, as defined~~
31 ~~in s. 499.003, the label must contain the name and place of~~

1 ~~business of the manufacturer~~ of the finished dosage form of
2 the drug. For the purpose of this paragraph, the finished
3 dosage form of a medicinal drug is that form of the drug which
4 is, or is intended to be, dispensed or administered to the
5 patient and requires no further manufacturing or processing
6 other than packaging, reconstitution, and labeling; and

7 Section 17. Responsiveness to emergencies and
8 disasters; legislative findings.--The Legislature finds that
9 it is critical that Florida be prepared to respond
10 appropriately to a health crisis and injuries in the event of
11 an emergency or disaster. The Legislature finds that there is
12 a need to better educate health care practitioners on diseases
13 and conditions that might be caused by nuclear, biological,
14 and chemical terrorism so that health care practitioners can
15 more effectively care for patients and better educate patients
16 as to prevention and treatment. Additionally, the Legislature
17 finds that not all health care practitioners have been
18 recently trained in life support and first aid and that all
19 health care practitioners should be encouraged to obtain such
20 training. The Legislature finds that health care practitioners
21 who are willing to respond in emergencies or disasters should
22 not be penalized for providing their assistance.

23 Section 18. Section 381.0011, Florida Statutes, is
24 amended to read:

25 381.0011 Duties and powers of the Department of
26 Health; authority of State Health Officer.--

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

28 (a)~~(1)~~ Assess the public health status and needs of
29 the state through statewide data collection and other
30 appropriate means, with special attention to future needs that
31 may result from population growth, technological advancements,

1 new societal priorities, or other changes.

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

4 ~~(c)(3)~~ Include in the department's strategic plan
5 developed under s. 186.021 a summary of all aspects of the
6 public health mission and health status objectives to direct
7 the use of public health resources with an emphasis on
8 prevention.

9 ~~(d)(4)~~ Administer and enforce laws and rules relating
10 to sanitation, control of communicable diseases, illnesses and
11 hazards to health among humans and from animals to humans, and
12 the general health of the people of the state.

13 ~~(e)(5)~~ Cooperate with and accept assistance from
14 federal, state, and local officials for the prevention and
15 suppression of communicable and other diseases, illnesses,
16 injuries, and hazards to human health.

17 ~~(f)(6)~~ Declare, enforce, modify, and abolish
18 quarantine of persons, animals, and premises as the
19 circumstances indicate for controlling communicable diseases
20 or providing protection from unsafe conditions that pose a
21 threat to public health, except as provided in ss. 384.28 and
22 392.545-392.60.

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

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

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

29 ~~c.3.~~ The tests or ~~prophylactic~~ treatment, including
30 vaccination, for communicable disease required prior to
31 employment or admission to the premises or to comply with a

1 quarantine.

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

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

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

7 g. Methods of quarantine.

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

11 ~~(g)(7)~~ Provide for a thorough investigation and study
12 of the incidence, causes, modes of propagation and
13 transmission, and means of prevention, control, and cure of
14 diseases, illnesses, and hazards to human health.

15 ~~(h)(8)~~ Provide for the dissemination of information to
16 the public relative to the prevention, control, and cure of
17 diseases, illnesses, and hazards to human health. The
18 department shall conduct a workshop before issuing any health
19 alert or advisory relating to food-borne illness or
20 communicable disease in public lodging or food service
21 establishments in order to inform persons, trade associations,
22 and businesses of the risk to public health and to seek the
23 input of affected persons, trade associations, and businesses
24 on the best methods of informing and protecting the public,
25 except in an emergency, in which case the workshop must be
26 held within 14 days after the issuance of the emergency alert
27 or advisory.

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

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

31 ~~(k)(11)~~ Cooperate with other departments, local

1 officials, and private boards and organizations for the
2 improvement and preservation of the public health.

3 (1)~~(12)~~ Cooperate with other departments, local
4 officials, and private organizations in developing and
5 implementing a statewide injury control program.

6 (m)~~(13)~~ Adopt rules pursuant to ss. 120.536(1) and
7 120.54 to implement the provisions of law conferring duties
8 upon it. This paragraph ~~subsection~~ does not authorize the
9 department to require a permit or license unless such
10 requirement is specifically provided by law.

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

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

14 (a) Notwithstanding chapters 465 and 499 and rules
15 adopted thereunder, the State Health Officer may direct
16 pharmacists employed by the department to compound bulk
17 prescription drugs and provide these bulk prescription drugs
18 to county health department physicians, physician assistants,
19 and nurses for administration to persons as part of a
20 prophylactic or treatment regimen when there is a significant
21 risk to the public health from a disease, an environmental
22 contaminant, or a suspected act of nuclear, biological, or
23 chemical terrorism.

24 (b) The State Health Officer, upon declaration of a
25 public health emergency pursuant to s. 381.00315, may take
26 such actions as are necessary to protect the public health.

27 Such actions shall include, but are not limited to:

28 1. Directing Florida manufacturers and wholesalers of
29 prescription and over-the-counter drugs permitted under
30 chapter 499 to give priority to shipping such drugs to
31 pharmacies and health care providers located in geographic

1 areas identified by the State Health Officer. Florida
2 manufacturers and wholesalers must respond to the State Health
3 Officer's priority shipping directive before shipping the
4 specified drugs to other pharmacies or health care providers
5 in Florida.
6 2. Notwithstanding s. 456.036, temporarily
7 reactivating the inactive licenses of physicians licensed
8 under chapter 458 or chapter 459; physician assistants
9 licensed under chapter 458 or chapter 459; licensed practical
10 nurses, registered nurses, and advanced registered nurse
11 practitioners licensed under chapter 464; respiratory
12 therapists licensed under part V of chapter 468; and emergency
13 medical technicians and paramedics licensed under chapter 401
14 when such practitioners are needed to respond to the public
15 health emergency. Only those licensees referenced in this
16 subparagraph who request reactivation and have unencumbered
17 inactive licenses are eligible for reactivation. Any inactive
18 license reactivated pursuant to this subparagraph shall return
19 to inactive status when the public health emergency ends or
20 prior to the end of the public health emergency if the State
21 Health Officer determines that the health care practitioner is
22 no longer needed to provide services during the emergency. The
23 license may only be reactivated for a period not to exceed 90
24 days without meeting the requirements of s. 456.036 or chapter
25 401. If a physician assistant or advanced registered nurse
26 practitioner requests reactivation and volunteers during the
27 declared public health emergency, the county health department
28 medical director, if appropriate, shall serve as the
29 supervising physician for the physician assistant and shall be
30 authorized to delegate acts of medical diagnosis and treatment
31 to the advanced registered nurse practitioner.

1 3. Notwithstanding any law to the contrary, compelling
2 an individual to be examined, tested, vaccinated, treated, or
3 quarantined for communicable diseases that have significant
4 morbidity or mortality and present a severe danger to public
5 health. Prior to taking action under this subparagraph, the
6 State Health Officer shall, to the extent possible, consult
7 with the Governor.

8 a. Examination, testing, vaccination, or treatment may
9 be performed by any qualified person authorized by the State
10 Health Officer. Individuals who are unable or unwilling to be
11 examined, tested, vaccinated, or treated for reasons of
12 health, religion, or conscience may be subjected to
13 quarantine.

14 b. If the individual poses a danger to public health,
15 the State Health Officer may subject the individual to
16 quarantine. If there is no practicable method to quarantine
17 the individual, the State Health Officer may use any means
18 necessary to vaccinate or treat the individual.

19 c. Any order of the State Health Officer given to
20 effectuate this subparagraph shall be immediately enforceable
21 by law enforcement.

22
23 Individuals who assist the State Health Officer at his or her
24 request on a volunteer basis during a public health emergency
25 declared pursuant to s. 381.00315 shall be entitled to the
26 benefits in s. 110.504(2), (3), (4), and (5).

27 Section 19. Section 381.00315, Florida Statutes, is
28 amended to read:

29 381.00315 Public health advisories; public health
30 emergencies.--The State Health Officer is responsible for
31 declaring public health emergencies and issuing public health

1 advisories.

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

3 (a) "Public health advisory" means any warning or
4 report giving information to the public about a potential
5 public health threat. Prior to issuing any public health
6 advisory, the State Health Officer must consult with any state
7 or local agency regarding areas of responsibility which may be
8 affected by such advisory. Upon determining that issuing a
9 public health advisory is necessary to protect the public
10 health and safety, and prior to issuing the advisory, the
11 State Health Officer must notify each county health department
12 within the area which is affected by the advisory of the State
13 Health Officer's intent to issue the advisory. The State
14 Health Officer is authorized to take any action appropriate to
15 enforce any public health advisory.

16 (b) "Public health emergency" means any occurrence, or
17 threat thereof, whether natural or manmade, which results or
18 may result in substantial injury or harm to the public health
19 from infectious disease, chemical agents, nuclear agents,
20 biological toxins, or situations involving mass casualties or
21 natural disasters. Prior to declaring a public health
22 emergency, the State Health Officer shall, to the extent
23 possible, consult with the Governor and shall notify the Chief
24 of Domestic Security Initiatives as created in s. 943.03. The
25 declaration of a public health emergency shall continue until
26 the State Health Officer finds that the threat or danger has
27 been dealt with to the extent that the emergency conditions no
28 longer exist and he or she terminates the declaration.
29 However, a declaration of a public health emergency may not
30 continue for longer than 60 days unless the Governor concurs
31 in the renewal of the declaration.

1 Section 20. Section 381.0034, Florida Statutes, is
2 amended to read:

3 381.0034 Requirement for instruction on conditions
4 caused by nuclear, biological, and chemical terrorism and on
5 human immunodeficiency virus and acquired immune deficiency
6 syndrome.--

7 (1) ~~As of July 1, 1991,~~The Department of Health shall
8 require each person licensed or certified under chapter 401,
9 chapter 467, part IV of chapter 468, or chapter 483, as a
10 condition of biennial relicensure, to complete an educational
11 course approved by the department on conditions caused by
12 nuclear, biological, and chemical terrorism. The course shall
13 consist of education on diagnosis and treatment, the modes of
14 transmission, infection control procedures, and clinical
15 management. Such course shall also include information on
16 reporting suspected cases of conditions caused by nuclear,
17 biological, or chemical terrorism to the appropriate health
18 and law enforcement authorities, and prevention of human
19 immunodeficiency virus and acquired immune deficiency
20 syndrome. Such course shall include information on current
21 Florida law on acquired immune deficiency syndrome and its
22 impact on testing, confidentiality of test results, and
23 treatment of patients. Each such licensee or certificateholder
24 shall submit confirmation of having completed said course, on
25 a form provided by the department, when submitting fees or
26 application for each biennial renewal.

27 (2) Failure to complete the requirements of this
28 section shall be grounds for disciplinary action contained in
29 the chapters specified in subsection (1). In addition to
30 discipline by the department, the licensee or
31 certificateholder shall be required to complete the required

1 ~~said~~ course or courses.

2 (3) The department shall require, as a condition of
3 granting a license under the chapters specified in subsection
4 (1), that an applicant making initial application for
5 licensure complete respective ~~an~~ educational courses ~~course~~
6 acceptable to the department on conditions caused by nuclear,
7 biological, and chemical terrorism and on human
8 immunodeficiency virus and acquired immune deficiency
9 syndrome. An applicant who has not taken such courses ~~a~~
10 ~~course~~ at the time of licensure shall, upon an affidavit
11 showing good cause, be allowed 6 months to complete this
12 requirement.

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

15 (5) Any professional holding two or more licenses or
16 certificates subject to the provisions of this section shall
17 be permitted to show proof of having taken one
18 department-approved course on conditions caused by nuclear,
19 biological, and chemical terrorism ~~human immunodeficiency~~
20 ~~virus and acquired immune deficiency syndrome~~, for purposes of
21 relicensure or recertification for the additional licenses.

22 Section 21. Section 381.0035, Florida Statutes, is
23 amended to read:

24 381.0035 Educational courses ~~course~~ on human
25 immunodeficiency virus and acquired immune deficiency syndrome
26 and on conditions caused by nuclear, biological, and chemical
27 terrorism; employees and clients of certain health care
28 facilities.--

29 (1)(a) The Department of Health shall require all
30 ~~employees and~~ clients of facilities licensed under chapters
31 393, 394, and 397 ~~and employees of facilities licensed under~~

1 ~~chapter 395 and parts II, III, IV, and VI of chapter 400 to~~
2 complete, biennially, a continuing educational course on the
3 modes of transmission, infection control procedures, clinical
4 management, and prevention of human immunodeficiency virus and
5 acquired immune deficiency syndrome with an emphasis on
6 appropriate behavior and attitude change. Such instruction
7 shall include information on current Florida law and its
8 impact on testing, confidentiality of test results, and
9 treatment of patients and any protocols and procedures
10 applicable to human immunodeficiency counseling and testing,
11 reporting, the offering of HIV testing to pregnant women, and
12 partner notification issues pursuant to ss. 381.004 and
13 384.25.

14 (b) The department shall require all employees of
15 facilities licensed under chapters 393, 394, 395, and 397 and
16 parts II, III, IV, and VI of chapter 400 to complete,
17 biennially, a continuing educational course on conditions
18 caused by nuclear, biological, and chemical terrorism. The
19 course shall consist of education on diagnosis and treatment,
20 modes of transmission, infection control procedures, and
21 clinical management. Such course shall also include
22 information on reporting suspected cases of conditions caused
23 by nuclear, biological, or chemical terrorism to the
24 appropriate health and law enforcement authorities.

25 (2) New employees of facilities licensed under
26 chapters 393, 394, 395, and 397 and parts II, III, IV, and VI
27 of chapter 400 shall be required to complete a course on human
28 immunodeficiency virus and acquired immune deficiency
29 syndrome, with instruction to include information on current
30 Florida law and its impact on testing, confidentiality of test
31 results, and treatment of patients. New employees of such

1 facilities shall also be required to complete a course on
2 conditions caused by nuclear, biological, and chemical
3 terrorism, with instruction to include information on
4 reporting suspected cases to the appropriate health and law
5 enforcement authorities.

6 (3) Facilities licensed under chapters 393, 394, 395,
7 and 397 and parts II, III, IV, and VI of chapter 400 shall
8 maintain a record of employees and dates of attendance at
9 ~~human immunodeficiency virus and acquired immune deficiency~~
10 ~~syndrome~~ educational courses on human immunodeficiency virus
11 and acquired immune deficiency syndrome and on conditions
12 caused by nuclear, biological, and chemical terrorism.

13 (4) The department shall have the authority to review
14 the records of each facility to determine compliance with the
15 requirements of this section. The department may adopt rules
16 to carry out the provisions of this section.

17 (5) In lieu of completing a course as required in
18 paragraph (1)(b), the employee may complete a course on
19 end-of-life care and palliative health care or a course on
20 HIV/AIDS so long as the employee completed an approved course
21 on conditions caused by nuclear, biological, and chemical
22 terrorism in the immediately preceding biennium.

23 Section 22. Section 381.0421, Florida Statutes, is
24 created to read:

25 381.0421 Vaccination against meningococcal meningitis
26 and hepatitis B.--

27 (1) A postsecondary educational institution shall
28 provide detailed information concerning the risks associated
29 with meningococcal meningitis and hepatitis B and the
30 availability, effectiveness, and known contraindications of
31 any required or recommended vaccine against meningococcal

1 meningitis and hepatitis B to every student, or to the
2 student's parent or guardian if the student is a minor, who
3 has been accepted for admission.

4 (2) An individual enrolled in a postsecondary
5 educational institution who will be residing in on-campus
6 housing shall provide documentation of vaccinations against
7 meningococcal meningitis and hepatitis B unless the
8 individual, if the individual is 18 years of age or older, or
9 the individual's parent or guardian, if the individual is a
10 minor, declines the vaccinations by signing a separate waiver
11 for each of these vaccines provided by the institution
12 acknowledging receipt and review of the information provided.

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

16 Section 23. Subsection (4) of section 395.1027,
17 Florida Statutes, is amended to read:

18 395.1027 Regional poison control centers.--

19 (4) By October 1, 1999, each regional poison control
20 center shall develop a prehospital emergency dispatch protocol
21 with each licensee defined by s. 401.23(14)~~(13)~~ in the
22 geographic area covered by the regional poison control center.
23 The prehospital emergency dispatch protocol shall be developed
24 by each licensee's medical director in conjunction with the
25 designated regional poison control center responsible for the
26 geographic area in which the licensee operates. The protocol
27 shall define toxic substances and describe the procedure by
28 which the designated regional poison control center may be
29 consulted by the licensee. If a call is transferred to the
30 designated regional poison control center in accordance with
31 the protocol established under this section and s. 401.268,

1 the designated regional poison control center shall assume
2 responsibility and liability for the call.

3 Section 24. Section 401.23, Florida Statutes, is
4 amended to read:

5 401.23 Definitions.--As used in this part, the term:

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

23 (2) "Advanced life support service" means any
24 emergency medical transport or nontransport service which uses
25 advanced life support techniques.

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

30 (4) "Air ambulance service" means any publicly or
31 privately owned service, licensed in accordance with the

1 provisions of this part, which operates air ambulances to
2 transport persons requiring or likely to require medical
3 attention during transport.

4 (5) "Ambulance" or "emergency medical services
5 vehicle" means any privately or publicly owned land or water
6 vehicle that is designed, constructed, reconstructed,
7 maintained, equipped, or operated for, and is used for, or
8 intended to be used for, land or water transportation of sick
9 or injured persons requiring or likely to require medical
10 attention during transport.

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

13 (7) "Basic life support" means the use of skills and
14 techniques described in the most recent United States
15 Department of Transportation National Standard EMT-Basic
16 Curriculum by an emergency medical technician or paramedic
17 under the supervision of a licensee's medical director as
18 required by rules of the department. The term "basic life
19 support" also includes other techniques that have been
20 approved and are performed under conditions specified by rules
21 of the department. The term "basic life support" also includes
22 provision of care by a paramedic or emergency medical
23 technician under the supervision of a licensee's medical
24 director to a person experiencing an emergency medical
25 condition as defined in subsection (11)~~treatment of medical~~
26 ~~emergencies by a qualified person through the use of~~
27 ~~techniques such as patient assessment, cardiopulmonary~~
28 ~~resuscitation (CPR), splinting, obstetrical assistance,~~
29 ~~bandaging, administration of oxygen, application of medical~~
30 ~~antishock trousers, administration of a subcutaneous injection~~
31 ~~using a premeasured autoinjector of epinephrine to a person~~

1 ~~suffering an anaphylactic reaction, and other techniques~~
2 ~~described in the Emergency Medical Technician Basic Training~~
3 ~~Course Curriculum of the United States Department of~~
4 ~~Transportation. The term "basic life support" also includes~~
5 ~~other techniques which have been approved and are performed~~
6 ~~under conditions specified by rules of the department.~~

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

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

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

13 (11) "Emergency medical condition" means:

14 (a) A medical condition manifesting itself by acute
15 symptoms of sufficient severity, which may include severe
16 pain, psychiatric disturbances, symptoms of substance abuse,
17 or other acute symptoms, such that the absence of immediate
18 medical attention could reasonably be expected to result in
19 any of the following:

20 1. Serious jeopardy to the health of a patient,
21 including a pregnant woman or fetus.

22 2. Serious impairment to bodily functions.

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

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

27 (c) With respect to a person exhibiting acute
28 psychiatric disturbance or substance abuse, that the absence
29 of immediate medical attention could reasonably be expected to
30 result in:

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

1 2. Serious jeopardy to the health of others.

2 ~~(12)(11)~~ "Emergency medical technician" means a person
3 who is certified by the department to perform basic life
4 support pursuant to this part.

5 ~~(13)(12)~~ "Interfacility transfer" means the
6 transportation by ambulance of a patient between two
7 facilities licensed under chapter 393, chapter 395, or chapter
8 400, pursuant to this part.

9 ~~(14)(13)~~ "Licensee" means any basic life support
10 service, advanced life support service, or air ambulance
11 service licensed pursuant to this part.

12 ~~(15)(14)~~ "Medical direction" means direct supervision
13 by a physician through two-way voice communication or, when
14 such voice communication is unavailable, through established
15 standing orders, pursuant to rules of the department.

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

21 ~~(17)(16)~~ "Mutual aid agreement" means a written
22 agreement between two or more entities whereby the signing
23 parties agree to lend aid to one another under conditions
24 specified in the agreement and as sanctioned by the governing
25 body of each affected county.

26 ~~(18)(17)~~ "Paramedic" means a person who is certified
27 by the department to perform basic and advanced life support
28 pursuant to this part.

29 ~~(19)(18)~~ "Permit" means any authorization issued
30 pursuant to this part for a vehicle to be operated as a basic
31 life support or advanced life support transport vehicle or an

1 advanced life support nontransport vehicle providing basic or
2 advanced life support.

3 ~~(20)~~~~(19)~~ "Physician" means a practitioner who is
4 licensed under the provisions of chapter 458 or chapter 459.
5 For the purpose of providing "medical direction" as defined in
6 subsection~~(15)~~~~(14)~~for the treatment of patients immediately
7 prior to or during transportation to a United States
8 Department of Veterans Affairs medical facility, "physician"
9 also means a practitioner employed by the United States
10 Department of Veterans Affairs.

11 ~~(21)~~~~(20)~~ "Registered nurse" means a practitioner who
12 is licensed to practice professional nursing pursuant to part
13 I of chapter 464.

14 ~~(22)~~~~(21)~~ "Secretary" means the Secretary of Health.

15 ~~(23)~~~~(22)~~ "Service location" means any permanent
16 location in or from which a licensee solicits, accepts, or
17 conducts business under this part.

18 Section 25. Paragraph (b) of subsection (2) of section
19 401.245, Florida Statutes, is amended to read:

20 401.245 Emergency Medical Services Advisory Council.--

21 (2)

22 (b) Representation on the Emergency Medical Services
23 Advisory Council shall include: two licensed physicians who
24 are "medical directors" as defined in s. 401.23~~(16)~~~~(15)~~or
25 whose medical practice is closely related to emergency medical
26 services; two emergency medical service administrators, one of
27 whom is employed by a fire service; two certified paramedics,
28 one of whom is employed by a fire service; two certified
29 emergency medical technicians, one of whom is employed by a
30 fire service; one emergency medical services educator; one
31 emergency nurse; one hospital administrator; one

1 representative of air ambulance services; one representative
2 of a commercial ambulance operator; and two laypersons who are
3 in no way connected with emergency medical services, one of
4 whom is a representative of the elderly. Ex officio members of
5 the advisory council from state agencies shall include, but
6 shall not be limited to, representatives from the Department
7 of Education, the Department of Management Services, the
8 Department of Insurance, the Department of Highway Safety and
9 Motor Vehicles, the Department of Transportation, and the
10 Department of Community Affairs.

11 Section 26. Subsection (1) of section 401.252, Florida
12 Statutes, is amended to read:

13 401.252 Interfacility transfer.--

14 (1) A licensed basic or advanced life support
15 ambulance service may conduct interfacility transfers in a
16 permitted ambulance, using a registered nurse or physician
17 assistant in place of an emergency medical technician or
18 paramedic, if:

19 (a) The registered nurse or physician assistant holds
20 a current certificate of successful course completion in
21 advanced cardiac life support;

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

26 (c) The registered nurse operates within the scope of
27 part I of chapter 464 or the physician assistant operates
28 within the physician assistant's scope of practice under
29 chapter 458 or chapter 459.

30 Section 27. Subsection (6) of section 401.27, Florida
31 Statutes, is amended to read:

1 401.27 Personnel; standards and certification.--
2 (6)(a) The department shall establish by rule a
3 procedure for biennial renewal certification of emergency
4 medical technicians. Such rules must require a United States
5 Department of Transportation refresher training program of at
6 least 30 hours as approved by the department every 2 years.
7 Completion of the course required by s. 381.0034(1) shall
8 count toward the 30 hours.The refresher program may be
9 offered in multiple presentations spread over the 2-year
10 period. The rules must also provide that the refresher course
11 requirement may be satisfied by passing a challenge
12 examination.

13 (b) The department shall establish by rule a procedure
14 for biennial renewal certification of paramedics. Such rules
15 must require candidates for renewal to have taken at least 30
16 hours of continuing education units during the 2-year period.
17 Completion of the course required by s. 381.0034(1) shall
18 count toward the 30 hours.The rules must provide that the
19 continuing education requirement may be satisfied by passing a
20 challenge examination.

21 Section 28. Section 456.033, Florida Statutes, is
22 amended to read:

23 456.033 Requirement for instruction for certain
24 licensees on conditions caused by nuclear, biological, and
25 chemical terrorism and on HIV and AIDS.--

26 (1) The appropriate board shall require each person
27 licensed or certified under chapter 457; chapter 458; chapter
28 459; chapter 460; chapter 461; chapter 463; part I of chapter
29 464; chapter 465; chapter 466; part II, part III, part V, or
30 part X of chapter 468; or chapter 486 to complete a continuing
31 educational course, approved by the board, on conditions

1 ~~caused by nuclear, biological, and chemical terrorism human~~
2 ~~immunodeficiency virus and acquired immune deficiency syndrome~~
3 as part of biennial relicensure or recertification. The course
4 shall consist of education on diagnosis and treatment, the
5 modes of transmission, infection control procedures, and
6 clinical management. Such course shall also include
7 information on reporting suspected cases of conditions caused
8 by nuclear, biological, or chemical terrorism to the
9 appropriate health and law enforcement authorities, and
10 ~~prevention of human immunodeficiency virus and acquired immune~~
11 ~~deficiency syndrome.~~ Such course shall include information on
12 ~~current Florida law on acquired immune deficiency syndrome and~~
13 ~~its impact on testing, confidentiality of test results,~~
14 ~~treatment of patients, and any protocols and procedures~~
15 ~~applicable to human immunodeficiency virus counseling and~~
16 ~~testing, reporting, the offering of HIV testing to pregnant~~
17 ~~women, and partner notification issues pursuant to ss. 381.004~~
18 ~~and 384.25.~~

19 (2) Each such licensee or certificateholder shall
20 submit confirmation of having completed said course, on a form
21 as provided by the board, when submitting fees for each
22 biennial renewal.

23 (3) The board shall have the authority to approve
24 additional equivalent courses that may be used to satisfy the
25 requirements in subsection (1). Each licensing board that
26 requires a licensee to complete an educational course pursuant
27 to this section may count the hours required for completion of
28 the course included in the total continuing educational
29 requirements as required by law.

30 (4) Any person holding two or more licenses subject to
31 the provisions of this section shall be permitted to show

1 proof of having taken one board-approved course on conditions
2 caused by nuclear, biological, and chemical terrorism ~~human~~
3 ~~immunodeficiency virus and acquired immune deficiency~~
4 ~~syndrome~~, for purposes of relicensure or recertification for
5 additional licenses.

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

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

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

23 (8) The board shall report to the Legislature by March
24 1 of each year as to the implementation and compliance with
25 the requirements of this section.

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

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

6 Section 29. Subsection (3) is added to section
7 381.003, Florida Statutes, to read:

8 381.003 Communicable disease and AIDS prevention and
9 control.--

10 (3) The department shall by rule adopt the
11 blood-borne-pathogen standard set forth in subpart Z of 29
12 C.F.R. part 1910, as amended by Pub. L. No. 106-430, which
13 shall apply to all public-sector employers. The department
14 shall compile and maintain a list of existing needleless
15 systems and sharps with engineered sharps-injury protection
16 which shall be available to assist employers, including the
17 department and the Department of Corrections, in complying
18 with the applicable requirements of the blood-borne-pathogen
19 standard. The list may be developed from existing sources of
20 information, including, without limitation, the United States
21 Food and Drug Administration, the Centers for Disease Control
22 and Prevention, the Occupational Safety and Health
23 Administration, and the United States Department of Veterans
24 Affairs.

25 Section 30. Section 456.0345, Florida Statutes, is
26 created to read:

27 456.0345 Life support training.--Health care
28 practitioners who obtain training in advanced cardiac life
29 support, cardiopulmonary resuscitation, or emergency first aid
30 shall receive an equivalent number of continuing education
31 course credits which may be applied toward licensure renewal

1 requirements.

2 Section 31. Paragraph (e) of subsection (1) of section
3 456.072, Florida Statutes, is amended to read:

4 456.072 Grounds for discipline; penalties;
5 enforcement.--

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

9 (e) Failing to comply with the educational course
10 requirements for conditions caused by nuclear, biological, and
11 chemical terrorism or for human immunodeficiency virus and
12 acquired immune deficiency syndrome.

13 Section 32. Section 456.38, Florida Statutes, is
14 amended to read:

15 456.38 Practitioner registry for disasters and
16 emergencies.--The Department of Health shall ~~may~~ include on
17 its application and renewal forms for the licensure or
18 certification of health care practitioners licensed pursuant
19 to chapter 458, chapter 459, chapter 464, or part V of chapter
20 468, as defined in s. 456.001,who could assist the department
21 in the event of a disaster a question asking if the
22 practitioner would be available to provide health care
23 services in special needs shelters or to help staff disaster
24 medical assistance teams during times of emergency or major
25 disaster. The names of practitioners who answer affirmatively
26 shall be maintained by the department as a health care
27 practitioner registry for disasters and emergencies. A health
28 care practitioner who volunteers his or her services in a
29 special needs shelter or as part of a disaster medical
30 assistance team during a time of emergency or disaster shall
31 not be terminated or discriminated against by his or her

1 employer for such volunteer work, provided that the health
2 care practitioner returns to his or her regular employment
3 within 2 weeks or within a longer period that has been
4 previously approved by the employer in writing.

5 Section 33. Subsection (4) of section 458.319, Florida
6 Statutes, is amended to read:

7 458.319 Renewal of license.--

8 (4) Notwithstanding the provisions of s. 456.033, a
9 physician may complete continuing education on end-of-life
10 care and palliative care in lieu of continuing education in
11 conditions caused by nuclear, biological, and chemical
12 terrorism AIDS/HIV, if that physician has completed the
13 AIDS/HIV continuing education in conditions caused by nuclear,
14 biological, and chemical terrorism in the immediately
15 preceding biennium.

16 Section 34. Subsection (5) of section 459.008, Florida
17 Statutes, is amended to read:

18 459.008 Renewal of licenses and certificates.--

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

27 Section 35. Subsection (4) is added to section
28 401.2715, Florida Statutes, to read:

29 401.2715 Recertification training of emergency medical
30 technicians and paramedics.--

31 (4) Any certified emergency medical technician or

1 paramedic may, as a condition of recertification, complete up
2 to 8 hours of training to respond to terrorism, as defined in
3 s. 775.30, and such hours completed may be substituted on an
4 hour-for-hour basis for any other areas of training required
5 for recertification. The department may adopt rules necessary
6 to administer this subsection.

7 Section 36. Subsection (1) of section 633.35, Florida
8 Statutes, is amended to read:

9 633.35 Firefighter training and certification.--

10 (1) The division shall establish a firefighter
11 training program of not less than 360 hours, administered by
12 such agencies and institutions as it approves for the purpose
13 of providing basic employment training for firefighters. Any
14 firefighter may, as a condition of certification, complete up
15 to 8 hours of training to respond to terrorism, as defined in
16 s. 775.30, and such hours completed may be substituted on an
17 hour-for-hour basis for any other areas of training required
18 for certification. The division may adopt rules necessary to
19 administer this subsection. Nothing herein shall require a
20 public employer to pay the cost of such training.

21 Section 37. Subsection (1) of section 943.135, Florida
22 Statutes, is amended to read:

23 943.135 Requirements for continued employment.--

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

31 No officer shall be denied a reasonable opportunity by the

1 employing agency to comply with this section. The employing
2 agency must document that the continuing training or education
3 is job-related and consistent with the needs of the employing
4 agency. The employing agency must maintain and submit, or
5 electronically transmit, the documentation to the commission,
6 in a format approved by the commission. The rule shall also
7 provide:

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

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

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

20 Section 38. Subsections (1), (2), and (6) of section
21 765.512, Florida Statutes, are amended to read:

22 765.512 Persons who may make an anatomical gift.--

23 (1) Any person who may make a will may give all or
24 part of his or her body for any purpose specified in s.
25 765.510, the gift to take effect upon death. An anatomical
26 gift made by an adult donor and not revoked by the donor as
27 provided in s. 765.516 is irrevocable ~~and does not require the~~
28 ~~consent or concurrence of any person~~ after the donor's death.
29 A family member, guardian, representative ad litem, or health
30 care surrogate of a decedent who has made an anatomical gift
31 may not modify the decedent's wishes or deny or prevent the

1 anatomical gift from being made.

2 (2) If the decedent has executed an agreement
3 concerning an anatomical gift, by ~~including~~ signing an organ
4 and tissue donor card, by expressing his or her wish to donate
5 in a living will or advance directive, or by signifying his or
6 her intent to donate on his or her driver's license or in some
7 other written form has indicated his or her wish to make an
8 anatomical gift, and in the absence of actual notice of
9 contrary indications by the decedent, the document is evidence
10 of legally sufficient informed consent to donate an anatomical
11 gift and is legally binding. Any surrogate designated by the
12 decedent pursuant to part II of this chapter may give all or
13 any part of the decedent's body for any purpose specified in
14 s. 765.510.

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

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

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

21 Section 39. Subsection (1) of section 765.516, Florida
22 Statutes, is amended to read:

23 765.516 Amendment of the terms of or the revocation of
24 the gift.--

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

27 (a) The execution and delivery to the donee of a
28 signed statement.

29 (b) An oral statement that is~~+~~

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

31 ~~2. made in the presence of two persons and~~

1 communicated to the donor's family or attorney or to the
2 donee.

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

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

9 Section 40. Subsection (5) of section 456.073, Florida
10 Statutes, is amended to read:

11 456.073 Disciplinary proceedings.--Disciplinary
12 proceedings for each board shall be within the jurisdiction of
13 the department.

14 (5)(a) A formal hearing before an administrative law
15 judge from the Division of Administrative Hearings shall be
16 held pursuant to chapter 120 if there are any disputed issues
17 of material fact raised within 60 days after service of the
18 administrative complaint. The administrative law judge shall
19 issue a recommended order pursuant to chapter 120. ~~If any~~
20 ~~party raises an issue of disputed fact during an informal~~
21 ~~hearing, the hearing shall be terminated and a formal hearing~~
22 ~~pursuant to chapter 120 shall be held.~~

23 (b) Notwithstanding s. 120.569(2), the department
24 shall notify the division within 45 days after receipt of a
25 petition or request for a hearing that the department has
26 determined requires a formal hearing before an administrative
27 law judge.

28 Section 41. The Office of Program Policy Analysis and
29 Government Accountability and the Auditor General shall
30 conduct a joint audit of all hearings and billings therefor
31 conducted by the Division of Administrative Hearings for all

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

7 Section 42. Subsection (7) is added to section
8 456.076, Florida Statutes, to read:

9 456.076 Treatment programs for impaired
10 practitioners.--

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

1 Section 43. Section 456.047, Florida Statutes, is
2 repealed.

3 Section 44. All revenues associated with s. 456.047,
4 Florida Statutes, and collected by the Department of Health on
5 or before July 1, 2002, shall remain in the Medical Quality
6 Assurance Trust Fund, and no refunds shall be given.

7 Section 45. Paragraph (d) of subsection (4) of section
8 456.039, Florida Statutes, is amended to read:

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

11 (4)

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

1 ~~credentialing system.~~

2 Section 46. Paragraph (d) of subsection (4) of section
3 456.0391, Florida Statutes, is amended to read:

4 456.0391 Advanced registered nurse practitioners;
5 information required for certification.--

6 (4)

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

28 Section 47. Paragraph (v) of subsection (1) of section
29 456.072, Florida Statutes, is amended to read:

30 456.072 Grounds for discipline; penalties;
31 enforcement.--

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

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

10 Section 48. Subsection (2) of section 456.077, Florida
11 Statutes, is amended to read:

12 456.077 Authority to issue citations.--

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

29 Section 49. Subsection (3) of section 458.309, Florida
30 Statutes, is amended to read:

31 458.309 Authority to make rules.--

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

23 Section 50. Subsection (2) of section 459.005, Florida
24 Statutes, is amended to read:

25 459.005 Rulemaking authority.--

26 (2) All osteopathic physicians who perform level 2
27 procedures lasting more than 5 minutes and all level 3
28 surgical procedures in an office setting must register the
29 office with the department unless that office is licensed as a
30 facility pursuant to chapter 395. Each office that is
31 required under this subsection to be registered must be ~~The~~

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

19 Section 51. Subsections (11) and (12) are added to
20 section 456.004, Florida Statutes, to read:

21 456.004 Department; powers and duties.--The
22 department, for the professions under its jurisdiction, shall:

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

27 (12) Consider all board requests to use private
28 vendors for particular regulatory functions. In considering a
29 board request, the department shall conduct an analysis to
30 determine if the function could be appropriately and
31 successfully performed by a private entity at a lower cost or

1 with improved efficiency. If after reviewing the department's
2 analysis the board desires to contract with a vendor for a
3 particular regulatory function and the board has a positive
4 cash balance, the department shall enter into a contract for
5 the service. The contract shall include objective performance
6 measures that reflect the expected quality and quantity of the
7 service and shall include a provision that terminates the
8 contract if the service falls below expected levels. For
9 purposes of this subsection, a "regulatory function" shall be
10 defined to include licensure, licensure renewal, examination,
11 complaint analysis, investigation, or prosecution.

12 Section 52. Subsection (1) of section 456.009, Florida
13 Statutes, is amended to read:

14 456.009 Legal and investigative services.--

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

1 objective performance measures that reflect the expected
2 quality and quantity of the contracted services.

3 Section 53. Subsection (6) is added to section
4 456.011, Florida Statutes, to read:

5 456.011 Boards; organization; meetings; compensation
6 and travel expenses.--

7 (6) Meetings of board committees, including probable
8 cause panels, shall be conducted electronically unless held
9 concurrently with, or on the day immediately before or after,
10 a regularly scheduled in-person board meeting. However, if a
11 particular committee meeting is expected to last more than 5
12 hours and cannot be held before or after the in-person board
13 meeting, the chair of the committee may request special
14 permission from the director of the Division of Medical
15 Quality Assurance to hold an in-person committee meeting. The
16 meeting shall be held in Tallahassee unless the chair of the
17 committee determines that another location is necessary due to
18 the subject matter to be discussed at the meeting and the
19 director authorizes the additional costs, if any.

20 Section 54. Subsection (11) is added to section
21 456.026, Florida Statutes, to read:

22 456.026 Annual report concerning finances,
23 administrative complaints, disciplinary actions, and
24 recommendations.--The department is directed to prepare and
25 submit a report to the President of the Senate and the Speaker
26 of the House of Representatives by November 1 of each year. In
27 addition to finances and any other information the Legislature
28 may require, the report shall include statistics and relevant
29 information, profession by profession, detailing:

30 (11) The performance measures for all bureaus, units,
31 boards, and contracted entities required by the department to

1 reflect the expected quality and quantity of services, and a
2 description of any effort to improve the performance of such
3 services.

4 Section 55. Section 458.3093, Florida Statutes, is
5 created to read:

6 458.3093 Licensure credentials verification.--All
7 applicants for initial physician licensure pursuant to this
8 chapter must submit their credentials to the Federation of
9 State Medical Boards. Effective January 1, 2003, the board
10 and the department shall only consider applications for
11 initial physician licensure pursuant to this chapter that have
12 been verified by the Federation of State Medical Boards
13 Credentials Verification Service or an equivalent program
14 approved by the board.

15 Section 56. Section 459.0053, Florida Statutes, is
16 created to read:

17 459.0053 Licensure credentials verification.--All
18 applicants for initial osteopathic physician licensure
19 pursuant to this chapter must submit their credentials to the
20 Federation of State Medical Boards. Effective January 1,
21 2003, the board and the department shall only consider
22 applications for initial osteopathic physician licensure
23 pursuant to this chapter that have been verified by the
24 Federation of State Medical Boards Credentials Verification
25 Service, the American Osteopathic Association, or an
26 equivalent program approved by the board.

27 Section 57. Paragraph (t) of subsection (1) of section
28 458.331, Florida Statutes, is amended to read:

29 458.331 Grounds for disciplinary action; action by the
30 board and department.--

31 (1) The following acts constitute grounds for denial

1 of a license or disciplinary action, as specified in s.
2 456.072(2):

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

24 Section 58. Paragraph (x) of subsection (1) of section
25 459.015, Florida Statutes, is amended to read:

26 459.015 Grounds for disciplinary action; action by the
27 board and department.--

28 (1) The following acts constitute grounds for denial
29 of a license or disciplinary action, as specified in s.
30 456.072(2):

31 (x) Gross or repeated malpractice or the failure to

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

30 Section 59. Subsection (1) of section 627.912, Florida
31 Statutes, is amended to read:

1 627.912 Professional liability claims and actions;
2 reports by insurers.--

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

21 (a) A final judgment in any amount.

22 (b) A settlement in any amount.

23
24 Reports shall be filed with the Department of Insurance ~~and,~~
25 If the insured party is licensed under chapter 458, chapter
26 459, or chapter 461, ~~or chapter 466,~~ with the Department of
27 Health, and the final judgment or settlement was in an amount
28 exceeding \$50,000, the report shall also be filed with the
29 Department of Health. If the insured is licensed under chapter
30 466 and the final judgment or settlement was in an amount
31 exceeding \$25,000, the report shall also be filed with the

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

13 Section 60. Subsections (14) and (15) are added to
14 section 456.073, Florida Statutes, to read:

15 456.073 Disciplinary proceedings.--Disciplinary
16 proceedings for each board shall be within the jurisdiction of
17 the department.

18 (14) When the probable cause panel determines that
19 probable cause exists that a violation of law occurred but
20 decides to issue a letter of guidance in lieu of finding
21 probable cause as a result of mitigating circumstances, the
22 probable cause panel may require the subject to pay up to \$300
23 of the costs of the investigation and prosecution of the case
24 within a time certain but not less than 30 days after the
25 execution of the closing order. If the subject fails to pay
26 the costs within the time set by the probable cause panel,
27 the case may be reopened and the department may file an
28 administrative complaint against the subject based on the
29 underlying case. No additional charges may be added as a
30 result of the subject failing to pay the costs. The issuance
31 of a letter of guidance and the assessment of costs under this

1 subsection shall not be considered discipline, nor shall it be
2 considered a final order of discipline.

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

9 Section 61. The Office of Program Policy Analysis and
10 Governmental Accountability shall review the investigative
11 field office structure and organization of the Agency for
12 Health Care Administration to determine the feasibility of
13 eliminating all or some field offices, the feasibility of
14 combining field offices, and the feasibility of requiring
15 field inspectors and investigators to telecommute from home in
16 lieu of paying for office space. The review shall include all
17 agency programs that have field offices, including health
18 practitioner regulation even if health practitioner regulation
19 is transferred to the Department of Health. The review shall
20 be completed and a report issued to the President of the
21 Senate and the Speaker of the House of Representatives no
22 later than January 1, 2003.

23 Section 62. Subsection (1) of section 456.025, Florida
24 Statutes, is amended to read:

25 456.025 Fees; receipts; disposition.--

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

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

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

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

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

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

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

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

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

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

24 Section 63. Section 456.0165, Florida Statutes, is
25 created to read:

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

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

4 Section 64. Effective July 1, 2002, all licensure and
5 licensure renewal fees for professions within the Division of
6 Medical Quality Assurance shall be set at a level equal to at
7 least 85 percent of the profession's statutory fee cap or at a
8 level equal to at least 85 percent of the actual per licensee
9 cost to regulate that profession, whichever is less. Effective
10 July 1, 2005, all licensure and licensure renewal fees shall
11 be set at the profession's statutory fee cap or at a level
12 equal to 100 percent of the actual per licensee cost to
13 regulate that profession, whichever is less.

14 Section 65. Paragraph (g) of subsection (3) and
15 paragraph (c) of subsection (6) of section 468.302, Florida
16 Statutes, are amended to read:

17 468.302 Use of radiation; identification of certified
18 persons; limitations; exceptions.--

19 (3)

20 (g) A person holding a certificate as a nuclear
21 medicine technologist may only:

22 1. Conduct in vivo and in vitro measurements of
23 radioactivity and administer radiopharmaceuticals to human
24 beings for diagnostic and therapeutic purposes.

25 2. Administer X radiation from a combination nuclear
26 medicine-computed tomography device if that radiation is
27 administered as an integral part of a nuclear medicine
28 procedure that uses an automated computed tomography protocol
29 and the person has received device-specific training on the
30 combination device.

31

1 However, the authority of a nuclear medicine technologist
2 under this paragraph excludes radioimmunoassay and other
3 clinical laboratory testing regulated pursuant to chapter 483.

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

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

22 1. Principles of X-ray production and equipment
23 operation.

24 2. Biological effects of radiation.

25 3. Radiation exposure and monitoring.

26 4. Radiation safety and protection.

27 5. Evaluation of radiographic equipment and
28 accessories.

29 6. Radiographic exposure and technique factors.

30 7. Film processing.

31 8. Image quality assurance.

- 1 9. Patient positioning.
- 2 10. Administration and complications of contrast
3 media.
- 4 11. Specific fluoroscopic and digital X-ray imaging
5 procedures related to invasive cardiovascular technology.
- 6 Section 66. Section 468.352, Florida Statutes, is
7 amended to read:
- 8 (Substantial rewording of section. See
9 s. 468.352, F.S., for present text.)
- 10 468.352 Definitions.--As used in this part the term:
- 11 (1) "Board" means the Board of Respiratory Care.
- 12 (2) "Certified respiratory therapist" means any person
13 licensed pursuant to this part who is certified by the
14 National Board for Respiratory Care or its successor, who is
15 employed to deliver respiratory care services, under the order
16 of a physician licensed pursuant to chapter 458 or chapter
17 459, in accordance with protocols established by a hospital or
18 other health care provider or the board, and who functions in
19 situations of unsupervised patient contact requiring
20 individual judgment.
- 21 (3) "Critical care" means care given to a patient in
22 any setting involving a life-threatening emergency.
- 23 (4) "Department" means the Department of Health.
- 24 (5) "Direct supervision" means practicing under the
25 direction of a licensed, registered, or certified respiratory
26 therapist who is physically on the premises and readily
27 available, as defined by the board.
- 28 (6) "Physician supervision" means supervision and
29 control by a physician licensed under chapter 458 or chapter
30 459 who assumes the legal liability for the services rendered
31 by the personnel employed in his or her office. Except in the

1 case of an emergency, physician supervision requires the easy
2 availability of the physician within the office or the
3 physical presence of the physician for consultation and
4 direction of the actions of the persons who deliver
5 respiratory care services.

6 (7) "Practice of respiratory care" or "respiratory
7 therapy" means the allied health specialty associated with the
8 cardiopulmonary system that is practiced under the orders of a
9 physician licensed under chapter 458 or chapter 459 and in
10 accordance with protocols, policies, and procedures
11 established by a hospital or other health care provider or the
12 board, including the assessment, diagnostic evaluation,
13 treatment, management, control, rehabilitation, education, and
14 care of patients.

15 (8) "Registered respiratory therapist" means any
16 person licensed under this part who is registered by the
17 National Board for Respiratory Care or its successor, and who
18 is employed to deliver respiratory care services under the
19 order of a physician licensed under chapter 458 or chapter
20 459, in accordance with protocols established by a hospital or
21 other health care provider or the board, and who functions in
22 situations of unsupervised patient contact requiring
23 individual judgment.

24 (9) "Respiratory care practitioner" means any person
25 licensed under this part who is employed to deliver
26 respiratory care services, under direct supervision, pursuant
27 to the order of a physician licensed under chapter 458 or
28 chapter 459.

29 (10) "Respiratory care services" includes:

30 (a) Evaluation and disease management.

31 (b) Diagnostic and therapeutic use of respiratory

1 equipment, devices, or medical gas.

2 (c) Administration of drugs, as duly ordered or
3 prescribed by a physician licensed under chapter 458 or
4 chapter 459 and in accordance with protocols, policies, and
5 procedures established by a hospital or other health care
6 provider or the board.

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

9 (e) Diagnostic procedures, research, and therapeutic
10 treatment and procedures, including measurement of ventilatory
11 volumes, pressures, and flows; specimen collection and
12 analysis of blood for gas transport and acid/base
13 determinations; pulmonary-function testing; and other related
14 physiological monitoring of cardiopulmonary systems.

15 (f) Cardiopulmonary rehabilitation.

16 (g) Cardiopulmonary resuscitation, advanced cardiac
17 life support, neonatal resuscitation, and pediatric advanced
18 life support, or equivalent functions.

19 (h) Insertion and maintenance of artificial airways
20 and intravascular catheters.

21 (i) Performing sleep-disorder studies.

22 (j) Education of patients, families, the public, or
23 other health care providers, including disease process and
24 management programs and smoking prevention and cessation
25 programs.

26 (k) Initiation and management of hyperbaric oxygen.

27 Section 67. Section 468.355, Florida Statutes, is
28 amended to read:

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

31 468.355 Licensure requirements.--To be eligible for

1 licensure by the board, an applicant must be certified as a
2 "Certified Respiratory Therapist" or be registered as a
3 "Registered Respiratory Therapist" by the National Board for
4 Respiratory Care, or its successor.

5 Section 68. Section 468.368, Florida Statutes, is
6 amended to read:

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

9 468.368 Exemptions.--This part may not be construed to
10 prevent or restrict the practice, service, or activities of:

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

14 (2) Any legally qualified person in the state or
15 another state or territory who is employed by the United
16 States Government or any agency thereof while such person is
17 discharging his or her official duties.

18 (3) A friend or family member who is providing
19 respiratory care services to an ill person and who does not
20 represent himself or herself to be a respiratory care
21 practitioner or respiratory therapist.

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

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

30 (6) Any individual credentialed by the Board of
31 Registered Polysomnographic Technologists, as a registered

1 polysomnographic technologist, as related to the diagnosis and
2 evaluation of treatment for sleep disorders.

3 (7) Any individual certified or registered as a
4 pulmonary function technologist who is credentialed by the
5 National Board for Respiratory Care from performing
6 cardiopulmonary diagnostic studies.

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

11 (9) The delivery of incidental respiratory care to
12 noninstitutionalized persons by surrogate family members who
13 do not represent themselves as registered or certified
14 respiratory care therapists.

15 (10) Any individual credentialed by the Underseas
16 Hyperbaric Society in hyperbaric medicine or its equivalent as
17 determined by the board, while performing related duties. This
18 subsection does not, however, authorize the practice of
19 respiratory care without a license.

20 Section 69. Sections 468.356 and 468.357, Florida
21 Statutes, are repealed.

22 Section 70. Subsection (4) of section 468.80, Florida
23 Statutes, is amended to read:

24 468.80 Definitions.--As used in this act, the term:

25 (4) "Orthosis" means a medical device used to provide
26 support, correction, or alleviation of neuromuscular or
27 musculoskeletal dysfunction, disease, injury, or deformity,
28 but does not include the following assistive technology
29 devices: upper extremity adaptive equipment used to
30 facilitate the activities of daily living, including
31 specialized utensils, combs, and brushes; finger splints; a

1 device to treat injuries to the musculoskeletal system made of
2 either plaster of paris bandage or roll fiberglass bandage and
3 fabricated directly on the patient;wheelchair seating and
4 equipment that is an integral part of the wheelchair and not
5 worn by the patient; elastic abdominal supports that do not
6 have metal or plastic reinforcing stays; arch supports;
7 nontherapeutic accommodative inlays and nontherapeutic
8 accommodative footwear, regardless of method of manufacture;
9 unmodified, over-the-counter shoes; prefabricated foot care
10 products; durable medical equipment such as canes, crutches,
11 or walkers; dental appliances; or devices implanted into the
12 body by a physician. For purposes of this subsection,
13 "accommodative" means designed with the primary goal of
14 conforming to the individual's anatomy and "inlay" means any
15 removable material upon which the foot directly rests inside
16 the shoe and which may be an integral design component of the
17 shoe.

18 Section 71. Beginning July 1, 2003, application forms
19 for initial licensure and licensure renewal for the
20 professions regulated by the Department of Health, Division of
21 Medical Quality Assurance, shall be submitted electronically
22 through the World Wide Web unless the applicant states on the
23 application form that he or she does not have access to the
24 World Wide Web, in which case a paper application may be
25 submitted. The department shall issue the license or renew a
26 license only if the licensee provides satisfactory evidence
27 that all conditions and requirements of licensure or renewal
28 have been met, including, but not limited to, the payment of
29 required fees, the completion of required continuing education
30 coursework, and, if applicable, the maintenance of financial
31 responsibility. This section shall not be construed to reduce

1 or eliminate any requirement set forth in chapter 456, Florida
2 Statutes, or the applicable practice act.

3 Section 72. In order to maximize the state's return on
4 investment, to increase the efficiency and timeliness of the
5 conversion to electronic licensure, and to promote fiscal
6 responsibility during the transition to electronic licensure,
7 the Department of Health may convert its practitioner
8 credentialing technology into an electronic licensure and
9 licensure renewal system. This section shall take effect upon
10 this act becoming a law.

11 Section 73. (1) Effective July 1, 2004, and each July
12 1 thereafter, the fee caps established in the following
13 sections are increased by 2.5 percent: ss. 456.025, 457.105,
14 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,
15 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,
16 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
17 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
18 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
19 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
20 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,
21 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
22 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
23 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
24 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
25 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
26 491.0085, and 491.0145, Florida Statutes.

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

31 Section 74. Sections 381.0602, 381.6021, 381.6022,

1 381.6023, 381.6024, and 381.6026, Florida Statutes, are
2 renumbered as sections 765.53, 765.541, 765.542, 765.544,
3 765.545, and 765.547, Florida Statutes, respectively.

4 Section 75. Section 381.60225, Florida Statutes, is
5 renumbered as section 765.543, Florida Statutes, and
6 subsection (2) of said section is amended to read:

7 765.543 ~~381.60225~~ Background screening.--

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

16 Section 76. Section 381.6025, Florida Statutes, is
17 renumbered as section 765.546, Florida Statutes, and amended
18 to read:

19 765.546 ~~381.6025~~ Physician supervision of cadaveric
20 organ and tissue procurement coordinators.--Organ procurement
21 organizations, tissue banks, and eye banks may employ
22 coordinators, who are registered nurses, physician's
23 assistants, or other medically trained personnel who meet the
24 relevant standards for organ procurement organizations, tissue
25 banks, or eye banks as adopted by the Agency for Health Care
26 Administration under s. 765.541 ~~381.6021~~, to assist in the
27 medical management of organ donors or in the surgical
28 procurement of cadaveric organs, tissues, or eyes for
29 transplantation or research. A coordinator who assists in the
30 medical management of organ donors or in the surgical
31 procurement of cadaveric organs, tissues, or eyes for

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

16 Section 77. Subsection (2) of section 395.2050,
17 Florida Statutes, is amended to read:

18 395.2050 Routine inquiry for organ and tissue
19 donation; certification for procurement activities.--

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

23 765.541-765.547 ~~381.6021-381.6026~~.

24 Section 78. Paragraph (e) of subsection (2) of section
25 409.815, Florida Statutes, is amended to read:

26 409.815 Health benefits coverage; limitations.--

27 (2) BENCHMARK BENEFITS.--In order for health benefits
28 coverage to qualify for premium assistance payments for an
29 eligible child under ss. 409.810-409.820, the health benefits
30 coverage, except for coverage under Medicaid and Medikids,
31 must include the following minimum benefits, as medically

1 necessary.

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

9 Section 79. Subsection (2) of section 765.5216,
10 Florida Statutes, is amended to read:

11 765.5216 Organ and tissue donor education panel.--

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

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

28 (b) A representative from a Florida licensed organ
29 procurement organization.

30 (c) A representative from a Florida licensed tissue
31 bank.

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

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

3 (f) A representative from the Division of Driver
4 Licenses of the Department of Highway Safety and Motor
5 Vehicles, who possesses experience and knowledge in dealing
6 with the public.

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

9 (h) A representative who has been the recipient of a
10 transplanted organ, tissue, or eye, or is a family member of a
11 recipient.

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

14 (j) A representative from a professional association
15 or public relations or advertising organization.

16 (k) A representative from a community service club or
17 organization.

18 (l) A representative from the Department of Education.

19 Section 80. Subsection (5) of section 765.522, Florida
20 Statutes, is amended to read:

21 765.522 Duty of certain hospital administrators;
22 liability of hospital administrators, organ procurement
23 organizations, eye banks, and tissue banks.--

24 (5) There shall be no civil or criminal liability
25 against any organ procurement organization, eye bank, or
26 tissue bank certified under s. 765.542 ~~381.6022~~, or against
27 any hospital or hospital administrator or designee, when
28 complying with the provisions of this part and the rules of
29 the Agency for Health Care Administration or when, in the
30 exercise of reasonable care, a request for organ donation is
31 inappropriate and the gift is not made according to this part

1 and the rules of the Agency for Health Care Administration.

2 Section 81. (1) This section may be cited as the
3 "Jennifer Knight Medicaid Lung Transplant Act."

4 (2) Subject to the availability of funds and subject
5 to any limitations or directions provided for in the General
6 Appropriations Act or chapter 216, Florida Statutes, the
7 Medicaid program of the Agency for Health Care Administration
8 shall pay for medically necessary lung transplant services for
9 Medicaid recipients.

10 Section 82. Subsection (1) of section 409.915, Florida
11 Statutes, is amended to read:

12 409.915 County contributions to Medicaid.--Although
13 the state is responsible for the full portion of the state
14 share of the matching funds required for the Medicaid program,
15 in order to acquire a certain portion of these funds, the
16 state shall charge the counties for certain items of care and
17 service as provided in this section.

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

20 (a) For both health maintenance members and
21 fee-for-service beneficiaries, payments for inpatient
22 hospitalization in excess of 10 days, but not in excess of 45
23 days, with the exception of payments for:

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

27 2. Adult lung transplant services.

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

31 Section 83. Effective upon this act becoming a law and

1 applicable to any loan or scholarship that is in default on or
2 after the effective date, subsection (4) is added to section
3 456.074, Florida Statutes, to read:

4 456.074 Certain health care practitioners; immediate
5 suspension of license.--

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

20 Section 84. Effective upon this act becoming a law and
21 applicable to any loan or scholarship that is in default on or
22 after the effective date, paragraph (k) of subsection (1) of
23 section 456.072, Florida Statutes, is amended, and subsection
24 (2) of said section is reenacted, to read:

25 456.072 Grounds for discipline; penalties;
26 enforcement.--

27 (1) The following acts shall constitute grounds for
28 which the disciplinary actions specified in subsection (2) may
29 be taken:

30 (k) Failing to perform any statutory or legal
31 obligation placed upon a licensee. For purposes of this

1 section, failing to repay a student loan issued or guaranteed
2 by the state or the Federal Government in accordance with the
3 terms of the loan or failing to comply with service
4 scholarship obligations shall be considered a failure to
5 perform a statutory or legal obligation, and the minimum
6 disciplinary action imposed shall be a suspension of the
7 license until new payment terms are agreed upon or the
8 scholarship obligation is resumed, followed by probation for
9 the duration of the student loan or remaining scholarship
10 obligation period, and a fine equal to 10 percent of the
11 defaulted loan amount. Fines collected shall be deposited
12 into the Medical Quality Assurance Trust Fund. The provisions
13 of this paragraph relating to students loans and service
14 obligations shall not be construed to apply to a student who
15 opts to repay a loan or scholarship in lieu of fulfillment of
16 service obligations, provided the student complies with the
17 repayment provisions of the loan or scholarship.

18 (2) When the board, or the department when there is no
19 board, finds any person guilty of the grounds set forth in
20 subsection (1) or of any grounds set forth in the applicable
21 practice act, including conduct constituting a substantial
22 violation of subsection (1) or a violation of the applicable
23 practice act which occurred prior to obtaining a license, it
24 may enter an order imposing one or more of the following
25 penalties:

26 (a) Refusal to certify, or to certify with
27 restrictions, an application for a license.

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

29 (c) Restriction of practice or license, including, but
30 not limited to, restricting the licensee from practicing in
31 certain settings, restricting the licensee to work only under

1 designated conditions or in certain settings, restricting the
2 licensee from performing or providing designated clinical and
3 administrative services, restricting the licensee from
4 practicing more than a designated number of hours, or any
5 other restriction found to be necessary for the protection of
6 the public health, safety, and welfare.

7 (d) Imposition of an administrative fine not to exceed
8 \$10,000 for each count or separate offense. If the violation
9 is for fraud or making a false or fraudulent representation,
10 the board, or the department if there is no board, must impose
11 a fine of \$10,000 per count or offense.

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

13 (f) Placement of the licensee on probation for a
14 period of time and subject to such conditions as the board, or
15 the department when there is no board, may specify. Those
16 conditions may include, but are not limited to, requiring the
17 licensee to undergo treatment, attend continuing education
18 courses, submit to be reexamined, work under the supervision
19 of another licensee, or satisfy any terms which are reasonably
20 tailored to the violations found.

21 (g) Corrective action.

22 (h) Imposition of an administrative fine in accordance
23 with s. 381.0261 for violations regarding patient rights.

24 (i) Refund of fees billed and collected from the
25 patient or a third party on behalf of the patient.

26 (j) Requirement that the practitioner undergo remedial
27 education.

28
29 In determining what action is appropriate, the board, or
30 department when there is no board, must first consider what
31 sanctions are necessary to protect the public or to compensate

1 the patient. Only after those sanctions have been imposed may
2 the disciplining authority consider and include in the order
3 requirements designed to rehabilitate the practitioner. All
4 costs associated with compliance with orders issued under this
5 subsection are the obligation of the practitioner.

6 Section 85. The Department of Health shall obtain from
7 the United States Department of Health and Human Services
8 information necessary to investigate and prosecute health care
9 practitioners for failing to repay a student loan or comply
10 with scholarship service obligations pursuant to s.
11 456.072(1)(k), Florida Statutes. The department shall obtain
12 from the United States Department of Health and Human Services
13 a list of default health care practitioners each month, along
14 with the information necessary to investigate a complaint in
15 accordance with s. 456.073, Florida Statutes. The department
16 may obtain evidence to support the investigation and
17 prosecution from any financial institution or educational
18 institution involved in providing the loan or education to the
19 practitioner. The department shall report to the Legislature
20 as part of the annual report required by s. 456.026, Florida
21 Statutes, the number of practitioners in default, along with
22 the results of the department's investigations and
23 prosecutions, and the amount of fines collected from
24 practitioners prosecuted for violating s. 456.072(1)(k),
25 Florida Statutes.

26 Section 86. Section 456.026, Florida Statutes, is
27 reenacted to read:

28 456.026 Annual report concerning finances,
29 administrative complaints, disciplinary actions, and
30 recommendations.--The department is directed to prepare and
31 submit a report to the President of the Senate and the Speaker

1 of the House of Representatives by November 1 of each year. In
2 addition to finances and any other information the Legislature
3 may require, the report shall include statistics and relevant
4 information, profession by profession, detailing:

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

7 (2) The number of complaints received and
8 investigated.

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

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

11 (5) The number of administrative complaints filed.

12 (6) The disposition of all administrative complaints.

13 (7) A description of disciplinary actions taken.

14 (8) A description of any effort by the department to
15 reduce or otherwise close any investigation or disciplinary
16 proceeding not before the Division of Administrative Hearings
17 under chapter 120 or otherwise not completed within 1 year
18 after the initial filing of a complaint under this chapter.

19 (9) The status of the development and implementation
20 of rules providing for disciplinary guidelines pursuant to s.
21 456.079.

22 (10) Such recommendations for administrative and
23 statutory changes necessary to facilitate efficient and
24 cost-effective operation of the department and the various
25 boards.

26 Section 87. Section 456.073, Florida Statutes, is
27 reenacted to read:

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

31 (1) The department, for the boards under its

1 jurisdiction, shall cause to be investigated any complaint
2 that is filed before it if the complaint is in writing, signed
3 by the complainant, and legally sufficient. A complaint is
4 legally sufficient if it contains ultimate facts that show
5 that a violation of this chapter, of any of the practice acts
6 relating to the professions regulated by the department, or of
7 any rule adopted by the department or a regulatory board in
8 the department has occurred. In order to determine legal
9 sufficiency, the department may require supporting information
10 or documentation. The department may investigate, and the
11 department or the appropriate board may take appropriate final
12 action on, a complaint even though the original complainant
13 withdraws it or otherwise indicates a desire not to cause the
14 complaint to be investigated or prosecuted to completion. The
15 department may investigate an anonymous complaint if the
16 complaint is in writing and is legally sufficient, if the
17 alleged violation of law or rules is substantial, and if the
18 department has reason to believe, after preliminary inquiry,
19 that the violations alleged in the complaint are true. The
20 department may investigate a complaint made by a confidential
21 informant if the complaint is legally sufficient, if the
22 alleged violation of law or rule is substantial, and if the
23 department has reason to believe, after preliminary inquiry,
24 that the allegations of the complainant are true. The
25 department may initiate an investigation if it has reasonable
26 cause to believe that a licensee or a group of licensees has
27 violated a Florida statute, a rule of the department, or a
28 rule of a board. Except as provided in ss. 458.331(9),
29 459.015(9), 460.413(5), and 461.013(6), when an investigation
30 of any subject is undertaken, the department shall promptly
31 furnish to the subject or the subject's attorney a copy of the

1 complaint or document that resulted in the initiation of the
2 investigation. The subject may submit a written response to
3 the information contained in such complaint or document within
4 20 days after service to the subject of the complaint or
5 document. The subject's written response shall be considered
6 by the probable cause panel. The right to respond does not
7 prohibit the issuance of a summary emergency order if
8 necessary to protect the public. However, if the secretary, or
9 the secretary's designee, and the chair of the respective
10 board or the chair of its probable cause panel agree in
11 writing that such notification would be detrimental to the
12 investigation, the department may withhold notification. The
13 department may conduct an investigation without notification
14 to any subject if the act under investigation is a criminal
15 offense.

16 (2) The department shall allocate sufficient and
17 adequately trained staff to expeditiously and thoroughly
18 determine legal sufficiency and investigate all legally
19 sufficient complaints. For purposes of this section, it is the
20 intent of the Legislature that the term "expeditiously" means
21 that the department complete the report of its initial
22 investigative findings and recommendations concerning the
23 existence of probable cause within 6 months after its receipt
24 of the complaint. The failure of the department, for
25 disciplinary cases under its jurisdiction, to comply with the
26 time limits of this section while investigating a complaint
27 against a licensee constitutes harmless error in any
28 subsequent disciplinary action unless a court finds that
29 either the fairness of the proceeding or the correctness of
30 the action may have been impaired by a material error in
31 procedure or a failure to follow prescribed procedure. When

1 its investigation is complete and legally sufficient, the
2 department shall prepare and submit to the probable cause
3 panel of the appropriate regulatory board the investigative
4 report of the department. The report shall contain the
5 investigative findings and the recommendations of the
6 department concerning the existence of probable cause. The
7 department shall not recommend a letter of guidance in lieu of
8 finding probable cause if the subject has already been issued
9 a letter of guidance for a related offense. At any time after
10 legal sufficiency is found, the department may dismiss any
11 case, or any part thereof, if the department determines that
12 there is insufficient evidence to support the prosecution of
13 allegations contained therein. The department shall provide a
14 detailed report to the appropriate probable cause panel prior
15 to dismissal of any case or part thereof, and to the subject
16 of the complaint after dismissal of any case or part thereof,
17 under this section. For cases dismissed prior to a finding of
18 probable cause, such report is confidential and exempt from s.
19 119.07(1). The probable cause panel shall have access, upon
20 request, to the investigative files pertaining to a case prior
21 to dismissal of such case. If the department dismisses a case,
22 the probable cause panel may retain independent legal counsel,
23 employ investigators, and continue the investigation and
24 prosecution of the case as it deems necessary.

25 (3) As an alternative to the provisions of subsections
26 (1) and (2), when a complaint is received, the department may
27 provide a licensee with a notice of noncompliance for an
28 initial offense of a minor violation. Each board, or the
29 department if there is no board, shall establish by rule those
30 minor violations under this provision which do not endanger
31 the public health, safety, and welfare and which do not

1 demonstrate a serious inability to practice the profession.
2 Failure of a licensee to take action in correcting the
3 violation within 15 days after notice may result in the
4 institution of regular disciplinary proceedings.

5 (4) The determination as to whether probable cause
6 exists shall be made by majority vote of a probable cause
7 panel of the board, or by the department, as appropriate. Each
8 regulatory board shall provide by rule that the determination
9 of probable cause shall be made by a panel of its members or
10 by the department. Each board may provide by rule for multiple
11 probable cause panels composed of at least two members. Each
12 board may provide by rule that one or more members of the
13 panel or panels may be a former board member. The length of
14 term or repetition of service of any such former board member
15 on a probable cause panel may vary according to the direction
16 of the board when authorized by board rule. Any probable cause
17 panel must include one of the board's former or present
18 consumer members, if one is available, is willing to serve,
19 and is authorized to do so by the board chair. Any probable
20 cause panel must include a present board member. Any probable
21 cause panel must include a former or present professional
22 board member. However, any former professional board member
23 serving on the probable cause panel must hold an active valid
24 license for that profession. All proceedings of the panel are
25 exempt from s. 286.011 until 10 days after probable cause has
26 been found to exist by the panel or until the subject of the
27 investigation waives his or her privilege of confidentiality.
28 The probable cause panel may make a reasonable request, and
29 upon such request the department shall provide such additional
30 investigative information as is necessary to the determination
31 of probable cause. A request for additional investigative

1 information shall be made within 15 days from the date of
2 receipt by the probable cause panel of the investigative
3 report of the department or the agency. The probable cause
4 panel or the department, as may be appropriate, shall make its
5 determination of probable cause within 30 days after receipt
6 by it of the final investigative report of the department. The
7 secretary may grant extensions of the 15-day and the 30-day
8 time limits. In lieu of a finding of probable cause, the
9 probable cause panel, or the department if there is no board,
10 may issue a letter of guidance to the subject. If, within the
11 30-day time limit, as may be extended, the probable cause
12 panel does not make a determination regarding the existence of
13 probable cause or does not issue a letter of guidance in lieu
14 of a finding of probable cause, the department must make a
15 determination regarding the existence of probable cause within
16 10 days after the expiration of the time limit. If the
17 probable cause panel finds that probable cause exists, it
18 shall direct the department to file a formal complaint against
19 the licensee. The department shall follow the directions of
20 the probable cause panel regarding the filing of a formal
21 complaint. If directed to do so, the department shall file a
22 formal complaint against the subject of the investigation and
23 prosecute that complaint pursuant to chapter 120. However, the
24 department may decide not to prosecute the complaint if it
25 finds that probable cause has been improvidently found by the
26 panel. In such cases, the department shall refer the matter to
27 the board. The board may then file a formal complaint and
28 prosecute the complaint pursuant to chapter 120. The
29 department shall also refer to the board any investigation or
30 disciplinary proceeding not before the Division of
31 Administrative Hearings pursuant to chapter 120 or otherwise

1 completed by the department within 1 year after the filing of
2 a complaint. The department, for disciplinary cases under its
3 jurisdiction, must establish a uniform reporting system to
4 quarterly refer to each board the status of any investigation
5 or disciplinary proceeding that is not before the Division of
6 Administrative Hearings or otherwise completed by the
7 department within 1 year after the filing of the complaint.
8 Annually, the department, in consultation with the applicable
9 probable cause panel, must establish a plan to expedite or
10 otherwise close any investigation or disciplinary proceeding
11 that is not before the Division of Administrative Hearings or
12 otherwise completed by the department within 1 year after the
13 filing of the complaint. A probable cause panel or a board
14 may retain independent legal counsel, employ investigators,
15 and continue the investigation as it deems necessary; all
16 costs thereof shall be paid from a trust fund used by the
17 department to implement this chapter. All proceedings of the
18 probable cause panel are exempt from s. 120.525.

19 (5) A formal hearing before an administrative law
20 judge from the Division of Administrative Hearings shall be
21 held pursuant to chapter 120 if there are any disputed issues
22 of material fact. The administrative law judge shall issue a
23 recommended order pursuant to chapter 120. If any party raises
24 an issue of disputed fact during an informal hearing, the
25 hearing shall be terminated and a formal hearing pursuant to
26 chapter 120 shall be held.

27 (6) The appropriate board, with those members of the
28 panel, if any, who reviewed the investigation pursuant to
29 subsection (4) being excused, or the department when there is
30 no board, shall determine and issue the final order in each
31 disciplinary case. Such order shall constitute final agency

1 action. Any consent order or agreed-upon settlement shall be
2 subject to the approval of the department.

3 (7) The department shall have standing to seek
4 judicial review of any final order of the board, pursuant to
5 s. 120.68.

6 (8) Any proceeding for the purpose of summary
7 suspension of a license, or for the restriction of the
8 license, of a licensee pursuant to s. 120.60(6) shall be
9 conducted by the secretary of the Department of Health or his
10 or her designee, as appropriate, who shall issue the final
11 summary order.

12 (9)(a) The department shall periodically notify the
13 person who filed the complaint, as well as the patient or the
14 patient's legal representative, of the status of the
15 investigation, indicating whether probable cause has been
16 found and the status of any civil action or administrative
17 proceeding or appeal.

18 (b) In any disciplinary case for which probable cause
19 has been found, the department shall provide to the person who
20 filed the complaint a copy of the administrative complaint
21 and:

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

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

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

29 (c) In any disciplinary case for which probable cause
30 is not found, the department shall so inform the person who
31 filed the complaint and notify that person that he or she may,

1 within 60 days, provide any additional information to the
2 department which may be relevant to the decision. To
3 facilitate the provision of additional information, the person
4 who filed the complaint may receive, upon request, a copy of
5 the department's expert report that supported the
6 recommendation for closure, if such a report was relied upon
7 by the department. In no way does this require the department
8 to procure an expert opinion or report if none was used.
9 Additionally, the identity of the expert shall remain
10 confidential. In any administrative proceeding under s.
11 120.57, the person who filed the disciplinary complaint shall
12 have the right to present oral or written communication
13 relating to the alleged disciplinary violations or to the
14 appropriate penalty.

15 (10) The complaint and all information obtained
16 pursuant to the investigation by the department are
17 confidential and exempt from s. 119.07(1) until 10 days after
18 probable cause has been found to exist by the probable cause
19 panel or by the department, or until the regulated
20 professional or subject of the investigation waives his or her
21 privilege of confidentiality, whichever occurs first. Upon
22 completion of the investigation and a recommendation by the
23 department to find probable cause, and pursuant to a written
24 request by the subject or the subject's attorney, the
25 department shall provide the subject an opportunity to inspect
26 the investigative file or, at the subject's expense, forward
27 to the subject a copy of the investigative file.
28 Notwithstanding s. 456.057, the subject may inspect or receive
29 a copy of any expert witness report or patient record
30 connected with the investigation if the subject agrees in
31 writing to maintain the confidentiality of any information

1 received under this subsection until 10 days after probable
2 cause is found and to maintain the confidentiality of patient
3 records pursuant to s. 456.057. The subject may file a written
4 response to the information contained in the investigative
5 file. Such response must be filed within 20 days of mailing by
6 the department, unless an extension of time has been granted
7 by the department. This subsection does not prohibit the
8 department from providing such information to any law
9 enforcement agency or to any other regulatory agency.

10 (11) A privilege against civil liability is hereby
11 granted to any complainant or any witness with regard to
12 information furnished with respect to any investigation or
13 proceeding pursuant to this section, unless the complainant or
14 witness acted in bad faith or with malice in providing such
15 information.

16 (12)(a) No person who reports in any capacity, whether
17 or not required by law, information to the department with
18 regard to the incompetence, impairment, or unprofessional
19 conduct of any health care provider licensed under chapter
20 458, chapter 459, chapter 460, chapter 461, chapter 462,
21 chapter 463, chapter 464, chapter 465, or chapter 466 shall be
22 held liable in any civil action for reporting against such
23 health care provider if such person acts without intentional
24 fraud or malice.

25 (b) No facility licensed under chapter 395, health
26 maintenance organization certificated under part I of chapter
27 641, physician licensed under chapter 458, or osteopathic
28 physician licensed under chapter 459 shall discharge, threaten
29 to discharge, intimidate, or coerce any employee or staff
30 member by reason of such employee's or staff member's report
31 to the department about a physician licensed under chapter

1 458, chapter 459, chapter 460, chapter 461, or chapter 466 who
2 may be guilty of incompetence, impairment, or unprofessional
3 conduct so long as such report is given without intentional
4 fraud or malice.

5 (c) In any civil suit brought outside the protections
6 of paragraphs (a) and (b) in which intentional fraud or malice
7 is alleged, the person alleging intentional fraud or malice
8 shall be liable for all court costs and for the other party's
9 reasonable attorney's fees if intentional fraud or malice is
10 not proved.

11 (13) Notwithstanding any provision of law to the
12 contrary, an administrative complaint against a licensee shall
13 be filed within 6 years after the time of the incident or
14 occurrence giving rise to the complaint against the licensee.
15 If such incident or occurrence involved criminal actions,
16 diversion of controlled substances, sexual misconduct, or
17 impairment by the licensee, this subsection does not apply to
18 bar initiation of an investigation or filing of an
19 administrative complaint beyond the 6-year timeframe. In those
20 cases covered by this subsection in which it can be shown that
21 fraud, concealment, or intentional misrepresentation of fact
22 prevented the discovery of the violation of law, the period of
23 limitations is extended forward, but in no event to exceed 12
24 years after the time of the incident or occurrence.

25 Section 88. Subsection (8) of section 400.925, Florida
26 Statutes, is amended to read:

27 400.925 Definitions.--As used in this part, the term:

28 (8) "Home medical equipment" includes any product as
29 defined by the Federal Drug Administration's Drugs, Devices
30 and Cosmetics Act, any products reimbursed under the Medicare
31 Part B Durable Medical Equipment benefits, or any products

1 reimbursed under the Florida Medicaid durable medical
2 equipment program. Home medical equipment includes, but is not
3 limited to, oxygen and related respiratory equipment; manual,
4 motorized, or. ~~Home medical equipment includes~~ customized
5 wheelchairs and related seating and positioning, but does not
6 include prosthetics or orthotics or any splints, braces, or
7 aids custom fabricated by a licensed health care practitioner.
8 ~~Home medical equipment includes assistive technology devices,~~
9 ~~including: manual wheelchairs, motorized wheelchairs,~~
10 ~~motorized scooters, voice-synthesized computer modules,~~
11 ~~optical scanners, talking software, braille printers,~~
12 ~~environmental control devices for use by person with~~
13 ~~quadriplegia, motor vehicle adaptive transportation aids,~~
14 ~~devices that enable persons with severe speech disabilities to~~
15 ~~in effect speak, personal transfer systems and specialty beds,~~
16 ~~including demonstrator, for use by a person with a medical~~
17 ~~need.~~

18 Section 89. Subsection (4) is added to section
19 765.104, Florida Statutes, to read:

20 765.104 Amendment or revocation.--

21 (4) Any patient for whom a medical proxy has been
22 recognized under s. 765.401 and for whom any previous legal
23 disability that precluded the patient's ability to consent is
24 removed may amend or revoke the recognition of the medical
25 proxy and any uncompleted decision made by that proxy. The
26 amendment or revocation takes effect when it is communicated
27 to the proxy, the health care provider, or the health care
28 facility in writing or, if communicated orally, in the
29 presence of a third person.

30 Section 90. Subsections (1) and (3) of section
31 765.401, Florida Statutes, are amended to read:

1 765.401 The proxy.--
2 (1) If an incapacitated or developmentally disabled
3 ~~the~~ patient has not executed an advance directive, or
4 designated a surrogate to execute an advance directive, or the
5 designated or alternate surrogate is no longer available to
6 make health care decisions, health care decisions may be made
7 for the patient by any of the following individuals, in the
8 following order of priority, if no individual in a prior class
9 is reasonably available, willing, or competent to act:
10 (a) The judicially appointed guardian of the patient
11 or the guardian advocate of the person having a developmental
12 disability as defined in s. 393.063, who has been authorized
13 to consent to medical treatment, if such guardian has
14 previously been appointed; however, this paragraph shall not
15 be construed to require such appointment before a treatment
16 decision can be made under this subsection;
17 (b) The patient's spouse;
18 (c) An adult child of the patient, or if the patient
19 has more than one adult child, a majority of the adult
20 children who are reasonably available for consultation;
21 (d) A parent of the patient;
22 (e) The adult sibling of the patient or, if the
23 patient has more than one sibling, a majority of the adult
24 siblings who are reasonably available for consultation.
25 (f) An adult relative of the patient who has exhibited
26 special care and concern for the patient and who has
27 maintained regular contact with the patient and who is
28 familiar with the patient's activities, health, and religious
29 or moral beliefs; or
30 (g) A close friend of the patient.
31 (3) Before exercising the incapacitated patient's

1 rights to select or decline health care, the proxy must comply
2 with the provisions of ss. 765.205 and 765.305, except that a
3 proxy's decision to withhold or withdraw life-prolonging
4 procedures must be supported by clear and convincing evidence
5 that the decision would have been the one the patient would
6 have chosen had the patient been competent or, if there is no
7 indication of what the patient would have chosen, that the
8 decision is in the patient's best interest. Before exercising
9 the rights of a person who has a developmental disability as
10 defined under s. 393.063(12) to withhold or withdraw
11 life-prolonging procedures, a proxy must comply with s.
12 393.12.

13 Section 91. Section 457.1085, Florida Statutes, is
14 amended to read:

15 457.1085 Infection control.--~~Prior to November 1,~~
16 ~~1986,~~The board shall adopt rules relating to the prevention
17 of infection, the safe disposal of any potentially infectious
18 materials, and other requirements to protect the health,
19 safety, and welfare of the public. ~~Beginning October 1, 1997,~~
20 All acupuncture needles that are to be used on a patient must
21 be sterile and disposable, and each needle may be used only
22 once.

23 Section 92. Paragraph (y) is added to subsection (1)
24 of section 457.109, Florida Statutes, to read:

25 457.109 Disciplinary actions; grounds; action by the
26 board.--

27 (1) The following acts constitute grounds for denial
28 of a license or disciplinary action, as specified in s.
29 456.072(2):

30 (y) Using the specialty titles of "Diplomate in
31 Acupuncture" or "National Board-Certified Diplomate in

1 Acupuncture" or "Board-Certified Diplomate in Acupuncture" in
2 conjunction with one's name, place of business, or acupuncture
3 practice unless the licensee holds an active license under
4 this chapter and is also an active holder of such board
5 certification from the National Certification Commission for
6 Acupuncture and Oriental Medicine (NCCAOM).

7 Section 93. Section 457.116, Florida Statutes, is
8 amended to read:

9 457.116 Prohibited acts; penalty.--

10 (1) A person may not:

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

13 (b) Use, in connection with his or her name or place
14 of business, any title or description of services which
15 incorporates the words "acupuncture," "acupuncturist,"
16 "certified acupuncturist," "licensed acupuncturist," "oriental
17 medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.,"
18 or "D.O.M."; or any other words, letters, abbreviations, or
19 insignia indicating or implying that he or she practices
20 acupuncture unless he or she is a holder of a valid license
21 issued pursuant to ss. 457.101-457.118;

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

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

25 (e) Use or attempt to use a license that has been
26 suspended, revoked, or placed on inactive or delinquent
27 status;

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

31 (g) Conceal information relating to any violation of

1 ss. 457.101-457.118.

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

5 Section 94. Subsections (31), (32), and (33) of
6 section 395.002, Florida Statutes, are renumbered as
7 subsections (32), (33), and (34), respectively, and a new
8 subsection (31) is added to said section, to read:

9 395.002 Definitions.--As used in this chapter:

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

12 (32)~~(31)~~ "Utilization review" means a system for
13 reviewing the medical necessity or appropriateness in the
14 allocation of health care resources of hospital services given
15 or proposed to be given to a patient or group of patients.

16 (33)~~(32)~~ "Utilization review plan" means a description
17 of the policies and procedures governing utilization review
18 activities performed by a private review agent.

19 (34)~~(33)~~ "Validation inspection" means an inspection
20 of the premises of a licensed facility by the agency to assess
21 whether a review by an accrediting organization has adequately
22 evaluated the licensed facility according to minimum state
23 standards.

24 Section 95. Paragraph (b) of subsection (1) of section
25 395.0197, Florida Statutes, is amended to read:

26 395.0197 Internal risk management program.--

27 (1) Every licensed facility shall, as a part of its
28 administrative functions, establish an internal risk
29 management program that includes all of the following
30 components:

31 (b) The development of appropriate measures to

1 minimize the risk of adverse incidents to patients, including,
2 but not limited to:

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

5 a. Such education and training of all nonphysician
6 personnel as part of their initial orientation; and
7 b. At least 1 hour of such education and training
8 annually for all personnel of the licensed facility working in
9 clinical areas and providing patient care, except those
10 persons licensed as health care practitioners who are required
11 to complete continuing education coursework pursuant to
12 chapter 456 or the respective practice act.

13 2. A prohibition, except when emergency circumstances
14 require otherwise, against a staff member of the licensed
15 facility attending a patient in the recovery room, unless the
16 staff member is authorized to attend the patient in the
17 recovery room and is in the company of at least one other
18 person. However, a licensed facility is exempt from the
19 two-person requirement if it has:

20 a. Live visual observation;
21 b. Electronic observation; or
22 c. Any other reasonable measure taken to ensure
23 patient protection and privacy.

24 3. A prohibition against an unlicensed person from
25 assisting or participating in any surgical procedure unless
26 the facility has authorized the person to do so following a
27 competency assessment, and such assistance or participation is
28 done under the direct and immediate supervision of a licensed
29 physician and is not otherwise an activity that may only be
30 performed by a licensed health care practitioner. Moreover,
31 the primary operating surgeon may select a surgical first

1 assistant from among available individuals who are approved or
2 credentialed by the facility.

3 4. Development, implementation, and ongoing evaluation
4 of procedures, protocols, and systems to accurately identify
5 patients, planned procedures, and the correct site of the
6 planned procedure so as to minimize the performance of a
7 surgical procedure on the wrong patient, a wrong surgical
8 procedure, a wrong-site surgical procedure, or a surgical
9 procedure otherwise unrelated to the patient's diagnosis or
10 medical condition.

11 Section 96. Effective upon this act becoming a law,
12 paragraphs (a) and (b) of subsection (2) of section 768.13,
13 Florida Statutes, are amended to read:

14 768.13 Good Samaritan Act; immunity from civil
15 liability.--

16 (2)(a) Any person, including those licensed to
17 practice medicine, who gratuitously and in good faith renders
18 emergency care or treatment either in direct response to
19 emergency situations related to and arising out of a public
20 health emergency declared pursuant to s. 381.00315, a state of
21 emergency which has been declared pursuant to s. 252.36 or at
22 the scene of an emergency outside of a hospital, doctor's
23 office, or other place having proper medical equipment,
24 without objection of the injured victim or victims thereof,
25 shall not be held liable for any civil damages as a result of
26 such care or treatment or as a result of any act or failure to
27 act in providing or arranging further medical treatment where
28 the person acts as an ordinary reasonably prudent person would
29 have acted under the same or similar circumstances.

30 (b)1. Any hospital licensed under chapter 395, any
31 employee of such hospital working in a clinical area within

1 the facility and providing patient care, and any person
2 licensed to practice medicine who in good faith renders
3 medical care or treatment necessitated by a sudden, unexpected
4 situation or occurrence resulting in a serious medical
5 condition demanding immediate medical attention, for which the
6 patient enters the hospital through its emergency room or
7 trauma center, or necessitated by a public health emergency
8 declared pursuant to s. 381.00315 shall not be held liable for
9 any civil damages as a result of such medical care or
10 treatment unless such damages result from providing, or
11 failing to provide, medical care or treatment under
12 circumstances demonstrating a reckless disregard for the
13 consequences so as to affect the life or health of another.

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

17 a. Which occurs after the patient is stabilized and is
18 capable of receiving medical treatment as a nonemergency
19 patient, unless surgery is required as a result of the
20 emergency within a reasonable time after the patient is
21 stabilized, in which case the immunity provided by this
22 paragraph applies to any act or omission of providing medical
23 care or treatment which occurs prior to the stabilization of
24 the patient following the surgery; or

25 b. Unrelated to the original medical emergency.

26 3. For purposes of this paragraph, "reckless
27 disregard" as it applies to a given health care provider
28 rendering emergency medical services shall be such conduct
29 which a health care provider knew or should have known, at the
30 time such services were rendered, would be likely to result in
31 injury so as to affect the life or health of another, taking

1 into account the following to the extent they may be present;

2 a. The extent or serious nature of the circumstances
3 prevailing.

4 b. The lack of time or ability to obtain appropriate
5 consultation.

6 c. The lack of a prior patient-physician relationship.

7 d. The inability to obtain an appropriate medical
8 history of the patient.

9 e. The time constraints imposed by coexisting
10 emergencies.

11 4. Every emergency care facility granted immunity
12 under this paragraph shall accept and treat all emergency care
13 patients within the operational capacity of such facility
14 without regard to ability to pay, including patients
15 transferred from another emergency care facility or other
16 health care provider pursuant to Pub. L. No. 99-272, s. 9121.
17 The failure of an emergency care facility to comply with this
18 subparagraph constitutes grounds for the department to
19 initiate disciplinary action against the facility pursuant to
20 chapter 395.

21 Section 97. Paragraph (k) of subsection (2) of section
22 381.0066, Florida Statutes, is amended to read:

23 381.0066 Onsite sewage treatment and disposal systems;
24 fees.--

25 (2) The minimum fees in the following fee schedule
26 apply until changed by rule by the department within the
27 following limits:

28 (k) Research: An additional \$5 fee shall be added to
29 each new system construction permit issued ~~during fiscal years~~
30 ~~1996-2002~~ to be used for onsite sewage treatment and disposal
31 system research, demonstration, and training projects. Five

1 dollars from any repair permit fee collected under this
2 section shall be used for funding the hands-on training
3 centers described in s. 381.0065(3)(j).

4
5 The funds collected pursuant to this subsection must be
6 deposited in a trust fund administered by the department, to
7 be used for the purposes stated in this section and ss.
8 381.0065 and 381.00655.

9 Section 98. Part IV of chapter 489, Florida Statutes,
10 consisting of sections 489.661, 489.662, 489.663, 489.664,
11 489.665, 489.666, 489.667, and 489.668, is created to read:

12 PART IV

13 PORTABLE RESTROOM CONTRACTING

14 489.661 Definitions.--As used in this part:

15 (1) "Department" means the Department of Health.

16 (2) "Portable restroom contractor" means a portable
17 restroom contractor whose services are unlimited in the
18 portable restroom trade who has had at least 3 years'
19 experience as a Florida-registered portable restroom
20 contractor, who has knowledge of state health code law and
21 rules, and who has the experience, knowledge, and skills to
22 handle, deliver, and pick up sanitary portable restrooms, to
23 install, safely handle, and maintain portable holding tanks,
24 and to handle, transport, and dispose of domestic portable
25 restroom and portable holding tank wastewater.

26 489.662 Registration required.--A person shall not
27 hold himself or herself out as a portable restroom contractor
28 in this state unless he or she is registered by the department
29 in accordance with the provisions of this part. However,
30 nothing in this part prohibits any person licensed pursuant to
31 s. 489.105(3)(m) or ss. 489.551-489.558, in this state from

1 engaging in the profession for which he or she is licensed.

2 489.663 Administration of part; registration
3 qualifications; examination.--

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

7 (2) The department shall administer, coordinate, and
8 enforce the provisions of this part, provide qualifications
9 for applicants, administer the examination for applicants, and
10 be responsible for the granting of certificates of
11 registration to qualified persons.

12 (3) The department shall adopt reasonable rules
13 pursuant to ss. 120.536(1) and 120.54 to administer this part,
14 including, but not limited to, rules that establish ethical
15 standards of practice, requirements for registering as a
16 contractor, requirements for obtaining an initial or renewal
17 certificate of registration, disciplinary guidelines, and
18 requirements for the certification of partnerships and
19 corporations. The department may amend or repeal the rules in
20 accordance with chapter 120, the Administrative Procedure Act.

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

23 (a) Be of good moral character. In considering good
24 moral character, the department may consider any matter that
25 has a substantial connection between the good moral character
26 of the applicant and the professional responsibilities of a
27 registered contractor, including, but not limited to, the
28 applicant being convicted or found guilty of, or entering a
29 plea of nolo contendere to, regardless of adjudication, a
30 crime in any jurisdiction that directly relates to the
31 practice of contracting or the ability to practice

1 contracting, and previous disciplinary action involving
2 portable restroom contracting, where all judicial reviews have
3 been completed.

4 (b) Pass an examination approved by the department
5 that demonstrates that the applicant has a fundamental
6 knowledge of the state laws relating to the installation,
7 maintenance, and wastewater disposal of portable restrooms,
8 portable sinks, and portable holding tanks.

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

10 (d) Have a total of at least 3 years of active
11 experience serving an apprenticeship as a skilled worker under
12 the supervision and control of a registered portable restroom
13 contractor. Related work experience or educational experience
14 may be substituted for no more than 2 years of active
15 contracting experience. Each 30 hours of coursework approved
16 by the department will substitute for 6 months of work
17 experience. Out-of-state work experience shall be accepted on
18 a year-for-year basis for any applicant who demonstrates that
19 he or she holds a current license issued by another state for
20 portable restroom contracting that was issued upon
21 satisfactory completion of an examination and continuing
22 education courses that are equivalent to the requirements in
23 this state. Individuals from a state with no state
24 certification who have successfully completed a written
25 examination provided by the Portable Sanitation Association
26 International shall only be required to take the written
27 portion of the examination that includes state health code law
28 and rules. For purposes of this section, an equivalent
29 examination must include the topics of state health code law
30 and rules applicable to portable restrooms and the knowledge
31 required to handle, deliver, and pick up sanitary portable

1 restrooms; to install, handle, and maintain portable holding
2 tanks; and to handle, transport, and dispose of domestic
3 portable restroom and portable holding tank wastewater. A
4 person employed by and under the supervision of a licensed
5 contractor shall be granted up to 2 years of related work
6 experience.

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

9 (5) The department shall provide each applicant for
10 registration pursuant to this part with a copy of this part
11 and any rules adopted under this part. The department may
12 also prepare and disseminate such other material and
13 questionnaires as it deems necessary to effectuate the
14 registration provisions of this part.

15 (6) Any person who was employed one or more years in
16 this state by a portable restroom service holding a permit
17 issued by the department on or before October 1, 2002, has
18 until October 1, 2003, to be registered by the department in
19 accordance with the provisions of this act and may continue to
20 perform portable restroom contracting services until that
21 time. Such persons are exempt until October 1, 2003, from the
22 three years active work experience requirement of s.
23 489.663(4)(d).

24 489.664 Registration renewal.--The department shall
25 prescribe by rule the method for approval of continuing
26 education courses and for renewal of annual registration. At
27 a minimum, annual renewal shall include continuing education
28 requirements of not less than 6 classroom hours annually for
29 portable restroom contractors.

30 489.665 Certification of partnerships and
31 corporations.--

1 (1) The practice of or the offer to practice portable
2 restroom contracting services by registrants through a parent
3 corporation, corporation, subsidiary of a corporation, or
4 partnership offering portable restroom contracting services to
5 the public through registrants under this chapter as agents,
6 employers, officers, or partners is permitted, provided that
7 one or more of the principal officers of the corporation or
8 one or more partners of the partnership and all personnel of
9 the corporation or partnership who act on its behalf as
10 portable restroom contractors in this state are registered as
11 provided by this part, and further provided that the
12 corporation or partnership has been issued a certificate of
13 authorization by the department as provided in this section.
14 A registered contractor may not be the sole qualifying
15 contractor for more than one business that requests a
16 certificate of authorization. A business organization that
17 loses its qualifying contractor has 60 days following the date
18 the qualifier terminates his or her affiliation within which
19 to obtain another qualifying contractor. During this period,
20 the business organization may complete any existing contract
21 or continuing contract, but may not undertake any new
22 contract. This period may be extended once by the department
23 for an additional 60 days upon a showing of good cause.
24 Nothing in this section shall be construed to mean that a
25 certificate of registration to practice portable restroom
26 contracting shall be held by a corporation. No corporation or
27 partnership shall be relieved of responsibility for the
28 conduct or acts of its agents, employees, or officers by
29 reason of its compliance with this section, nor shall any
30 individual practicing portable restroom contracting be
31 relieved of responsibility for professional services performed

1 by reason of his or her employment or relationship with a
2 corporation or partnership.

3 (2) For the purposes of this section, a certificate of
4 authorization shall be required for a corporation,
5 partnership, association, or person practicing under a
6 fictitious name, offering portable restroom contracting
7 services to the public, except that when an individual is
8 practicing portable restroom contracting in his or her own
9 given name, he or she shall not be required to register under
10 this section.

11 (3) Each certification of authorization shall be
12 renewed every 2 years. Each partnership and corporation
13 certified under this section shall notify the department
14 within 1 month after any change in the information contained
15 in the application upon which the certification is based.

16 (4) Disciplinary action against a corporation or
17 partnership shall be administered in the same manner and on
18 the same grounds as disciplinary action against a registered
19 portable restroom contractor.

20 (5) When a certificate of authorization has been
21 revoked, any person authorized by law to provide portable
22 restroom contracting services may not use the name or
23 fictitious name of the entity whose certificate was revoked,
24 or any other identifiers for the entity, including telephone
25 numbers, advertisements, or logos.

26 489.666 Suspension or revocation of registration.--A
27 certificate of registration may be suspended or revoked upon a
28 showing that the registrant has:

29 (1) Violated any provision of this part.

30 (2) Violated any lawful order or rule rendered or
31 adopted by the department.

1 (3) Obtained his or her registration or any other
2 order, ruling, or authorization by means of fraud,
3 misrepresentation, or concealment of material facts.

4 (4) Been found guilty of gross misconduct in the
5 pursuit of his or her profession.

6 489.667 Fees; establishment.--

7 (1) The department shall, by rule, establish fees as
8 follows:

9 (a) For portable restroom contractor registration:

10 1. Application and examination fee: not less than \$25
11 nor more than \$75.

12 2. Initial registration fee: not less than \$50 nor
13 more than \$100.

14 3. Renewal of registration fee: not less than \$50 nor
15 more than \$100.

16 (b) Certification of partnerships and corporations:
17 not less than \$100 nor more than \$250.

18 (2) Fees established pursuant to subsection (1) shall
19 be based on the actual costs incurred by the department in
20 carrying out its registration and other related
21 responsibilities under this part.

22 489.668 Penalties and prohibitions.--

23 (1) Any person who violates any provision of this part
24 commits a misdemeanor of the first degree, punishable as
25 provided in s. 775.082 or s. 775.083.

26 (2) The department may deny a registration if it
27 determines that an applicant does not meet all requirements of
28 this part or has violated any provision of this part. Any
29 applicant aggrieved by such denial shall be entitled to a
30 hearing, after reasonable notice thereof, upon filing a
31 written request for such hearing in accordance with chapter

1 120.

2 Section 99. Subsection (3) is added to section
3 627.638, Florida Statutes, to read:

4 627.638 Direct payment for hospital, medical
5 services.--

6 (3) Under any health insurance policy insuring against
7 loss or expense due to hospital confinement or to medical and
8 related services, payment of benefits shall be made directly
9 to any recognized hospital, doctor, or other person who
10 provided services for the treatment of a psychological
11 disorder or treatment for substance abuse, including drug and
12 alcohol abuse, when the treatment is in accordance with the
13 provisions of the policy and the insured specifically
14 authorizes direct payment of benefits. Payments shall be made
15 under this section, notwithstanding any contrary provisions in
16 the health insurance contract. This subsection applies to all
17 health insurance policies now or hereafter in force as of
18 October 1, 2002.

19 Section 100. Subsection (1) of section 766.101,
20 Florida Statutes, is amended to read:

21 766.101 Medical review committee, immunity from
22 liability.--

23 (1) As used in this section:

24 (a) The term "medical review committee" or "committee"
25 means:

26 1.a. A committee of a hospital or ambulatory surgical
27 center licensed under chapter 395 or a health maintenance
28 organization certificated under part I of chapter 641,

29 b. A committee of a physician-hospital organization, a
30 provider-sponsored organization, or an integrated delivery
31 system,

- 1 c. A committee of a state or local professional
2 society of health care providers,
- 3 d. A committee of a medical staff of a licensed
4 hospital or nursing home, provided the medical staff operates
5 pursuant to written bylaws that have been approved by the
6 governing board of the hospital or nursing home,
- 7 e. A committee of the Department of Corrections or the
8 Correctional Medical Authority as created under s. 945.602, or
9 employees, agents, or consultants of either the department or
10 the authority or both,
- 11 f. A committee of a professional service corporation
12 formed under chapter 621 or a corporation organized under
13 chapter 607 or chapter 617, which is formed and operated for
14 the practice of medicine as defined in s. 458.305(3), and
15 which has at least 25 health care providers who routinely
16 provide health care services directly to patients,
- 17 g. A committee of a mental health treatment facility
18 licensed under chapter 394 or a community mental health center
19 as defined in s. 394.907, provided the quality assurance
20 program operates pursuant to the guidelines which have been
21 approved by the governing board of the agency,
- 22 h. A committee of a substance abuse treatment and
23 education prevention program licensed under chapter 397
24 provided the quality assurance program operates pursuant to
25 the guidelines which have been approved by the governing board
26 of the agency,
- 27 i. A peer review or utilization review committee
28 organized under chapter 440,
- 29 j. A committee of the Department of Health, a county
30 health department, healthy start coalition, or certified rural
31 health network, when reviewing quality of care, or employees

1 of these entities when reviewing mortality records, or
2 k. A continuous quality improvement committee of a
3 pharmacy licensed pursuant to chapter 465,
4 l. A committee established by a university board of
5 trustees, or
6 m. A committee comprised of faculty, residents,
7 students, and administrators of an accredited college of
8 medicine, nursing, or other health care discipline,
9
10 which committee is formed to evaluate and improve the quality
11 of health care rendered by providers of health service or to
12 determine that health services rendered were professionally
13 indicated or were performed in compliance with the applicable
14 standard of care or that the cost of health care rendered was
15 considered reasonable by the providers of professional health
16 services in the area; or
17 2. A committee of an insurer, self-insurer, or joint
18 underwriting association of medical malpractice insurance, or
19 other persons conducting review under s. 766.106.
20 (b) The term "health care providers" means physicians
21 licensed under chapter 458, osteopathic physicians licensed
22 under chapter 459, podiatric physicians licensed under chapter
23 461, optometrists licensed under chapter 463, dentists
24 licensed under chapter 466, chiropractic physicians licensed
25 under chapter 460, pharmacists licensed under chapter 465, or
26 hospitals or ambulatory surgical centers licensed under
27 chapter 395.
28 Section 101. Effective upon this act becoming a law,
29 subsection (10) of section 627.357, Florida Statutes, is
30 amended to read:
31 627.357 Medical malpractice self-insurance.--

1 Section 102. (10)(a)1. An application to form a
2 self-insurance fund under this section must be filed with the
3 department before October 1, 2002. All self-insurance funds
4 authorized under this paragraph must apply for a certificate
5 of authority to become an authorized insurer by October 1,
6 2006. Any such fund failing to obtain a certificate of
7 authority as an authorized insurer within 1 year of the date
8 of application therefore shall wind down its affair and shall
9 not issue coverage after the expiration of the 1-year period.

10 2. Any self insurance fund established pursuant to
11 this section after April 1, 2002, shall also comply with ss.
12 624.460-624.489, notwithstanding s. 624.462(2)(a). In the
13 event of a conflict between the provisions of this section and
14 ss. 624.460-624.489, the latter sections shall govern. With
15 respect to those sections, provisions solely applicable to
16 workers' compensation and employers liability insurance shall
17 not apply to medical malpractice funds.~~A self insurance may~~
18 ~~not be formed under this section after October 1, 1992.~~

19 Section 103. Subsection (7) of section 631.54, Florida
20 Statutes, is amended to read:

21 631.54 Definitions.--As used in this part:

22 (7) "Member insurer" means any person who writes any
23 kind of insurance to which this part applies under s. 631.52,
24 including the exchange of reciprocal or interinsurance
25 contracts and any medical malpractice self-insurance fund
26 authorized after April 1, 2002 under s. 627.357, and is
27 licensed to transact insurance in this state. The Agency for
28 Health Care Administration shall conduct a study of health
29 care services provided to the medically fragile or
30 medical-technology-dependent children in the state and conduct
31 a pilot program in Dade County to provide subacute pediatric

1 transitional care to a maximum of 30 children at any one time.
2 The purpose of the study and the pilot program are to
3 determine ways to permit medically fragile or
4 medical-technology-dependent children to successfully make a
5 transition from acute care in a health care institution to
6 live with their families when possible, and to provide
7 cost-effective, subacute transitional care services.

8 Section 104. The Agency for Health Care
9 Administration, in cooperation with the Children's Medical
10 Services Program in the Department of Health, shall conduct a
11 study to identify the total number of medically fragile or
12 medical-technology-dependent children, from birth through age
13 21, in the state. By January 1, 2003, the agency must report
14 to the Legislature regarding the children's ages, the
15 locations where the children are served, the types of services
16 received, itemized costs of the services, and the sources of
17 funding that pay for the services, including the proportional
18 share when more than one funding source pays for a service.
19 The study must include information regarding medically fragile
20 or medical-technology-dependent children residing in
21 hospitals, nursing homes, and medical foster care, and those
22 who live with their parents. The study must describe children
23 served in prescribed pediatric extended-care centers,
24 including their ages and the services they receive. The report
25 must identify the total services provided for each child and
26 the method for paying for those services. The report must also
27 identify the number of such children who could, if appropriate
28 transitional services were available, return home or move to a
29 less-institutional setting.

30 Section 105. (1) Within 30 days after the effective
31 date of this act, the agency shall establish minimum staffing

1 standards and quality requirements for a subacute pediatric
2 transitional care center to be operated as a 2-year pilot
3 program in Dade County. The pilot program must operate under
4 the license of a hospital licensed under chapter 395, Florida
5 Statutes, or a nursing home licensed under chapter 400,
6 Florida Statutes, and shall use existing beds in the hospital
7 or nursing home. A child's placement in the subacute pediatric
8 transitional care center may not exceed 90 days. The center
9 shall arrange for an alternative placement at the end of a
10 child's stay and a transitional plan for children expected to
11 remain in the facility for the maximum allowed stay.

12 (2) Within 60 days after the effective date of this
13 act, the agency must amend the state Medicaid plan and request
14 any federal waivers necessary to implement and fund the pilot
15 program.

16 (3) The subacute pediatric transitional care center
17 must require level I background screening as provided in
18 chapter 435, Florida Statutes, for all employees or
19 prospective employees of the center who are expected to, or
20 whose responsibilities may require them to, provide personal
21 care or services to children, have access to children's living
22 areas, or have access to children's funds or personal
23 property.

24 Section 106. (1) The subacute pediatric transitional
25 care center must have an advisory board. Membership on the
26 advisory board must include, but need not be limited to:

27 (a) A physician and an advanced registered nurse
28 practitioner who is familiar with services for medically
29 fragile or medical-technology-dependent children;

30 (b) A registered nurse who has experience in the care
31 of medically fragile or medical-technology-dependent children;

1 (c) A child development specialist who has experience
2 in the care of medically fragile or
3 medical-technology-dependent children and their families;

4 (d) A social worker who has experience in the care of
5 medically fragile or medical-technology-dependent children and
6 their families; and

7 (e) A consumer representative who is a parent or
8 guardian of a child placed in the center.

9 (2) The advisory board shall:

10 (a) Review the policy and procedure components of the
11 center to assure conformance with applicable standards
12 developed by the Agency for Health Care Administration; and

13 (b) Provide consultation with respect to the
14 operational and programmatic components of the center.

15 Section 107. (1) The subacute pediatric transitional
16 care center must have written policies and procedures
17 governing the admission, transfer, and discharge of children.

18 (2) The admission of each child to the center must be
19 under the supervision of the center nursing administrator or
20 his or her designee, and must be in accordance with the
21 center's policies and procedures. Each Medicaid admission must
22 be approved by the Department of Health, Children's Medical
23 Services Multidisciplinary Assessment Team, in conjunction
24 with the Agency for Health Care Administration, as appropriate
25 for placement in the facility.

26 (3) Each child admitted to the center shall be
27 admitted upon prescription of the Medical Director of the
28 center, licensed pursuant to chapter 458 or 459, and the child
29 shall remain under the care of the medical director and
30 advanced registered nurse practitioner for the duration of his
31 or her stay in the center.

1 (4) Each child admitted to the center must meet at
2 least the following criteria:

3 (a) The child must be medically fragile or
4 medical-technology-dependent.

5 (b) The child may not, prior to admission, present
6 significant risk of infection to other children or personnel.
7 The medical and nursing directors shall review, on a
8 case-by-case basis, the condition of any child who is
9 suspected of having an infectious disease to determine whether
10 admission is appropriate.

11 (c) The child must be medically stabilized and require
12 skilled nursing care or other interventions.

13 (5) If the child meets the criteria specified in
14 paragraphs (4)(a), (b), and (c), the medical director or
15 nursing director of the center shall implement a preadmission
16 plan that delineates services to be provided and appropriate
17 sources for such services.

18 (a) If the child is hospitalized at the time of
19 referral, preadmission planning must include the participation
20 of the child's parent or guardian and relevant medical,
21 nursing, social services, and developmental staff to assure
22 that the hospital's discharge plans will be implemented
23 following the child's placement in the center.

24 (b) A consent form, outlining the purpose of the
25 center, family responsibilities, authorized treatment,
26 appropriate release of liability, and emergency disposition
27 plans, must be signed by the parent or guardian and witnessed
28 before the child is admitted to the center. The parent or
29 guardian shall be provided a copy of the consent form.

30 Section 108. The provisions of this pilot program
31 relating to subacute pediatric transitional care shall be

1 implemented to the extent available appropriations contained
2 in the annual General Appropriations Act are specifically
3 designated for the purposes contained within the pilot
4 program.

5 Section 109. By January 1, 2003, the Agency for Health
6 Care Administration shall report to the Legislature concerning
7 the progress of the medically fragile or
8 medical-technology-dependent children pilot program. By
9 January 1, 2004, the agency shall submit to the Legislature a
10 report on the success of the pilot program.

11 Section 110. Subsection (5) of section 393.064,
12 Florida Statutes, is amended to read:

13 393.064 Prevention.--

14 (5) The Department of Health ~~Children and Family~~
15 ~~Services~~ shall have the authority, within available resources,
16 to contract for the supervision and management of the Raymond
17 C. Philips Research and Education Unit, and such contract
18 shall include specific program objectives.

19 Section 111. Section 408.7057, Florida Statutes, is
20 amended to read:

21 408.7057 Statewide provider and health plan managed
22 ~~care organization~~ claim dispute resolution program.--

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

24 (a) "Agency" means the Agency for Health Care
25 Administration.

26 (b)(a) "Health plan Managed care organization" means a
27 health maintenance organization or a prepaid health clinic
28 certified under chapter 641, a prepaid health plan authorized
29 under s. 409.912, ~~or~~ an exclusive provider organization
30 certified under s. 627.6472, or a major medical expense health
31 insurance policy, as defined in s. 627.643(2)(e), offered by a

1 group or an individual health insurer licensed pursuant to
2 chapter 624, including a preferred provider organization under
3 s. 627.6471.

4 (c)(b) "Resolution organization" means a qualified
5 independent third-party claim-dispute-resolution entity
6 selected by and contracted with the Agency for Health Care
7 Administration.

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

21 (b) The resolution organization shall review claim
22 disputes filed by contracted and noncontracted providers and
23 health plans ~~managed care organizations~~ unless the disputed
24 claim:

- 25 1. Is related to interest payment;
- 26 2. Does not meet the jurisdictional amounts or the
27 methods of aggregation established by agency rule, as provided
28 in paragraph (a);
- 29 3. Is part of an internal grievance in a Medicare
30 managed care organization or a reconsideration appeal through
31 the Medicare appeals process;

1 4. Is related to a health plan that is not regulated
2 by the state;

3 5. Is part of a Medicaid fair hearing pursued under 42
4 C.F.R. ss. 431.220 et seq.;

5 6. Is the basis for an action pending in state or
6 federal court; or

7 7. Is subject to a binding claim-dispute-resolution
8 process provided by contract entered into prior to October 1,
9 2000, between the provider and the managed care organization.

10 (c) Contracts entered into or renewed on or after
11 October 1, 2000, may require exhaustion of an internal
12 dispute-resolution process as a prerequisite to the submission
13 of a claim by a provider or a health plan maintenance
14 ~~organization~~ to the resolution organization ~~when the~~
15 ~~dispute-resolution program becomes effective.~~

16 (d) A contracted or noncontracted provider or health
17 plan maintenance organization may not file a claim dispute
18 with the resolution organization more than 12 months after a
19 final determination has been made on a claim by a health plan
20 or provider maintenance organization.

21 (e) The resolution organization shall require the
22 health plan or provider submitting the claim dispute to submit
23 any supporting documentation to the resolution organization
24 within 15 days after receipt by the health plan or provider of
25 a request from the resolution organization for documentation
26 in support of the claim dispute. The resolution organization
27 may extend the time if appropriate. Failure to submit the
28 supporting documentation within such time period shall result
29 in the dismissal of the submitted claim dispute.

30 (f) The resolution organization shall require the
31 respondent in the claim dispute to submit all documentation in

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

15 (g)1. If on an ongoing basis during the preceding 12
16 months, the agency has reason to believe that a pattern of
17 noncompliance with s. 627.6131 and s. 641.3155 exists on the
18 part of a particular health plan or provider, the agency shall
19 evaluate the information contained in these cases to determine
20 whether the information evidences a pattern and report its
21 findings, together with substantiating evidence, to the
22 appropriate licensure or certification entity for the health
23 plan or provider.

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

29 (3) The agency shall adopt rules to establish a
30 process to be used by the resolution organization in
31 considering claim disputes submitted by a provider or health

1 ~~plan managed care organization~~ which must include the issuance
2 by the resolution organization of a written recommendation,
3 supported by findings of fact, to the agency within 60 days
4 after the requested information is received by the resolution
5 organization within the timeframes specified by the resolution
6 organization. In no event shall the review time exceed 90 days
7 following receipt of the initial claim dispute submission by
8 the resolution organization ~~receipt of the claim dispute~~
9 ~~submission.~~

10 (4) Within 30 days after receipt of the recommendation
11 of the resolution organization, the agency shall adopt the
12 recommendation as a final order.

13 (5) The agency shall notify within 7 days the
14 appropriate licensure or certification entity whenever there
15 is a violation of a final order issued by the agency pursuant
16 to this section.

17 ~~(6)(5)~~ The entity that does not prevail in the
18 agency's order must pay a review cost to the review
19 organization, as determined by agency rule. Such rule must
20 provide for an apportionment of the review fee in any case in
21 which both parties prevail in part. If the nonprevailing party
22 fails to pay the ordered review cost within 35 days after the
23 agency's order, the nonpaying party is subject to a penalty of
24 not more than \$500 per day until the penalty is paid.

25 ~~(7)(6)~~ The agency ~~for Health Care Administration~~ may
26 adopt rules to administer this section.

27 Section 112. Subsection (1) of section 626.88, Florida
28 Statutes, is amended to read:

29 626.88 Definitions of "administrator" and "insurer".--

30 (1) For the purposes of this part, an "administrator"
31 is any person who directly or indirectly solicits or effects

1 coverage of, collects charges or premiums from, or adjusts or
2 settles claims on residents of this state in connection with
3 authorized commercial self-insurance funds or with insured or
4 self-insured programs which provide life or health insurance
5 coverage or coverage of any other expenses described in s.
6 624.33(1) or any person who, through a health care risk
7 contract as defined in s. 641.234 with an insurer or health
8 maintenance organization, provides billing and collection
9 services to health insurers and health maintenance
10 organizations on behalf of health care providers, other than
11 any of the following persons:

12 (a) An employer on behalf of such employer's employees
13 or the employees of one or more subsidiary or affiliated
14 corporations of such employer.

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

16 (c) An insurance company which is either authorized to
17 transact insurance in this state or is acting as an insurer
18 with respect to a policy lawfully issued and delivered by such
19 company in and pursuant to the laws of a state in which the
20 insurer was authorized to transact an insurance business.

21 (d) A health care services plan, health maintenance
22 organization, professional service plan corporation, or person
23 in the business of providing continuing care, possessing a
24 valid certificate of authority issued by the department, and
25 the sales representatives thereof, if the activities of such
26 entity are limited to the activities permitted under the
27 certificate of authority.

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

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

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

4 (h) A trust and its trustees, agents, and employees
5 acting pursuant to such trust established in conformity with
6 29 U.S.C. s. 186.

7 (i) A trust exempt from taxation under s. 501(a) of
8 the Internal Revenue Code, a trust satisfying the requirements
9 of ss. 624.438 and 624.439, or any governmental trust as
10 defined in s. 624.33(3), and the trustees and employees acting
11 pursuant to such trust, or a custodian and its agents and
12 employees, including individuals representing the trustees in
13 overseeing the activities of a service company or
14 administrator, acting pursuant to a custodial account which
15 meets the requirements of s. 401(f) of the Internal Revenue
16 Code.

17 (j) A financial institution which is subject to
18 supervision or examination by federal or state authorities or
19 a mortgage lender licensed under chapter 494 who collects and
20 remits premiums to licensed insurance agents or authorized
21 insurers concurrently or in connection with mortgage loan
22 payments.

23 (k) A credit card issuing company which advances for
24 and collects premiums or charges from its credit card holders
25 who have authorized such collection if such company does not
26 adjust or settle claims.

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

31 (m) A person approved by the Division of Workers'

1 Compensation of the Department of Labor and Employment
2 Security who administers only self-insured workers'
3 compensation plans.

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

8 (o) Any provider or group practice, as defined in s.
9 456.053, providing services under the scope of the license of
10 the provider or the member of the group practice.

11
12 A person who provides billing and collection services to
13 health insurers and health maintenance organizations on behalf
14 of health care providers shall comply with the provisions of
15 ss. 627.6131, 641.3155, and 641.51(4).

16 Section 113. Section 627.6131, Florida Statutes, is
17 created to read:

18 627.6131 Payment of claims.--

19 (1) The contract shall include the following
20 provision:

21
22 "Time of Payment of Claims: After receiving
23 written proof of loss, the insurer will pay
24 monthly all benefits then due for ...(type of
25 benefit).... Benefits for any other loss
26 covered by this policy will be paid as soon as
27 the insurer receives proper written proof."

28
29 (2) As used in this section, the term "claim" for a
30 noninstitutional provider means a paper or electronic billing
31 instrument submitted to the insurer's designated location that

1 consists of the HCFA 1500 data set, or its successor, that has
2 all mandatory entries for a physician licensed under chapter
3 458, chapter 459, chapter 460, chapter 461, chapter 463, or
4 chapter 490 or any appropriate billing instrument that has all
5 mandatory entries for any other noninstitutional provider. For
6 institutional providers, "claim" means a paper or electronic
7 billing instrument submitted to the insurer's designated
8 location that consists of the UB-92 data set or its successor
9 that has all mandatory entries.

10 (3) All claims for payment, whether electronic or
11 nonelectronic:

12 (a) Are considered received on the date the claim is
13 received by the insurer at its designated claims receipt
14 location.

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

19 (c) Must not duplicate a claim previously submitted
20 unless it is determined that the original claim was not
21 received or is otherwise lost.

22 (4) For all electronically submitted claims, a health
23 insurer shall:

24 (a) Within 24 hours after the beginning of the next
25 business day after receipt of the claim, provide electronic
26 acknowledgment of the receipt of the claim to the electronic
27 source submitting the claim.

28 (b) Within 20 days after receipt of the claim, pay the
29 claim or notify a provider or designee if a claim is denied or
30 contested. Notice of the insurer's action on the claim and
31 payment of the claim is considered to be made on the date the

1 notice or payment was mailed or electronically transferred.

2 (c)1. Notification of the health insurer's
3 determination of a contested claim must be accompanied by an
4 itemized list of additional information or documents the
5 insurer can reasonably determine are necessary to process the
6 claim.

7 2. A provider must submit the additional information
8 or documentation, as specified on the itemized list, within 35
9 days after receipt of the notification. Failure of a provider
10 to submit by mail or electronically the additional information
11 or documentation requested within 35 days after receipt of the
12 notification may result in denial of the claim.

13 3. A health insurer may not make more than one request
14 for documents under this paragraph in connection with a claim,
15 unless the provider fails to submit all of the requested
16 documents to process the claim or if documents submitted by
17 the provider raise new additional issues not included in the
18 original written itemization, in which case the health insurer
19 may provide the provider with one additional opportunity to
20 submit the additional documents needed to process the claim.
21 In no case may the health insurer request duplicate documents.

22 (d) For purposes of this subsection, electronic means
23 of transmission of claims, notices, documents, forms, and
24 payments shall be used to the greatest extent possible by the
25 health insurer and the provider.

26 (e) A claim must be paid or denied within 90 days
27 after receipt of the claim. Failure to pay or deny a claim
28 within 120 days after receipt of the claim creates an
29 uncontestable obligation to pay the claim.

30 (5) For all nonelectronically submitted claims, a
31 health insurer shall:

1 (a) Effective November 1, 2003, provide acknowledgment
2 of receipt of the claim within 15 days after receipt of the
3 claim to the provider or provide a provider within 15 days
4 after receipt with electronic access to the status of a
5 submitted claim.

6 (b) Within 40 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 insurer's action on the claim and
9 payment of the claim is considered to be made on the date the
10 notice or payment was mailed or electronically transferred.

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

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

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

31 (d) For purposes of this subsection, electronic means

1 of transmission of claims, notices, documents, forms, and
2 payments shall be used to the greatest extent possible by the
3 health insurer and the provider.

4 (e) A claim must be paid or denied within 120 days
5 after receipt of the claim. Failure to pay or deny a claim
6 within 140 days after receipt of the claim creates an
7 uncontestable obligation to pay the claim.

8 (6) If a health insurer determines that it has made an
9 overpayment to a provider for services rendered to an insured,
10 the health insurer must make a claim for such overpayment. A
11 health insurer that makes a claim for overpayment to a
12 provider under this section shall give the provider a written
13 or electronic statement specifying the basis for the
14 retroactive denial or payment adjustment. The insurer must
15 identify the claim or claims, or overpayment claim portion
16 thereof, for which a claim for overpayment is submitted.

17 (a) If an overpayment determination is the result of
18 retroactive review or audit of coverage decisions or payment
19 levels not related to fraud, a health insurer shall adhere to
20 the following procedures:

21 1. All claims for overpayment must be submitted to a
22 provider within 30 months after the health insurer's payment
23 of the claim. A provider must pay, deny, or contest the health
24 insurer's claim for overpayment within 40 days after the
25 receipt of the claim. All contested claims for overpayment
26 must be paid or denied within 120 days after receipt of the
27 claim. Failure to pay or deny overpayment and claim within 140
28 days after receipt creates an uncontestable obligation to pay
29 the claim.

30 2. A provider that denies or contests a health
31 insurer's claim for overpayment or any portion of a claim

1 shall notify the health insurer, in writing, within 35 days
2 after the provider receives the claim that the claim for
3 overpayment is contested or denied. The notice that the claim
4 for overpayment is denied or contested must identify the
5 contested portion of the claim and the specific reason for
6 contesting or denying the claim and, if contested, must
7 include a request for additional information. If the health
8 insurer submits additional information, the health insurer
9 must, within 35 days after receipt of the request, mail or
10 electronically transfer the information to the provider. The
11 provider shall pay or deny the claim for overpayment within 45
12 days after receipt of the information. The notice is
13 considered made on the date the notice is mailed or
14 electronically transferred by the provider.

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

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

23 5. Payment of an overpayment claim is considered made
24 on the date the payment was mailed or electronically
25 transferred. An overdue payment of a claim bears simple
26 interest at the rate of 12 percent per year. Interest on an
27 overdue payment for a claim for an overpayment begins to
28 accrue when the claim should have been paid, denied, or
29 contested.

30 (b) A claim for overpayment shall not be permitted
31 beyond 30 months after the health insurer's payment of a

1 claim, except that claims for overpayment may be sought beyond
2 that time from providers convicted of fraud pursuant to s.
3 817.234.

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

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

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

31 (10) The provisions of this section may not be waived,

1 voided, or nullified by contract.

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

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

11 (13) Upon written notification by an insured, an
12 insurer shall investigate any claim of improper billing by a
13 physician, hospital, or other health care provider. The
14 insurer shall determine if the insured was properly billed for
15 only those procedures and services that the insured actually
16 received. If the insurer determines that the insured has been
17 improperly billed, the insurer shall notify the insured and
18 the provider of its findings and shall reduce the amount of
19 payment to the provider by the amount determined to be
20 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 (14) A permissible error ratio of 5 percent is
24 established for insurer's claims payment violations of s.
25 627.6131(4)(a), (b), (c), and (e) and (5)(a), (b), (c), and
26 (e). If the error ratio of a particular insurer does not
27 exceed the permissible error ratio of 5 percent for an audit
28 period, no fine shall be assessed for the noted claims
29 violations for the audit period. The error ratio shall be
30 determined by dividing the number of claims with violations
31 found on a statistically valid sample of claims for the audit

1 period by the total number of claims in the sample. If the
2 error ratio exceeds the permissible error ratio of 5 percent,
3 a fine may be assessed according to s. 624.4211 for those
4 claims payment violations which exceed the error ratio.
5 Notwithstanding the provisions of this section, the department
6 may fine a health insurer for claims payment violations of s.
7 627.6131(4)(e) and (5)(e) which create an uncontestable
8 obligation to pay the claim. The department shall not fine
9 insurers for violations which the department determines were
10 due to circumstances beyond the insurer's control.

11 (15) This section is applicable only to a major
12 medical expense health insurance policy as defined in s.
13 627.643(2)(e) offered by a group or an individual health
14 insurer licensed pursuant to chapter 624, including a
15 preferred provider policy under s. 627.6471 and an exclusive
16 provider organization under s. 627.6472 or a group or
17 individual insurance contract that only provides direct
18 payments to dentists for enumerated dental services.

19 (16) Notwithstanding s. 627.6131(4)(b), where an
20 electronic pharmacy claim is submitted to a pharmacy benefits
21 manager acting on behalf of a health insurer the pharmacy
22 benefits manager shall, within 30 days of receipt of the
23 claim, pay the claim or notify a provider or designee if a
24 claim is denied or contested. Notice of the insurer's action
25 on the claim and payment of the claim is considered to be made
26 on the date the notice or payment was mailed or electronically
27 transferred.

28 (17) Notwithstanding s. 627.6131(5)(a), effective
29 November 1, 2003, where a nonelectronic pharmacy claim is
30 submitted to a pharmacy benefits manager acting on behalf of a
31 health insurer the pharmacy benefits manager shall provide

1 acknowledgment of receipt of the claim within 30 days after
2 receipt of the claim to the provider or provide a provider
3 within 30 days after receipt with electronic access to the
4 status of a submitted claim.

5 Section 114. Section 627.6135, Florida Statutes, is
6 created to read:

7 627.6135 Treatment authorization; payment of claims.--

8 (1) For purposes of this section, "authorization"
9 consists of any requirement of a provider to obtain prior
10 approval or to provide documentation relating to the necessity
11 of a covered medical treatment or service as a condition for
12 reimbursement for the treatment or service prior to the
13 treatment or service. Each authorization request from a
14 provider must be assigned an identification number by the
15 health insurer.

16 (2) Upon receipt of a request from a provider for
17 authorization, the health insurer shall make a determination
18 within a reasonable time appropriate to medical circumstance
19 indicating whether the treatment or services are authorized.
20 For urgent care requests for which the standard timeframe for
21 the health insurer to make a determination would seriously
22 jeopardize the life or health of an insured or would
23 jeopardize the insured's ability to regain maximum function, a
24 health insurer must notify the provider as to its
25 determination as soon as possible taking into account medical
26 exigencies.

27 (3) Each response to an authorization request must be
28 assigned an identification number. Each authorization provided
29 by a health insurer must include the date of request of
30 authorization, a timeframe of the authorization, length of
31 stay if applicable, identification number of the

1 authorization, place of service, and type of service.

2 (4) A claim for treatment may not be denied if a
3 provider follows the health insurer's authorization procedures
4 and receives authorization for a covered service for an
5 eligible insured unless the provider provided information to
6 the health insurer with the intention to misinform the health
7 insurer.

8 (5) A health insurer's requirements for authorization
9 for medical treatment or services and 30-day advance notice of
10 material change in such requirements must be provided to all
11 contracted providers and upon request to all noncontracted
12 providers. A health insurer that makes such requirements and
13 advance notices accessible to providers and insureds
14 electronically shall be deemed to be in compliance with this
15 subsection.

16 Section 115. Paragraph (a) of subsection (2) of
17 section 627.6425, Florida Statutes, is amended to read:

18 627.6425 Renewability of individual coverage.--

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

22 (a) The individual has failed to pay premiums, or
23 contributions, or a required copayment payable to the insurer
24 in accordance with the terms of the health insurance coverage
25 or the insurer has not received timely premium payments. When
26 the copayment is payable to the insurer and exceeds \$300 the
27 insurer shall allow the insured up to ninety days from the
28 date of the procedure to pay the required copayment. The
29 insurer shall print in 10 point type on the Declaration of
30 Benefits page notification that the insured could be
31 terminated for failure to make any required copayment to the

1 insurer.

2 Section 116. Subsection (4) of section 627.651,
3 Florida Statutes, is amended to read:

4 627.651 Group contracts and plans of self-insurance
5 must meet group requirements.--

6 (4) This section does not apply to any plan which is
7 established or maintained by an individual employer in
8 accordance with the Employee Retirement Income Security Act of
9 1974, Pub. L. No. 93-406, or to a multiple-employer welfare
10 arrangement as defined in s. 624.437(1), except that a
11 multiple-employer welfare arrangement shall comply with ss.
12 627.419, 627.657, 627.6575, 627.6578, 627.6579, 627.6612,
13 627.66121, 627.66122, 627.6615, 627.6616, and 627.662(8)~~(6)~~.
14 This subsection does not allow an authorized insurer to issue
15 a group health insurance policy or certificate which does not
16 comply with this part.

17 Section 117. Section 627.662, Florida Statutes, is
18 amended to read:

19 627.662 Other provisions applicable.--The following
20 provisions apply to group health insurance, blanket health
21 insurance, and franchise health insurance:

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

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

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

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

29 (5) Section 627.640, relating to filing and
30 classification of rates.

31 (6) Section 627.613, relating to timely payment of

1 claims, or s. 627.6131, relating to payment of claims.

2 (7) Section 627.6135, relating to treatment
3 authorizations and payment of claims.

4 (8)(6) Section 627.645(1), relating to denial of
5 claims.

6 (9)(7) Section 627.613, relating to time of payment of
7 claims.

8 (10)(8) Section 627.6471, relating to preferred
9 provider organizations.

10 (11)(9) Section 627.6472, relating to exclusive
11 provider organizations.

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

14 (13)(11) Section 627.6474, relating to provider
15 contracts.

16 Section 118. Subsection (2) of section 627.638,
17 Florida Statutes, is amended to read:

18 627.638 Direct payment for hospital, medical
19 services.--

20 (2) Whenever, in any health insurance claim form, an
21 insured specifically authorizes payment of benefits directly
22 to any recognized hospital or physician, the insurer shall
23 make such payment to the designated provider of such services,
24 unless otherwise provided in the insurance contract. However,
25 if:

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

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

30 (c) The insured authorizes the insurer, in writing, as
31 part of the claim to make direct payment of benefits to a

1 recognized hospital, physician, or other licensed provider,
2
3 payments shall be made directly to the recognized hospital,
4 physician, or other licensed provider, notwithstanding any
5 contrary provisions in the insurance contract.

6 Section 119. Paragraph (e) of subsection (1) of
7 section 641.185, Florida Statutes, is amended to read:

8 641.185 Health maintenance organization subscriber
9 protections.--

10 (1) With respect to the provisions of this part and
11 part III, the principles expressed in the following statements
12 shall serve as standards to be followed by the Department of
13 Insurance and the Agency for Health Care Administration in
14 exercising their powers and duties, in exercising
15 administrative discretion, in administrative interpretations
16 of the law, in enforcing its provisions, and in adopting
17 rules:

18 (e) A health maintenance organization subscriber
19 should receive timely, concise information regarding the
20 health maintenance organization's reimbursement to providers
21 and services pursuant to ss. 641.31 and 641.31015 and should
22 receive prompt payment from the organization pursuant to s.
23 641.3155.

24 Section 120. Subsection (4) is added to section
25 641.234, Florida Statutes, to read:

26 641.234 Administrative, provider, and management
27 contracts.--

28 (4)(a) If a health maintenance organization, through a
29 health care risk contract, transfers to any entity the
30 obligations to pay any provider for any claims arising from
31 services provided to or for the benefit of any subscriber of

1 the organization, the health maintenance organization shall
2 remain responsible for any violations of ss. 641.3155,
3 641.3156, and 641.51(4). The provisions of ss.
4 624.418-624.4211 and 641.52 shall apply to any such
5 violations.

6 (b) As used in this subsection:

7 1. The term "health care risk contract" means a
8 contract under which an entity receives compensation in
9 exchange for providing to the health maintenance organization
10 a provider network or other services, which may include
11 administrative services.

12 2. The term "entity" means a person licensed as an
13 administrator under s. 626.88 and does not include any
14 provider or group practice, as defined in s. 456.053,
15 providing services under the scope of the license of the
16 provider or the members of the group practice.

17 Section 121. Subsection (1) of section 641.30, Florida
18 Statutes, is amended to read:

19 641.30 Construction and relationship to other laws.--

20 (1) Every health maintenance organization shall accept
21 the ~~standard health~~ claim form prescribed pursuant to s.
22 641.3155 ~~627-647~~.

23 Section 122. Subsection (4) of section 641.3154,
24 Florida Statutes, is amended to read:

25 641.3154 Organization liability; provider billing
26 prohibited.--

27 (4) A provider or any representative of a provider,
28 regardless of whether the provider is under contract with the
29 health maintenance organization, may not collect or attempt to
30 collect money from, maintain any action at law against, or
31 report to a credit agency a subscriber of an organization for

1 payment of services for which the organization is liable, if
2 the provider in good faith knows or should know that the
3 organization is liable. This prohibition applies during the
4 pendency of any claim for payment made by the provider to the
5 organization for payment of the services and any legal
6 proceedings or dispute resolution process to determine whether
7 the organization is liable for the services if the provider is
8 informed that such proceedings are taking place. It is
9 presumed that a provider does not know and should not know
10 that an organization is liable unless:

11 (a) The provider is informed by the organization that
12 it accepts liability;

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

15 (c) The department or agency makes a final
16 determination that the organization is required to pay for
17 such services subsequent to a recommendation made by the
18 Statewide Provider and Subscriber Assistance Panel pursuant to
19 s. 408.7056; or

20 (d) The agency issues a final order that the
21 organization is required to pay for such services subsequent
22 to a recommendation made by a resolution organization pursuant
23 to s. 408.7057.

24 Section 123. Section 641.3155, Florida Statutes, is
25 amended to read:

26 (Substantial rewording of section. See

27 s. 641.3155, F.S., for present text.)

28 641.3155 Prompt payment of claims.--

29 (1) As used in this section, the term "claim" for a
30 noninstitutional provider means a paper or electronic billing
31 instrument submitted to the health maintenance organization's

1 designated location that consists of the HCFA 1500 data set,
2 or its successor, that has all mandatory entries for a
3 physician licensed under chapter 458, chapter 459, chapter
4 460, chapter 461, chapter 463, or chapter 490 or any
5 appropriate billing instrument that has all mandatory entries
6 for any other noninstitutional provider. For institutional
7 providers, "claim" means a paper or electronic billing
8 instrument submitted to the health maintenance organization's
9 designated location that consists of the UB-92 data set or its
10 successor that has all mandatory entries.

11 (2) All claims for payment, whether electronic or
12 nonelectronic:

13 (a) Are considered received on the date the claim is
14 received by the organization at its designated claims receipt
15 location.

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

20 (c) Must not duplicate a claim previously submitted
21 unless it is determined that the original claim was not
22 received or is otherwise lost.

23 (3) For all electronically submitted claims, a health
24 maintenance organization shall:

25 (a) Within 24 hours after the beginning of the next
26 business day after receipt of the claim, provide electronic
27 acknowledgment of the receipt of the claim to the electronic
28 source submitting the claim.

29 (b) Within 20 days after receipt of the claim, pay the
30 claim or notify a provider or designee if a claim is denied or
31 contested. Notice of the organization's action on the claim

1 and payment of the claim is considered to be made on the date
2 the notice or payment was mailed or electronically
3 transferred.

4 (c)1. Notification of the health maintenance
5 organization's determination of a contested claim must be
6 accompanied by an itemized list of additional information or
7 documents the insurer can reasonably determine are necessary
8 to process the claim.

9 2. A provider must submit the additional information
10 or documentation, as specified on the itemized list, within 35
11 days after receipt of the notification. Failure of a provider
12 to submit by mail or electronically the additional information
13 or documentation requested within 35 days after receipt of the
14 notification may result in denial of the claim.

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

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

30 (e) A claim must be paid or denied within 90 days
31 after receipt of the claim. Failure to pay or deny a claim

1 within 120 days after receipt of the claim creates an
2 uncontestable obligation to pay the claim.

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

5 (a) Effective November 1, 2003, provide
6 acknowledgement of receipt of the claim within 15 days after
7 receipt of the claim to the provider or designee or provide a
8 provider or designee within 15 days after receipt with
9 electronic access to the status of a submitted claim.

10 (b) Within 40 days after receipt of the claim, pay the
11 claim or notify a provider or designee if a claim is denied or
12 contested. Notice of the health maintenance organization's
13 action on the claim and payment of the claim is considered to
14 be made on the date the notice or payment was mailed or
15 electronically transferred.

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

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

27 3. A health maintenance organization may not make more
28 than one request for documents under this paragraph in
29 connection with a claim unless the provider fails to submit
30 all of the requested documents to process the claim or if
31 documents submitted by the provider raise new additional

1 issues not included in the original written itemization, in
2 which case the health maintenance organization may provide the
3 provider with one additional opportunity to submit the
4 additional documents needed to process the claim. In no case
5 may the health maintenance organization request duplicate
6 documents.

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

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

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

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

30 1. All claims for overpayment must be submitted to a
31 provider within 30 months after the health maintenance

1 organization's payment of the claim. A provider must pay,
2 deny, or contest the health maintenance organization's claim
3 for overpayment within 40 days after the receipt of the claim.
4 All contested claims for overpayment must be paid or denied
5 within 120 days after receipt of the claim. Failure to pay or
6 deny overpayment and claim within 140 days after receipt
7 creates an uncontestable obligation to pay the claim.

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

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

29 4. The health maintenance organization may not reduce
30 payment to the provider for other services unless the provider
31 agrees to the reduction in writing or fails to respond to the

1 health maintenance organization's overpayment claim as
2 required by this paragraph.

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

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

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

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

29 (b) All claims to a health maintenance organization
30 begun after October 1, 2000, not under active review by a
31 mediator, arbitrator, or third-party dispute entity, shall

1 result in a final decision on the claim by the health
2 maintenance organization by January 2, 2003, for the purpose
3 of the statewide provider and managed care organization claim
4 dispute resolution program pursuant to s. 408.7057.

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

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

23 (10) A health maintenance organization may not
24 retroactively deny a claim because of subscriber ineligibility
25 more than 1 year after the date of payment of the claim.

26 (11) A health maintenance organization shall pay a
27 contracted primary care or admitting physician, pursuant to
28 such physician's contract, for providing inpatient services in
29 a contracted hospital to a subscriber if such services are
30 determined by the health maintenance organization to be
31 medically necessary and covered services under the health

1 maintenance organization's contract with the contract holder.
2 (12) Upon written notification by a subscriber, a
3 health maintenance organization shall investigate any claim of
4 improper billing by a physician, hospital, or other health
5 care provider. The organization shall determine if the
6 subscriber was properly billed for only those procedures and
7 services that the subscriber actually received. If the
8 organization determines that the subscriber has been
9 improperly billed, the organization shall notify the
10 subscriber and the provider of its findings and shall reduce
11 the amount of payment to the provider by the amount determined
12 to be improperly billed. If a reduction is made due to such
13 notification by the insured, the insurer shall pay to the
14 insured 20 percent of the amount of the reduction up to \$500.
15 (13) A permissible error ratio of 5 percent is
16 established for health maintenance organizations' claims
17 payment violations of s. 641.3155(3)(a), (b), (c), and (e) and
18 (4)(a), (b), (c), and (e). If the error ratio of a particular
19 insurer does not exceed the permissible error ratio of 5
20 percent for an audit period, no fine shall be assessed for the
21 noted claims violations for the audit period. The error ratio
22 shall be determined by dividing the number of claims with
23 violations found on a statistically valid sample of claims for
24 the audit period by the total number of claims in the sample.
25 If the error ratio exceeds the permissible error ratio of 5
26 percent, a fine may be assessed according to s. 624.4211 for
27 those claims payment violations which exceed the error ratio.
28 Notwithstanding the provisions of this section, the department
29 may fine a health maintenance organization for claims payment
30 violations of s. 641.3155(3)(e) and (4)(e) which create an
31 uncontestable obligation to pay the claim. The department

1 shall not fine organizations for violations which the
2 department determines were due to circumstances beyond the
3 organization's control.

4 (14) This section shall apply to all claims or any
5 portion of a claim submitted by a health maintenance
6 organization subscriber under a health maintenance
7 organization subscriber contract to the organization for
8 payment.

9 (15) Notwithstanding s. 641.3155(3)(b), where an
10 electronic pharmacy claim is submitted to a pharmacy benefits
11 manager acting on behalf of a health maintenance organization
12 the pharmacy benefits manager shall, within 30 days of receipt
13 of the claim, pay the claim or notify a provider or designee
14 if a claim is denied or contested. Notice of the
15 organization's action on the claim and payment of the claim is
16 considered to be made on the date the notice or payment was
17 mailed or electronically transferred.

18 (16) Notwithstanding s. 641.3155(4)(a), effective
19 November 1, 2003, where a nonelectronic pharmacy claim is
20 submitted to a pharmacy benefits manager acting on behalf of a
21 health maintenance organization the pharmacy benefits manager
22 shall provide acknowledgment of receipt of the claim within 30
23 days after receipt of the claim to the provider or provide a
24 provider within 30 days after receipt with electronic access
25 to the status of a submitted claim.

26 Section 124. Section 641.3156, Florida Statutes, is
27 amended to read:

28 641.3156 Treatment authorization; payment of claims.--

29 (1) For purposes of this section, "authorization"
30 consists of any requirement of a provider to obtain prior
31 approval or to provide documentation relating to the necessity

1 of a covered medical treatment or service as a condition for
2 reimbursement for the treatment or service prior to the
3 treatment or service. Each authorization request from a
4 provider must be assigned an identification number by the
5 health maintenance organization ~~A health maintenance~~
6 ~~organization must pay any hospital-service or referral-service~~
7 ~~claim for treatment for an eligible subscriber which was~~
8 ~~authorized by a provider empowered by contract with the health~~
9 ~~maintenance organization to authorize or direct the patient's~~
10 ~~utilization of health care services and which was also~~
11 ~~authorized in accordance with the health maintenance~~
12 ~~organization's current and communicated procedures, unless the~~
13 ~~provider provided information to the health maintenance~~
14 ~~organization with the willful intention to misinform the~~
15 ~~health maintenance organization.~~

16 (2) A claim for treatment may not be denied if a
17 provider follows the health maintenance organization's
18 authorization procedures and receives authorization for a
19 covered service for an eligible subscriber, unless the
20 provider provided information to the health maintenance
21 organization with the ~~willful~~ intention to misinform the
22 health maintenance organization.

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

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

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

9 (5) A health maintenance organization's requirements
10 for authorization for medical treatment or services and 30-day
11 advance notice of material change in such requirements must be
12 provided to all contracted providers and upon request to all
13 noncontracted providers. A health maintenance organization
14 that makes such requirements and advance notices accessible to
15 providers and subscribers electronically shall be deemed to be
16 in compliance with this paragraph.

17 (6)(3) Emergency services are subject to the
18 provisions of s. 641.513 and are not subject to the provisions
19 of this section.

20 Section 125. Except as otherwise provided herein, this
21 act shall take effect July 1, 2002, except that Section 111
22 through Section 124 shall take effect October 1, 2002.

23
24

25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27

28 and insert:

29 An act relating to healthcare;transferring to
30 the Department of Health the powers, duties,
31 functions, and assets that relate to the

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1 consumer complaint services, investigations,
2 and prosecutorial services performed by the
3 Agency for Health Care Administration under
4 contract with the department; transferring
5 full-time equivalent positions and the
6 practitioner regulation component from the
7 agency to the department; amending s. 20.43,
8 F.S.; deleting the provision authorizing the
9 department to enter into such contract with the
10 agency, to conform; updating a reference to
11 provide the name of a regulatory board under
12 the Division of Medical Quality Assurance;
13 requiring the Office of Legislative Services to
14 contract for an outsourcing feasibility study
15 relating to the regulatory responsibilities of
16 the Board of Dentistry; providing an
17 appropriation; requiring a report to the
18 Governor and Legislature; requiring the
19 Department of Health to contract for the
20 implementation of the electronic continuing
21 education tracking system and requiring said
22 system to be compatible and integrated with the
23 department's licensure and renewal system;
24 amending s. 456.057, F.S.; authorizing
25 specified persons to release certain medical
26 records to a custodian upon board order;
27 exempting such persons from liability for the
28 release of such records; amending s. 456.072,
29 F.S.; providing additional penalties to be
30 imposed on certain health care practitioners
31 relating to notice to patients concerning

1 availability and access to medical records;
2 amending s. 456.076, F.S.; providing additional
3 conditions for impaired practitioners to enroll
4 in a treatment program as an alternative to
5 discipline; amending s. 456.0375, F.S.;
6 revising the definition of "clinic" to exempt
7 public college and university clinics from
8 medical clinic registration, to restrict the
9 exemption for massage establishments, and to
10 clarify when a health care practitioner may
11 supervise another health care practitioner;
12 amending s. 456.072, F.S.; revising grounds for
13 disciplinary action relating to performing
14 health care services improperly and to leaving
15 foreign bodies in patients; amending s. 631.57,
16 F.S.; exempting medical malpractice insurance
17 premiums from an assessment; amending s.
18 395.002, F.S.; defining "medically unnecessary
19 procedure"; amending s. 394.4787, F.S.;
20 conforming a cross reference; amending s.
21 395.0161, F.S.; providing rulemaking authority
22 relating to inspections and investigations of
23 facilities; amending s. 395.0197, F.S.;
24 revising requirements for internal risk
25 management programs; amending s. 465.019, F.S.;
26 revising the definition of "class II
27 institutional pharmacies" to allow dispensing
28 and consulting services to hospice patients
29 under certain circumstances; amending s.
30 499.007, F.S.; deleting requirement for
31 labeling of name and place of business of the

1 manufacturer; providing legislative findings
2 relating to responsiveness to emergencies and
3 disasters; amending s. 381.0011, F.S.; revising
4 duties of the Department of Health; authorizing
5 the State Health Officer to take specified
6 emergency actions to protect the public health;
7 amending s. 381.00315, F.S.; defining the terms
8 "public health advisory" and "public health
9 emergency"; specifying the terms under which a
10 public health emergency is declared; providing
11 for consultation for, and notice and duration
12 of, a declaration of a public health emergency;
13 amending s. 381.0034, F.S.; providing a
14 requirement for instruction of certain health
15 care licensees on conditions caused by nuclear,
16 biological, and chemical terrorism, as a
17 condition of initial licensure, and, in lieu of
18 the requirement for instruction on HIV and
19 AIDS, as a condition of relicensure; amending
20 s. 381.0035, F.S.; providing a requirement for
21 instruction of employees at certain health care
22 facilities on conditions caused by nuclear,
23 biological, and chemical terrorism, upon
24 initial employment, and, in lieu of the
25 requirement of instruction on HIV and AIDS, as
26 biennial continuing education; providing an
27 exception; creating s. 381.0421, F.S.;
28 requiring postsecondary education institutions
29 to provide information on meningococcal
30 meningitis and hepatitis B; requiring
31 individuals residing in on-campus housing to

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1 document vaccinations against meningococcal
2 meningitis and hepatitis B or sign a waiver;
3 amending ss. 395.1027 and 401.245, F.S.;
4 correcting cross references; amending s.
5 401.23, F.S.; revising definitions of "advanced
6 life support" and "basic life support" and
7 defining "emergency medical condition";
8 amending s. 401.252, F.S.; authorizing
9 physician assistants to conduct interfacility
10 transfers in a permitted ambulance under
11 certain circumstances; amending s. 401.27,
12 F.S.; providing that the course on conditions
13 caused by nuclear, biological, and chemical
14 terrorism shall count toward the total required
15 hours for biennial recertification of emergency
16 medical technicians and paramedics; amending s.
17 456.033, F.S.; providing a requirement for
18 instruction of certain health care
19 practitioners on conditions caused by nuclear,
20 biological, and chemical terrorism, as a
21 condition of initial licensure, and, in lieu of
22 the requirement for instruction on HIV and
23 AIDS, as part of biennial relicensure; amending
24 s. 381.003, F.S.; requiring the Department of
25 Health to adopt certain standards applicable to
26 all public-sector employers; requiring the
27 compilation and maintenance of certain
28 information by the department for use by
29 employers; creating s. 456.0345, F.S.;
30 providing continuing education credits to
31 health care practitioners for certain life

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1 support training; amending s. 456.072, F.S.;
2 conforming provisions relating to grounds for
3 disciplinary actions to changes in health care
4 practitioners' course requirements; amending s.
5 456.38, F.S.; revising provisions relating to
6 the health care practitioner registry for
7 disasters and emergencies; prohibiting certain
8 termination of or discrimination against a
9 practitioner providing disaster medical
10 assistance; amending ss. 458.319 and 459.008,
11 F.S.; conforming provisions relating to
12 exceptions to continuing education requirements
13 for physicians and osteopathic physicians;
14 amending ss. 401.2715, 633.35, and 943.135,
15 F.S.; authorizing certain substitution of
16 terrorism response training for other training
17 required for recertification of emergency
18 medical technicians and paramedics,
19 certification of firefighters, and continued
20 employment or appointment of law enforcement
21 officers, correctional officers, and
22 correctional probation officers; authorizing
23 rulemaking; amending s. 765.512, F.S., relating
24 to anatomical gifts; prohibiting modification
25 of a donor's intent; providing that a donor
26 document is legally binding; authorizing
27 specified persons to furnish donors' medical
28 records upon request; amending s. 765.516,
29 F.S.; revising procedures by which the terms of
30 an anatomical gift may be amended or the gift
31 may be revoked; amending s. 456.073, F.S.;

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1 revising procedures and timeframes for formal
2 hearings of health care practitioner
3 disciplinary cases; requiring a joint audit of
4 hearings and their billing formulas and a
5 report to the Legislature; amending s. 456.076,
6 F.S.; requiring each impaired practitioner to
7 pay a portion of the cost of the consultant and
8 impaired practitioner program and the full cost
9 of the required treatment program or plan;
10 providing certain exceptions; repealing s.
11 456.047, F.S., to terminate the standardized
12 credentialing program for health care
13 practitioners; prohibiting the refund of moneys
14 collected through the credentialing program;
15 amending ss. 456.039, 456.0391, 456.072, and
16 456.077, F.S.; removing references, to conform;
17 amending s. 458.309, F.S.; requiring
18 accreditation of physician offices in which
19 surgery is performed; amending s. 459.005,
20 F.S.; requiring accreditation of osteopathic
21 physician offices in which surgery is
22 performed; amending s. 456.004, F.S., relating
23 to powers and duties of the department;
24 requiring performance measures for certain
25 entities; providing procedures for considering
26 board requests to privatize regulatory
27 functions; amending s. 456.009, F.S.; requiring
28 performance measures for certain legal and
29 investigative services and annual review of
30 such services to determine whether such
31 performance measures are being met; amending s.

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1 456.011, F.S.; requiring regulatory board
2 committee meetings, including probable cause
3 panels, to be held electronically unless
4 certain conditions are met; providing for
5 determination of location of in-person
6 meetings; amending s. 456.026, F.S.; requiring
7 inclusion of performance measures for certain
8 entities in the department's annual report to
9 the Legislature; creating s. 458.3093, F.S.;
10 requiring submission of credentials for initial
11 physician licensure to a national licensure
12 verification service; requiring verification of
13 such credentials by that service or an
14 equivalent program; creating s. 459.0053, F.S.;
15 requiring submission of credentials for initial
16 osteopathic physician licensure to a national
17 licensure verification service; requiring
18 verification of such credentials by that
19 service, a specified association, or an
20 equivalent program; amending ss. 458.331,
21 459.015, and 627.912, F.S.; raising the
22 malpractice closed claims reporting requirement
23 amount; amending s. 456.073, F.S.; requiring
24 health care practitioner licensees to pay
25 certain costs of investigation and prosecution
26 under certain circumstances; requiring cases in
27 which no probable cause has been found to be
28 closed within a specified period of time;
29 requiring a study of the field office structure
30 and organization of the Agency for Health Care
31 Administration and a report to the Legislature;

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1 amending s. 456.025, F.S.; eliminating certain
2 restrictions on the setting of licensure
3 renewal fees for health care practitioners;
4 creating s. 456.0165, F.S.; restricting the
5 costs that may be charged by educational
6 institutions hosting health care practitioner
7 licensure examinations; requiring health care
8 practitioner licensure and licensure renewal
9 fees to be set at graduated levels of the
10 statutory fee cap or actual regulatory costs,
11 whichever is less; amending s. 468.302, F.S.;

12 authorizing certified nuclear medicine
13 technologists to administer X radiation from
14 certain devices under certain circumstances;
15 exempting certain persons from radiologic
16 technologist certification and providing
17 certain training requirements for such
18 exemption; amending s. 468.352, F.S.; revising
19 and providing definitions applicable to the
20 regulation of respiratory therapy; amending s.
21 468.355, F.S.; revising provisions relating to
22 respiratory therapy licensure and testing
23 requirements; amending s. 468.368, F.S.;

24 revising exemptions from respiratory therapy
25 licensure requirements; repealing s. 468.356,
26 F.S., relating to the approval of educational
27 programs; repealing s. 468.357, F.S., relating
28 to licensure by examination; amending s.
29 468.80, F.S.; expanding a definition; requiring
30 applications for health care practitioner
31 licensure and licensure renewal to be submitted

1 electronically beginning July 1, 2003, with
2 certain exceptions; providing for transition to
3 such electronic licensure; annually adjusting
4 by 2.5 percent the statutory fee caps
5 applicable to regulation of health care
6 practitioners; renumbering ss. 381.0602,
7 381.6021, 381.6022, 381.6023, 381.6024, and
8 381.6026, F.S., and renumbering and amending
9 ss. 381.60225 and 381.6025, F.S., to move
10 provisions relating to organ and tissue
11 procurement, donation, and transplantation to
12 part V, ch. 765, F.S., relating to anatomical
13 gifts; revising cross references, to conform;
14 amending ss. 395.2050, 409.815, 765.5216, and
15 765.522, F.S.; revising cross references, to
16 conform; providing a short title and providing
17 coverage for certain organ transplant services;
18 amending s. 409.915, F.S.; exempting counties
19 from contributions for such services; amending
20 s. 456.074, F.S.; providing for an emergency
21 order suspending the license of any health care
22 practitioner who has defaulted on a student
23 loan issued or guaranteed by the state or the
24 Federal Government; amending s. 456.072, F.S.,
25 and reenacting subsection (2), relating to
26 disciplinary actions; clarifying the ground for
27 disciplinary action for failing to perform a
28 statutory or legal obligation to include
29 failing to repay a student loan issued or
30 guaranteed by the state or the Federal
31 Government in accordance with the terms of the

1 loan and for failing to comply with service
2 scholarship obligations; providing penalties;
3 directing the Department of Health to obtain
4 certain information from the United States
5 Department of Health and Human Services on a
6 monthly basis and to include certain
7 information in its annual report to the
8 Legislature; reenacting ss. 456.026 and
9 456.073, F.S., relating to the annual report
10 and disciplinary proceedings, respectively, to
11 conform; providing applicability; amending s.
12 400.925, F.S.; eliminating the regulation of
13 certain home medical equipment by the Agency
14 for Health Care Administration; amending s.
15 765.104, F.S.; authorizing a patient whose
16 legal disability is removed to amend or revoke
17 the recognition of a medical proxy and any
18 uncompleted decision made by that proxy;
19 specifying when the amendment or revocation
20 takes effect; amending s. 765.401, F.S.;
21 providing for health care decisions for persons
22 having a developmental disability; amending s.
23 457.1085, F.S.; removing obsolete dates
24 relating to adoption of rules relating to
25 infection control; amending s. 457.109, F.S.;
26 prohibiting the use of certain titles relating
27 to the practice of acupuncture unless properly
28 licensed and certified; providing penalties;
29 amending s. 457.116, F.S.; increasing the
30 penalties applicable to prohibited acts
31 relating to the practice of acupuncture;

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1 amending s. 395.002, F.S., to provide a
2 definition of "surgical first assistant;"
3 amending s. 395.0197, F.S., to allow an
4 operating surgeon to choose the surgical first
5 assistant under certain conditions; amending s.
6 768.13, F.S.; providing immunity from civil
7 damages under the Good Samaritan Act for
8 actions taken in response to situations during
9 a declared public health emergency; revising
10 the circumstances under which immunity from
11 civil damages is extended to actions taken by
12 persons licensed to practice medicine; amending
13 s. 381.0066, F.S.; authorizing the continuation
14 of permit fees for system construction permits
15 for onsite sewage treatment and disposal
16 systems; creating part IV of chapter 489, F.S.,
17 relating to portable restroom contracting;
18 providing definitions; requiring registration
19 and providing requirements therefor, including
20 an examination; providing for administration;
21 providing rulemaking authority; providing for
22 renewal of registration, including continuing
23 education; providing for certification of
24 partnerships and corporations; providing
25 grounds for suspension or revocation of
26 registration; providing fees; providing
27 penalties and prohibitions; amending s.
28 491.0057, F.S.; revising requirements relating
29 to dual licensure as a marriage and family
30 therapist; amending s. 627.638, F.S., to
31 require direct payment of benefits for hospital

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1 or medical services under certain
2 circumstances; amending s. 766.101, F.S.;
3 expanding the definition of the term "medical
4 review committee" for purposes of immunity from
5 liability; amending s. 627.357, F.S., relating
6 to medical malpractice insurance; providing
7 requirements to apply to form a self-insurance
8 fund; amending s. 631.54, F.S.; amending
9 definition of member insurer; requiring the
10 Agency for Health Care Administration to
11 conduct a study of health care services
12 provided to medically fragile or
13 medical-technology-dependent children;
14 requiring the Agency for Health Care
15 Administration to conduct a pilot program for a
16 subacute pediatric transitional care center;
17 requiring background screening of center
18 personnel; requiring the agency to amend the
19 Medicaid state plan and seek federal waivers as
20 necessary; requiring the center to have an
21 advisory board; providing for membership on the
22 advisory board; providing requirements for the
23 admission, transfer, and discharge of a child
24 to the center; requiring the agency to submit
25 certain reports to the Legislature; amending s.
26 393.064, F.S.; changing contract authority
27 between the Department of Children and Families
28 and the Department of Health; amending s.
29 408.7057, F.S.; redesignating a program title;
30 revising definitions; including preferred
31 provider organizations and health insurers in

1 the claim dispute resolution program;
2 specifying timeframes for submission of
3 supporting documentation necessary for dispute
4 resolution; providing consequences for failure
5 to comply; providing additional
6 responsibilities for the agency relating to
7 patterns of claim disputes; providing
8 timeframes for review by the resolution
9 organization; directing the agency to notify
10 appropriate licensure and certification
11 entities as part of violation of final orders;
12 amending s. 626.88, F.S.; redefining the term
13 "administrator," with respect to regulation of
14 insurance administrators; creating s. 627.6131,
15 F.S.; 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

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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; providing effective dates.
10 WHEREAS, residents and visitors to Florida need access
11 to quality and affordable health care, and
12 WHEREAS, the delivery of and payment for health care
13 services provided to patients by health care practitioners in
14 health care facilities is integrated in such a manner that a
15 change to one facet of health care almost always impacts
16 another facet, and
17 WHEREAS, three state agencies play a role in overseeing
18 health care providers, health care services, and health care
19 payors in Florida, and
20 WHEREAS, it is the role of the Department of Health to
21 protect and improve the health of Florida's patients by
22 regulating most health care practitioners and some health care
23 facilities and establishments, by preventing the occurrence
24 and progression of communicable diseases, and by regulating
25 certain environmental health issues, among other duties, and
26 WHEREAS, it is the role of the Agency for Health Care
27 Administration to ensure access to quality, affordable health
28 care by regulating most health care facilities, some health
29 care providers, and certain health care payors such as managed
30 care plans, and
31 WHEREAS, it is the role of the Department of Insurance

1 to regulate certain health insurers who pay for health care
2 for Floridians, and

3 WHEREAS, the regulation of health care practitioners
4 relies on peer review by fellow health care practitioners and
5 requires the costs of such regulation to be paid solely by
6 practitioners through fines and licensure fees, and

7 WHEREAS, the current level of practitioner fees are not
8 sufficient to cover the full costs of regulation, and

9 WHEREAS, Florida law requires health care practitioners
10 to be assessed a special fee if regular licensure fees are not
11 sufficient to pay the full costs of regulation, and

12 WHEREAS, the Medical Quality Assurance Trust Fund which
13 holds all licensure fees and fines paid by health care
14 practitioners is projected to be in a deficit in 2003, and

15 WHEREAS, certain health care profession accounts within
16 the Medical Quality Assurance Trust Fund are already in a
17 deficit, and

18 WHEREAS, it is vital that the Legislature ensure the
19 financial integrity and soundness of all trust funds, and

20 WHEREAS, the Legislature should encourage innovative
21 methods of providing quality services at reduced costs, and

22 WHEREAS, certain functions provided by state agencies
23 could be performed at a lower cost or with more efficiency in
24 the private sector in certain circumstances while still being
25 accountable to the Legislature, and

26 WHEREAS, the Legislature finds that oversight of the
27 health care delivery and payment system in Florida is an
28 important state interest, NOW, THEREFORE,

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