

Amendment No.      (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Farkas and Fasano offered the following:

13 **Amendment to Amendment (645115) (with title**  
14 **amendment)**

14 On page 38, between lines 27 & 28,

16 insert:

17 Section 1. (1) Effective July 1, 2002, all  
18 powers,

18 duties, functions, records, personnel, property,  
19 and

19 unexpended balances of appropriations, allocations,  
20 and other

20 funds of the Agency for Health Care Administration  
21 that relate

21 to consumer complaint services, investigations,  
22 and

22 prosecutorial services currently provided by the  
23 Agency for

23 Health Care Administration under a contract with  
24 the

24 Department of Health are transferred to the  
25 Department of

25 Health by a type two transfer, as defined in s.  
26 20.06(2),

26 Florida Statutes. This transfer of funds shall include  
27 all

27 advance payments made from the Medical Quality  
28 Assurance Trust

28 Fund to the Agency for Health Care  
Administration.

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

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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:

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- 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  
19 463.
- 20           8. The Board of Nursing, created under part I of  
21 chapter 464.
- 22           9. Nursing assistants, as provided under part II of  
23 chapter 464.
- 24           10. The Board of Pharmacy, created under chapter  
25 465.
- 26           11. The Board of Dentistry, created under chapter  
27 466.
- 28           12. Midwifery, as provided under chapter 467.
- 29           13. The Board of Speech-Language Pathology and  
30 Audiology, created under part I of chapter 468.
- 31           14. The Board of Nursing Home Administrators,  
created  
under part II of chapter 468.
15. The Board of Occupational Therapy, created  
under  
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

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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

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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  
5 physical control of the medical records may release them to  
6 the custodian upon presentment of an order signed by the  
7 board giving the custodian access to the records. A person  
8 or entity is not liable in tort or contract for providing  
9 the 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  
15 imposed through final order or citation entered on or after July  
16 1, 2002, pursuant to this section or for a violation of  
17 any practice act, the board, or the department when there is  
18 no board, shall require, in appropriate cases, any licensee  
19 who is a records owner, as defined in s. 456.057, to notify  
20 his or her patients of the requirements imposed by s.  
21 456.057(11).

22 Section 7. Paragraph (a) of subsection (3) of section  
23 456.076, Florida Statutes, is amended to read:

24 456.076 Treatment programs for impaired  
25 practitioners.--

26 (3)(a) Whenever the department receives a written or  
27 oral legally sufficient complaint alleging that a licensee  
28 under the jurisdiction of the Division of Medical Quality  
29 Assurance within the department is impaired as a result of the  
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

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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  
11 and  
12 university clinics.

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

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



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

4 Section 9. Paragraphs (aa) and (bb) of subsection (1)  
5 of section 456.072, Florida Statutes, are amended to read:

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

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

10 may be taken:

11 (aa) Performing ~~or attempting to perform~~  
12 health care services on the wrong patient, a wrong-site procedure, a  
13 wrong procedure, or an unauthorized procedure or a procedure  
14 that is

15 medically unnecessary or otherwise unrelated to the  
16 patient's diagnosis or medical condition. For the purposes of this  
17 paragraph, performing ~~or attempting to perform~~  
18 health care services includes the preparation of the patient.

19 (bb) Leaving a foreign body in a patient, such as a  
20 sponge, clamp, forceps, surgical needle, or other  
21 paraphernalia commonly used in surgical, examination, or  
22 other diagnostic procedures, unless leaving the foreign  
23 body is

24 medically indicated and documented in the patient  
25 record. For

26 the purposes of this paragraph, it shall be legally presumed  
27 that retention of a foreign body is not in the best interest  
28 of the patient and is not within the standard of care of the  
29 profession, unless medically indicated and  
30 documented in the

31 patient record regardless of the intent of the  
32 professional.

33 Section 10. Subsection (7) is added to section  
34 631.57,

35 Florida Statutes, to read:

36 631.57 Powers and duties of the association.--

30  
the

(7) Notwithstanding any other provision of law,

31 net direct written premiums of medical malpractice  
insurance

10

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

6 Section 11. Subsections (22) through (33) of section  
7 395.002, Florida Statutes, are renumbered as subsections  
8 (23)  
9 through (34), respectively, and a new subsection (22) is  
10 added  
11 to said section to read:

12 395.002 Definitions.--As used in this chapter:

13 (22) "Medically unnecessary procedure" means

14 a  
15 surgical or other invasive procedure that a  
16 reasonable

17 physician, in light of the patient's history and  
18 available

19 diagnostic information, would not deem to be  
20 indicated in

21 order to treat, cure, or palliate the patient's condition  
22 or  
23 disease.

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

26 394.4787 Definitions; ss. 394.4786, 394.4787,  
27 394.4788, and 394.4789.--As used in this section and ss.  
28 394.4786, 394.4788, and 394.4789:

29 (7) "Specialty psychiatric hospital" means a hospital  
30 licensed by the agency pursuant to s.  
31 ~~395.002(30)(29)~~ as a

32 specialty psychiatric hospital.

33 Section 13. Subsection (5) is added to section  
34 395.0161, Florida Statutes, to read:

35 395.0161 Licensure inspection.--

36 (5)(a) The agency shall adopt rules governing  
37 the

38 conduct of inspections or investigations it initiates  
39 in

40 response to:

41 1. Reports filed pursuant to s. 395.0197.

42 2. Complaints alleging violations of state or

federal

31 emergency access laws.

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

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

16 hire a risk manager, licensed under s. 395.10974,  
17 who is

18 responsible for implementation and oversight of such  
19 facility's internal risk management program as required by  
20 this section. ~~A risk manager must not be made~~  
21 responsible for

22 ~~more than four internal risk management programs in~~  
23 ~~separate licensed facilities, unless the facilities are under~~  
24 ~~one~~

25 ~~corporate ownership or the risk management~~  
26 ~~programs are in~~

27 ~~rural hospitals.~~

28 (14) The agency shall have access, as set forth  
in

rules adopted pursuant to s. 395.0161(5), to all  
licensed

facility records necessary to carry out the provisions of  
this

subsection. The records obtained by the agency under  
subsection

(6), subsection (8), or subsection (10) are not available to  
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.

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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:

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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  
7 hospice  
8 licensed under part VI of chapter 400 which is located  
9 or  
10 providing services on the premises of that  
11 institution, for  
12 use on the premises of that institution. However, an  
13 institutional pharmacy located in an area or county  
14 included  
15 in an emergency order or proclamation of a state of  
16 emergency  
17 declared by the Governor may provide dispensing and  
18 consulting  
19 services to individuals who are not patients of the  
20 institution. However, a single dose of a medicinal drug  
21 may be  
22 obtained and administered to a patient on a valid  
23 physician's  
24 drug order under the supervision of a physician or charge  
25 nurse, consistent with good institutional practice  
26 procedures.  
27 The obtaining and administering of such single dose of a  
28 medicinal drug shall be pursuant to drug-handling  
29 procedures  
30 established by a consultant pharmacist. Medicinal drugs  
31 may  
32 be dispensed in a Class II institutional pharmacy, but only  
33 in  
34 accordance with the provisions of this section.

23           Section 16. Paragraph (a) of subsection (2) of  
24 section  
25 499.007, Florida Statutes, is amended to read:

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

29           (2) Unless, if in package form, it bears a label  
30 containing:

31           (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~~

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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,

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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

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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

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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

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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.

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1 compelling 3. Notwithstanding any law to the contrary,  
2 an individual to be examined, tested, vaccinated,  
3 treated, or  
4 quarantined for communicable diseases that have  
5 significant  
6 morbidity or mortality and present a severe danger to  
7 public  
8 health. Prior to taking action under this subparagraph,  
9 the  
10 State Health Officer shall, to the extent possible,  
11 consult  
12 with the Governor.  
13 a. Examination, testing, vaccination, or treatment  
14 may  
15 be performed by any qualified person authorized by the  
16 State  
17 Health Officer. Individuals who are unable or  
18 unwilling to be  
19 examined, tested, vaccinated, or treated for reasons  
20 of  
21 health, religion, or conscience may be subjected  
22 to  
23 quarantine.  
24 b. If the individual poses a danger to public  
25 health,  
26 the State Health Officer may subject the individual  
27 to  
28 quarantine. If there is no practicable method to  
29 quarantine  
30 the individual, the State Health Officer may use any  
31 means  
32 necessary to vaccinate or treat the individual.  
33 c. Any order of the State Health Officer given  
34 to  
35 effectuate this subparagraph shall be immediately  
36 enforceable  
37 by law enforcement.  
38  
39 Individuals who assist the State Health Officer at his  
40 or her  
41 request on a volunteer basis during a public health  
42 emergency  
43 declared pursuant to s. 381.00315 shall be entitled to  
44 the  
45 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

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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.

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1           Section 20. Section 381.0034, Florida Statutes, is  
2 amended to read:  
3           381.0034 Requirement for instruction on  
4 conditions  
5 caused by nuclear, biological, and chemical terrorism  
6 and on  
7 human immunodeficiency virus and acquired immune  
8 deficiency  
9 syndrome.--  
10           (1) ~~As of July 1, 1991,~~The Department of  
11 Health shall  
12 require each person licensed or certified under chapter 401,  
13 chapter 467, part IV of chapter 468, or chapter 483, as a  
14 condition of biennial relicensure, to complete an  
15 educational  
16 course approved by the department on conditions  
17 caused by  
18 nuclear, biological, and chemical terrorism. The  
19 course shall  
20 consist of education on diagnosis and treatment,  
21 the modes of  
22 transmission, infection control procedures, and  
23 clinical  
24 management. Such course shall also include  
25 information on  
26 reporting suspected cases of conditions caused by  
nuclear,  
biological, or chemical terrorism to the appropriate  
health  
and law enforcement authorities, and  
prevention of human  
immunodeficiency virus and acquired immune  
deficiency  
syndrome. Such course shall include information on  
current  
Florida law on acquired immune deficiency syndrome  
and its  
impact on testing, confidentiality of test results,  
and  
treatment of patients. Each such licensee or  
certificateholder  
shall submit confirmation of having completed said course,  
on  
a form provided by the department, when submitting fees  
or  
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

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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

23

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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

24

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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

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HOUSE AMENDMENT

Bill No. CS for CS for SB 362, 2nd Eng.

Amendment No. \_\_\_\_ (for drafter's use only)

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,

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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

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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  
6 water 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  
12 the requirements of s. 401.281.

13 (7) "Basic life support" means the use of skills  
14 and techniques described in the most recent United  
15 States

16 Department of Transportation National Standard  
17 EMT-Basic

18 Curriculum by an emergency medical technician or  
19 paramedic  
20 under the supervision of a licensee's medical director  
21 as

22 required by rules of the department. The term "basic  
23 life

24 support" also includes other techniques that have  
25 been

26 approved and are performed under conditions  
27 specified by rules

28 of the department. The term "basic life support" also  
29 includes

30 provision of care by a paramedic or emergency  
31 medical

32 technician under the supervision of a licensee's  
33 medical

34 director to a person experiencing an emergency  
35 medical

36 condition as defined in subsection (11)  
37 treatment of medical

38 emergencies by a qualified person through the use  
39 of

40 techniques such as patient assessment,  
41 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~~

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1 ~~suffering an anaphylactic reaction, and other~~  
2 ~~techniques~~

3 ~~described in the Emergency Medical Technician Basic~~  
4 ~~Training~~

5 ~~Course Curriculum of the United States Department~~  
6 ~~of~~

7 ~~Transportation. The term "basic life support" also~~  
8 ~~includes~~

9 ~~other techniques which have been approved and are~~  
10 ~~performed~~

11 ~~under conditions specified by rules of the~~  
12 ~~department.~~

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

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

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

20 (11) "Emergency medical condition"  
21 means:

22 (a) A medical condition manifesting itself by  
23 acute

24 symptoms of sufficient severity, which may include  
25 severe

26 pain, psychiatric disturbances, symptoms of substance  
27 abuse,

28 or other acute symptoms, such that the absence of  
29 immediate

30 medical attention could reasonably be expected to  
31 result in

32 any of the following:

33 1. Serious jeopardy to the health of a  
34 patient,

35 including a pregnant woman or fetus.

36 2. Serious impairment to bodily functions.

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

39 (b) With respect to a pregnant woman, that  
40 there is

41 evidence of the onset and persistence of uterine  
42 contractions

43 or rupture of the membranes.

44 (c) With respect to a person exhibiting  
45 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

29

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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

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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

31

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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:

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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

33

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

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

24 (3) The board shall have the authority to approve  
25 additional equivalent courses that may be used to satisfy  
26 the  
27 requirements in subsection (1). Each licensing board that  
28 requires a licensee to complete an educational course  
29 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

34

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1 | proof of having taken one board-approved course on  
2 | conditions

3 | caused by nuclear, biological, and chemical  
4 | terrorism human

5 | immunodeficiency virus and acquired immune  
6 | deficiency

7 | syndrome, for purposes of relicensure or  
8 | recertification for

9 | additional licenses.

10 | (5) Failure to comply with the above  
11 | requirements of

12 | this section shall constitute grounds for  
13 | disciplinary action

14 | under each respective licensing chapter and s.  
15 | 456.072(1)(e).

16 | In addition to discipline by the board, the licensee shall be  
17 | required to complete the required course or  
18 | courses.

19 | (6) The board shall require as a condition of granting  
20 | a license under the chapters and parts specified in  
21 | subsection

22 | (1) that an applicant making initial application for  
23 | licensure

24 | complete respective an educational  
25 | courses course acceptable

26 | to the board on conditions caused by nuclear,  
27 | biological, and

28 | chemical terrorism and on human  
29 | immunodeficiency virus and

30 | acquired immune deficiency syndrome. An applicant who  
31 | has not

32 | taken such courses a course at the time  
33 | of licensure shall,

34 | upon an affidavit showing good cause, be allowed 6  
35 | months to

36 | complete this requirement.

37 | (7) The board shall have the authority to adopt rules  
38 | to carry out the provisions of this section.

39 | (8) The board shall report to the Legislature by  
40 | March

41 | 1 of each year as to the implementation and compliance  
42 | with

43 | the requirements of this section.

44 | (9)(a) In lieu of completing a course as required in  
45 | 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.

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

9           Section 29. Subsection (3) is added to section  
10 381.003, Florida Statutes, to read:  
11           381.003 Communicable disease and AIDS prevention  
12 and  
13 control.--

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

42           Section 30. Section 456.0345, Florida Statutes, is  
43 created to read:  
44           456.0345 Life support training.--Health  
45 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

36

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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 be taken:  
8

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

15 Section 32. Section 456.38, Florida Statutes, is  
16 amended to read:

17 456.38 Practitioner registry for disasters and  
18 emergencies.--The Department of Health shall  
19 include on  
20 its application and renewal forms for the  
21 licensure or

22 certification of health care practitioners licensed  
23 pursuant

24 to chapter 458, chapter 459, chapter 464, or part V  
25 of chapter

26 468, as defined in s. 456.001, who  
27 could assist the department

28 in the event of a disaster a question asking if the  
29 practitioner would be available to provide health care  
30 services in special needs shelters or to help staff disaster  
31 medical assistance teams during times of emergency or  
32 major  
33 disaster. The names of practitioners who answer  
34 affirmatively

35 shall be maintained by the department as a health care  
36 practitioner registry for disasters and emergencies. A  
37 health  
38 care practitioner who volunteers his or her services in  
39 a  
40 special needs shelter or as part of a disaster  
41 medical



30 assistance team during a time of emergency or  
disaster shall

31 not be terminated or discriminated against by his or  
her

37

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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  
21 on  
22 end-of-life and palliative care in lieu of continuing  
23 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

38

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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  
30 may consist

31 of training to respond to terrorism as defined in s.  
775.30.

31 No officer shall be denied a reasonable opportunity by the

39

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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

40

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1 anatomical gift from being made.  
2 (2) If the decedent has executed an agreement  
3 concerning an anatomical gift, by  
4 ~~including~~ signing an organ  
5 and tissue donor card, by expressing his or her  
6 wish to donate  
7 in a living will or advance directive, or by  
8 signifying his or  
9 her intent to donate on his or her driver's license or in some  
10 other written form has indicated his or her wish to make an  
11 anatomical gift, and in the absence of actual notice of  
12 contrary indications by the decedent, the document is  
13 evidence  
14 of legally sufficient informed consent to donate an  
15 anatomical  
16 gift and is legally binding. Any surrogate  
17 designated by the  
18 decedent pursuant to part II of this chapter may give all or  
19 any part of the decedent's body for any purpose specified  
20 in  
21 s. 765.510.  
22 (6) A gift of all or part of a body  
23 authorizes:  
24 (a) Any examination necessary to assure  
25 medical  
26 acceptability of the gift for the purposes intended.  
27 (b) The decedent's medical provider, family, or  
28 a  
29 third party to furnish medical records requested  
30 concerning  
31 the decedent's medical and social history.  
32 Section 39. Subsection (1) of section 765.516,  
33 Florida  
34 Statutes, is amended to read:  
35 765.516 Amendment of the terms of or  
36 the revocation of  
37 the gift.--  
38 (1) A donor may amend the terms of or  
39 revoke an  
40 anatomical gift by:  
41 (a) The execution and delivery to the donee of a  
42 signed statement.  
43 (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

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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

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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.

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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~~

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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  
10 fingerprints  
11 and information required for the criminal history check  
12 required under this section shall not be required to provide  
13 a  
14 subsequent set of fingerprints or other duplicate  
15 information  
16 required for a criminal history check to the Agency for  
17 Health  
18 Care Administration, the Department of Juvenile Justice,  
19 or  
20 the Department of Children and Family Services for  
21 employment  
22 or licensure with such agency or department, if the  
23 applicant  
24 has undergone a criminal history check as a condition of  
25 initial certification or renewal of certification as an  
26 advanced registered nurse practitioner with the  
27 Department of  
28 Health, notwithstanding any other provision of law to the  
29 contrary. In lieu of such duplicate submission, the Agency  
30 for  
31 Health Care Administration, the Department of Juvenile  
32 Justice, and the Department of Children and Family  
33 Services  
34 shall obtain criminal history information for employment  
35 or  
36 licensure of persons certified under s. 464.012 by such  
37 agency  
38 or department from the Department of Health  
39 ~~Health's health~~  
40 ~~care practitioner credentialing system.~~  
41           Section 47. Paragraph (v) of subsection (1) of  
42 section  
43 456.072, Florida Statutes, is amended to read:



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

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

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.--

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

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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

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1 with improved efficiency. If after reviewing the  
2 department's  
3 analysis the board desires to contract with a vendor for  
4 a  
5 particular regulatory function and the board has a  
6 positive  
7 cash balance, the department shall enter into a contract  
8 for  
9 the service. The contract shall include objective  
10 performance  
11 measures that reflect the expected quality and quantity  
12 of the  
13 service and shall include a provision that terminates  
14 the  
15 contract if the service falls below expected levels.

16 For  
17 purposes of this subsection, a "regulatory function"  
18 shall be  
19 defined to include licensure, licensure renewal,  
20 examination,  
21 complaint analysis, investigation, or prosecution.

22 Section 52. Subsection (1) of section 456.009,  
23 Florida

24 Statutes, is amended to read:

25 456.009 Legal and investigative services.--

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

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1 objective performance measures that reflect the  
2 expected  
3 quality and quantity of the contracted services.  
4 Section 53. Subsection (6) is added to section  
5 456.011, Florida Statutes, to read:  
6 456.011 Boards; organization; meetings;  
7 compensation  
8 and travel expenses.--  
9 (6) Meetings of board committees, including  
10 probable  
11 cause panels, shall be conducted electronically unless  
12 held  
13 concurrently with, or on the day immediately before or  
14 after,  
15 a regularly scheduled in-person board meeting.  
16 However, if a  
17 particular committee meeting is expected to last more  
18 than 5  
19 hours and cannot be held before or after the in-person  
20 board  
21 meeting, the chair of the committee may request  
22 special  
23 permission from the director of the Division of  
24 Medical  
25 Quality Assurance to hold an in-person committee  
26 meeting. The  
27 meeting shall be held in Tallahassee unless the chair  
28 of the  
29 committee determines that another location is  
30 necessary due to  
31 the subject matter to be discussed at the meeting and  
32 the  
33 director authorizes the additional costs, if any.  
34 Section 54. Subsection (11) is added to section  
35 456.026, Florida Statutes, to read:  
36 456.026 Annual report concerning finances,  
37 administrative complaints, disciplinary actions, and  
38 recommendations.--The department is directed to prepare  
39 and  
40 submit a report to the President of the Senate and the  
41 Speaker  
42 of the House of Representatives by November 1 of each  
43 year. In  
44 addition to finances and any other information the  
45 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

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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

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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 physician as being acceptable under similar conditions and  
6 circumstances. The board shall give great weight to the  
7 provisions of s. 766.102 when enforcing this paragraph. As  
8 used in this paragraph, "repeated malpractice" includes, but  
9 is not limited to, three or more claims for medical  
10 malpractice within the previous 5-year period resulting in  
11 indemnities being paid in excess of \$50,000  
12 ~~\$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

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Amendment No. \_\_\_\_ (for drafter's use only)

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:

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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

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1 Department of Health. Reports must be filed no  
later than 30  
2 days following the occurrence of any event listed in  
3 this  
4 subsection paragraph (a) or paragraph  
(b). The Department of  
5 Health shall review each report and determine whether any  
6 of  
7 the incidents that resulted in the claim potentially involved  
8 conduct by the licensee that is subject to disciplinary  
9 action, in which case the provisions of s. 456.073 shall  
10 apply. The Department of Health, as part of the annual  
report  
11 required by s. 456.026, shall publish annual statistics,  
12 without identifying licensees, on the reports it receives,  
13 including final action taken on such reports by the  
Department  
14 of Health or the appropriate regulatory board.  
15 Section 60. Subsections (14) and (15) are added to  
16 section 456.073, Florida Statutes, to read:  
17 456.073 Disciplinary proceedings.--Disciplinary  
18 proceedings for each board shall be within the jurisdiction  
of  
19 the department.  
20 (14) When the probable cause panel determines  
that  
21 probable cause exists that a violation of law occurred  
but  
22 decides to issue a letter of guidance in lieu of  
finding  
23 probable cause as a result of mitigating  
circumstances, the  
24 probable cause panel may require the subject to pay  
up to \$300  
25 of the costs of the investigation and prosecution of  
the case  
26 within a time certain but not less than 30 days after  
the  
27 execution of the closing order. If the subject fails to  
pay  
28 the costs within the time set by the probable cause  
panel,  
29 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

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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

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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  
10 policy 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  
14 working 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  
18 than the fee imposed for the previous biennium;~~

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

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

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

26           456.0165 Examination location.--A college,  
27 university,

or vocational school in this state may serve as the  
28 host

school for a health care practitioner licensure  
29 examination.

However, the college, university, or vocational school  
30 may not

charge the department for rent, space, reusable  
equipment,



31 utilities, or janitorial services. The college,  
university,

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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.

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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.

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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

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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

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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

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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

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1 polysomnographic technologist, as related to the  
2 diagnosis and

3 evaluation of treatment for sleep disorders.

4 (7) Any individual certified or registered as  
5 a

6 pulmonary function technologist who is credentialed by  
7 the

8 National Board for Respiratory Care from  
9 performing

10 cardiopulmonary diagnostic studies.

11 (8) Any student who is enrolled in an  
12 accredited

13 respiratory care program approved by the board,  
14 while

15 performing respiratory care as an integral part of a  
16 required

17 course.

18 (9) The delivery of incidental respiratory care  
19 to

20 noninstitutionalized persons by surrogate family  
21 members who

22 do not represent themselves as registered or  
23 certified

24 respiratory care therapists.

25 (10) Any individual credentialed by the  
26 Underseas

27 Hyperbaric Society in hyperbaric medicine or its  
28 equivalent as

29 determined by the board, while performing related  
30 duties. This

31 subsection does not, however, authorize the practice  
32 of

33 respiratory care without a license.

34 Section 69. Sections 468.356 and 468.357,  
35 Florida

36 Statutes, are repealed.

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

39 468.80 Definitions.--As used in this act, the term:

40 (4) "Orthosis" means a medical device used to  
41 provide

42 support, correction, or alleviation of neuromuscular or

43 musculoskeletal dysfunction, disease, injury, or deformity,

44 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

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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

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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,

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1 381.6023, 381.6024, and 381.6026, Florida Statutes,  
are  
2 renumbered as sections 765.53, 765.541, 765.542,  
3 765.544,  
4 765.545, and 765.547, Florida Statutes,  
5 respectively.

6 Section 75. Section 381.60225, Florida Statutes, is  
7 rennumbered as section 765.543, Florida Statutes, and  
8 subsection (2) of said section is amended to read:

9 765.543 ~~381.60225~~ Background  
10 screening.--

11 (2) An organ procurement organization, tissue bank,  
12 or  
13 eye bank certified by the Agency for Health Care  
14 Administration in accordance with ss. 381.6021 and  
15 765.542

16 ~~381.6022~~ is not subject to the requirements of  
17 this section if  
18 the entity has no direct patient care responsibilities and  
19 does not bill patients or insurers directly for services under  
20 the Medicare or Medicaid programs, or for privately  
21 insured  
22 services.

23 Section 76. Section 381.6025, Florida Statutes, is  
24 rennumbered as section 765.546, Florida Statutes, and  
25 amended

26 to read:

27 765.546 ~~381.6025~~ Physician  
28 supervision of cadaveric

29 organ and tissue procurement coordinators.--Organ  
30 procurement  
31 organizations, tissue banks, and eye banks may employ  
32 coordinators, who are registered nurses, physician's  
33 assistants, or other medically trained personnel who meet  
34 the  
35 relevant standards for organ procurement organizations,  
36 tissue

37 banks, or eye banks as adopted by the Agency for Health  
38 Care

39 Administration under s. 765.541  
40 ~~381.6021~~, to assist in the

41 medical management of organ donors or in the surgical  
42 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

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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

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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.

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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

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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  
and

Section 83. Effective upon this act becoming a law

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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  
8 on a

9 student loan issued or guaranteed by the state or the  
10 Federal

11 Government, the department shall notify the licensee  
12 by

13 certified mail that he or she shall be subject to  
14 immediate

15 suspension of license unless, within 45 days after the  
16 date of

17 mailing, the licensee provides proof that new payment  
18 terms

19 have been agreed upon by all parties to the loan.  
20 The

21 department shall issue an emergency order  
22 suspending the

23 license of any licensee who, after 45 days following  
24 the date

25 of mailing from the department, has failed to provide  
26 such

27 proof. Production of such proof shall not prohibit  
28 the

29 department from proceeding with disciplinary action  
30 against

31 the licensee pursuant to s. 456.073.

32           Section 84. Effective upon this act becoming a law  
33 and

34 applicable to any loan or scholarship that is in default on  
35 or

36 after the effective date, paragraph (k) of subsection (1) of  
37 section 456.072, Florida Statutes, is amended, and  
38 subsection

39 (2) of said section is reenacted, to read:

40           456.072 Grounds for discipline; penalties;  
41 enforcement.--

42           (1) The following acts shall constitute grounds for  
43 which the disciplinary actions specified in subsection (2)  
44 may

29 be taken:

30 (k) Failing to perform any statutory or legal

31 obligation placed upon a licensee. For purposes of  
this

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

18 no (2) When the board, or the department when there is  
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

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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

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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  
prosecutions, and the amount of fines collected

23 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

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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

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Amendment No. \_\_\_\_ (for drafter's use only)

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  
7 of 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  
10 information or documentation. The department may investigate, and  
11 the department or the appropriate board may take appropriate  
12 final action on, a complaint even though the original  
13 complainant withdraws it or otherwise indicates a desire not to cause  
14 the complaint to be investigated or prosecuted to completion.  
15 The 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  
19 inquiry, that the violations alleged in the complaint are true. The  
20 department may investigate a complaint made by a  
21 confidential 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  
24 inquiry, that the allegations of the complainant are true. The  
25 department may initiate an investigation if it has  
26 reasonable 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  
30 investigation of any subject is undertaken, the department shall



promptly

31 furnish to the subject or the subject's attorney a copy of  
the

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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

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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

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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

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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

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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

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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,

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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

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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



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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

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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:

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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

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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~~  
16 ~~1, 1986,~~

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

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1 Acupuncture" or "Board-Certified Diplomate in  
2 Acupuncture" in  
3 conjunction with one's name, place of business, or  
4 acupuncture  
5 practice unless the licensee holds an active license  
6 under  
7 this chapter and is also an active holder of such  
8 board  
9 certification from the National Certification  
10 Commission for  
11 Acupuncture and Oriental Medicine (NCCAOM).  
12 Section 93. Section 457.116, Florida Statutes, is  
13 amended to read:  
14 457.116 Prohibited acts; penalty.--  
15 (1) A person may not:  
16 (a) Practice acupuncture unless the person is licensed  
17 under ss. 457.101-457.118;  
18 (b) Use, in connection with his or her name or place  
19 of business, any title or description of services which  
20 incorporates the words "acupuncture," "acupuncturist,"  
21 "certified acupuncturist," "licensed acupuncturist,"  
22 "oriental  
23 medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.,"  
24 or "D.O.M."; or any other words, letters, abbreviations, or  
25 insignia indicating or implying that he or she practices  
26 acupuncture unless he or she is a holder of a valid license  
27 issued pursuant to ss. 457.101-457.118;  
28 (c) Present as his or her own the license of another;  
29 (d) Knowingly give false or forged evidence to the  
30 board or a member thereof;  
31 (e) Use or attempt to use a license that has been  
suspended, revoked, or placed on inactive or delinquent  
status;  
(f) Employ any person who is not licensed pursuant  
to  
ss. 457.101-457.118 to engage in the practice of  
acupuncture;  
or  
(g) Conceal information relating to any violation of

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1 ss. 457.101-457.118.

2 (2) A person who violates this section commits a  
3 ~~felony misdemeanor~~ of the  
4 ~~third second~~ degree, punishable as  
5 provided in s. 775.082, ~~or s.~~  
6 ~~775.083, or s. 775.084.~~

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

11 395.002 Definitions.--As used in this chapter:

12 (31) "Surgical first assistant" means the  
13 first  
14 assistant to the surgeon during a surgical  
15 operation.

16 ~~(32)(31)~~ "Utilization review"  
17 means a system for  
18 reviewing the medical necessity or appropriateness in the  
19 allocation of health care resources of hospital services  
20 given  
21 or proposed to be given to a patient or group of patients.

22 ~~(33)(32)~~ "Utilization review plan"  
23 means a description  
24 of the policies and procedures governing utilization review  
25 activities performed by a private review agent.

26 ~~(34)(33)~~ "Validation inspection"  
27 means an inspection  
28 of the premises of a licensed facility by the agency to  
29 assess

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

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

395.0197 Internal risk management program.--

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

31

(b) The development of appropriate measures to

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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

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1 assistant from among available individuals who are  
2 approved or

3 credentialed by the facility.

4 4. Development, implementation, and ongoing  
5 evaluation

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

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

16 768.13 Good Samaritan Act; immunity from civil  
17 liability.--

18 (2)(a) Any person, including those licensed to  
19 practice medicine, who gratuitously and in good faith  
20 renders

21 emergency care or treatment either in direct response to  
22 emergency situations related to and arising out of a  
23 public

24 health emergency declared pursuant to s.  
25 381.00315, a state of

26 emergency which has been declared pursuant to s. 252.36  
27 or at

28 the scene of an emergency outside of a hospital, doctor's  
29 office, or other place having proper medical equipment,  
30 without objection of the injured victim or victims thereof,  
31 shall not be held liable for any civil damages as a result of  
such care or treatment or as a result of any act or failure  
to  
act in providing or arranging further medical treatment  
where

the person acts as an ordinary reasonably prudent person  
would  
have acted under the same or similar circumstances.

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



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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

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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

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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,  
11 489.664,  
12 489.665, 489.666, 489.667, and 489.668, is created to  
13 read:

14 PART IV

15 PORTABLE RESTROOM

16 CONTRACTING

17 489.661 Definitions.--As used in this part:

18 (1) "Department" means the Department of  
19 Health.

20 (2) "Portable restroom contractor" means a  
21 portable  
22 restroom contractor whose services are unlimited in  
23 the  
24 portable restroom trade who has had at least 3  
25 years'

26 experience as a Florida-registered portable  
27 restroom  
28 contractor, who has knowledge of state health code  
29 law and

30 rules, and who has the experience, knowledge, and  
31 skills to  
32 handle, deliver, and pick up sanitary portable  
33 restrooms, to  
34 install, safely handle, and maintain portable holding  
35 tanks,  
36 and to handle, transport, and dispose of domestic  
37 portable  
38 restroom and portable holding tank wastewater.

39 489.662 Registration required.--A person shall  
40 not

41 hold himself or herself out as a portable restroom  
42 contractor  
43 in this state unless he or she is registered by the  
44 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

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

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

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

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

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

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

26 (a) Be of good moral character. In considering  
27 good moral character, the department may consider any  
28 matter that has a substantial connection between the good moral  
29 character 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

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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

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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.--

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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  
18 date 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

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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.

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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

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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  
8 medical and

9 related services, payment of benefits shall be made  
10 directly

11 to any recognized hospital, doctor, or other person  
12 who

13 provided services for the treatment of a  
14 psychological

15 disorder or treatment for substance abuse, including  
16 drug and

17 alcohol abuse, when the treatment is in accordance  
18 with the

19 provisions of the policy and the insured  
20 specifically

21 authorizes direct payment of benefits. Payments shall  
22 be made

23 under this section, notwithstanding any contrary  
24 provisions in

25 the health insurance contract. This subsection  
26 applies to all

27 health insurance policies now or hereafter in force as  
28 of

29 October 1, 2002.

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

32 766.101 Medical review committee, immunity from  
33 liability.--

34 (1) As used in this section:

35 (a) The term "medical review committee" or  
36 "committee"

37 means:

38 1.a. A committee of a hospital or ambulatory  
39 surgical

40 center licensed under chapter 395 or a health  
41 maintenance

42 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,

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- 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

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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.--

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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

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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

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1 standards and quality requirements for a subacute  
2 pediatric  
3 transitional care center to be operated as a 2-year  
4 pilot  
5 program in Dade County. The pilot program must  
6 operate under  
7 the license of a hospital licensed under chapter 395,  
8 Florida  
9 Statutes, or a nursing home licensed under chapter  
10 400,  
11 Florida Statutes, and shall use existing beds in the  
12 hospital  
13 or nursing home. A child's placement in the subacute  
14 pediatric  
15 transitional care center may not exceed 90 days. The  
16 center  
17 shall arrange for an alternative placement at the end  
18 of a  
19 child's stay and a transitional plan for children  
20 expected to  
21 remain in the facility for the maximum allowed  
22 stay.  
23 (2) Within 60 days after the effective date of  
24 this  
25 act, the agency must amend the state Medicaid plan  
26 and request  
27 any federal waivers necessary to implement and fund  
28 the pilot  
29 program.  
30 (3) The subacute pediatric transitional care  
31 center  
32 must require level I background screening as  
33 provided in  
34 chapter 435, Florida Statutes, for all employees  
35 or  
36 prospective employees of the center who are  
37 expected to, or  
38 whose responsibilities may require them to, provide  
39 personal  
40 care or services to children, have access to children's  
41 living  
42 areas, or have access to children's funds or  
43 personal  
44 property.  
45 Section 106. (1) The subacute pediatric  
46 transitional  
47 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;

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1 (c) A child development specialist who has  
2 experience  
3 in the care of medically fragile or  
4 medical-technology-dependent children and their  
5 families;  
6 (d) A social worker who has experience in the  
7 care of  
8 medically fragile or medical-technology-dependent  
9 children and  
10 their families; and  
11 (e) A consumer representative who is a parent  
12 or  
13 guardian of a child placed in the center.  
14 (2) The advisory board shall:  
15 (a) Review the policy and procedure  
16 components of the  
17 center to assure conformance with applicable  
18 standards  
19 developed by the Agency for Health Care  
20 Administration; and  
21 (b) Provide consultation with respect to  
22 the  
23 operational and programmatic components of the  
24 center.  
25 Section 107. (1) The subacute pediatric  
26 transitional  
27 care center must have written policies and  
28 procedures  
29 governing the admission, transfer, and discharge of  
30 children.  
31 (2) The admission of each child to the center  
32 must be  
33 under the supervision of the center nursing  
34 administrator or  
35 his or her designee, and must be in accordance with  
36 the  
37 center's policies and procedures. Each Medicaid  
38 admission must  
39 be approved by the Department of Health, Children's  
40 Medical  
41 Services Multidisciplinary Assessment Team, in  
42 conjunction  
43 with the Agency for Health Care Administration, as  
44 appropriate  
45 for placement in the facility.  
46 (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.

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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

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1 implemented to the extent available appropriations  
2 contained

3 in the annual General Appropriations Act are  
4 specifically

5 designated for the purposes contained within the  
6 pilot

7 program.

8 Section 109. By January 1, 2003, the Agency  
9 for Health

10 Care Administration shall report to the Legislature  
11 concerning

12 the progress of the medically fragile or  
13 medical-technology-dependent children pilot  
14 program. By

15 January 1, 2004, the agency shall submit to the  
16 Legislature a

17 report on the success of the pilot program.

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

20 393.064 Prevention.--

21 (5) The Department of Health  
22 ~~Children and Family~~

23 ~~Services~~ shall have the authority, within  
24 available resources,

25 to contract for the supervision and management of the  
26 Raymond

27 C. Philips Research and Education Unit, and such  
28 contract

29 shall include specific program objectives.

Section 111. Except as otherwise provided herein,  
this

act shall take effect July 1, 2002.

21

22

23 ===== T I T L E A M E N D M E N T  
24 =====

25 And the title is amended as follows:On page 43, line 4, of  
26 the

27 amendment, after the semicolon,

28

29 insert:

transferring to the Department of Health the  
powers, duties, functions, and assets that

30 relate to the consumer complaint services,  
31 investigations, and prosecutorial services

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1 performed by the Agency for Health Care  
2 Administration under contract with the  
3 department; transferring full-time equivalent  
4 positions and the practitioner regulation  
5 component from the agency to the department;  
6 amending s. 20.43, F.S.; deleting the provision  
7 authorizing the department to enter into such  
8 contract with the agency, to conform; updating  
9 a reference to provide the name of a regulatory  
10 board under the Division of Medical Quality  
11 Assurance; requiring the Office of Legislative  
12 Services to contract for an outsourcing  
13 feasibility study relating to the regulatory  
14 responsibilities of the Board of Dentistry;  
15 providing an appropriation; requiring a report  
16 to the Governor and Legislature; requiring the  
17 Department of Health to contract for the  
18 implementation of the electronic continuing  
19 education tracking system and requiring said  
20 system to be compatible and integrated with the  
21 department's licensure and renewal system;  
22 amending s. 456.057, F.S.; authorizing  
23 specified persons to release certain medical  
24 records to a custodian upon board order;  
25 exempting such persons from liability for the  
26 release of such records; amending s. 456.072,  
27 F.S.; providing additional penalties to be  
28 imposed on certain health care practitioners  
29 relating to notice to patients concerning  
30 availability and access to medical records;  
31 amending s. 456.076, F.S.; providing additional

Amendment No. \_\_\_\_ (for drafter's use only)

1 conditions for impaired practitioners to enroll  
2 in a treatment program as an alternative to  
3 discipline; amending s. 456.0375, F.S.;  
4 revising the definition of "clinic" to exempt  
5 public college and university clinics from  
6 medical clinic registration, to restrict the  
7 exemption for massage establishments, and to  
8 clarify when a health care practitioner may  
9 supervise another health care practitioner;  
10 amending s. 456.072, F.S.; revising grounds for  
11 disciplinary action relating to performing  
12 health care services improperly and to leaving  
13 foreign bodies in patients; amending s. 631.57,  
14 F.S.; exempting medical malpractice insurance  
15 premiums from an assessment; amending s.  
16 395.002, F.S.; defining "medically unnecessary  
17 procedure"; amending s. 394.4787, F.S.;  
18 conforming a cross reference; amending s.  
19 395.0161, F.S.; providing rulemaking authority  
20 relating to inspections and investigations of  
21 facilities; amending s. 395.0197, F.S.;  
22 revising requirements for internal risk  
23 management programs; amending s. 465.019, F.S.;  
24 revising the definition of "class II  
25 institutional pharmacies" to allow dispensing  
26 and consulting services to hospice patients  
27 under certain circumstances; amending s.  
28 499.007, F.S.; deleting requirement for  
29 labeling of name and place of business of the  
30 manufacturer; providing legislative findings  
31 relating to responsiveness to emergencies and

Amendment No. \_\_\_\_ (for drafter's use only)

1           disasters; amending s. 381.0011, F.S.; revising  
2           duties of the Department of Health; authorizing  
3           the State Health Officer to take specified  
4           emergency actions to protect the public health;  
5           amending s. 381.00315, F.S.; defining the terms  
6           "public health advisory" and "public health  
7           emergency"; specifying the terms under which a  
8           public health emergency is declared; providing  
9           for consultation for, and notice and duration  
10          of, a declaration of a public health emergency;  
11          amending s. 381.0034, F.S.; providing a  
12          requirement for instruction of certain health  
13          care licensees on conditions caused by nuclear,  
14          biological, and chemical terrorism, as a  
15          condition of initial licensure, and, in lieu of  
16          the requirement for instruction on HIV and  
17          AIDS, as a condition of relicensure; amending  
18          s. 381.0035, F.S.; providing a requirement for  
19          instruction of employees at certain health care  
20          facilities on conditions caused by nuclear,  
21          biological, and chemical terrorism, upon  
22          initial employment, and, in lieu of the  
23          requirement of instruction on HIV and AIDS, as  
24          biennial continuing education; providing an  
25          exception; creating s. 381.0421, F.S.;  
26          requiring postsecondary education institutions  
27          to provide information on meningococcal  
28          meningitis and hepatitis B; requiring  
29          individuals residing in on-campus housing to  
30          document vaccinations against meningococcal  
31          meningitis and hepatitis B or sign a waiver;



Amendment No. \_\_\_\_ (for drafter's use only)

1 amending ss. 395.1027 and 401.245, F.S. ;  
2 correcting cross references; amending s.  
3 401.23, F.S.; revising definitions of "advanced  
4 life support" and "basic life support" and  
5 defining "emergency medical condition";  
6 amending s. 401.252, F.S.; authorizing  
7 physician assistants to conduct interfacility  
8 transfers in a permitted ambulance under  
9 certain circumstances; amending s. 401.27,  
10 F.S.; providing that the course on conditions  
11 caused by nuclear, biological, and chemical  
12 terrorism shall count toward the total required  
13 hours for biennial recertification of emergency  
14 medical technicians and paramedics; amending s.  
15 456.033, F.S.; providing a requirement for  
16 instruction of certain health care  
17 practitioners on conditions caused by nuclear,  
18 biological, and chemical terrorism, as a  
19 condition of initial licensure, and, in lieu of  
20 the requirement for instruction on HIV and  
21 AIDS, as part of biennial relicensure; amending  
22 s. 381.003, F.S.; requiring the Department of  
23 Health to adopt certain standards applicable to  
24 all public-sector employers; requiring the  
25 compilation and maintenance of certain  
26 information by the department for use by  
27 employers; creating s. 456.0345, F.S.;  
28 providing continuing education credits to  
29 health care practitioners for certain life  
30 support training; amending s. 456.072, F.S. ;  
31 conforming provisions relating to grounds for

1 disciplinary actions to changes in health care  
2 practitioners' course requirements; amending s.  
3 456.38, F.S.; revising provisions relating to  
4 the health care practitioner registry for  
5 disasters and emergencies; prohibiting certain  
6 termination of or discrimination against a  
7 practitioner providing disaster medical  
8 assistance; amending ss. 458.319 and 459.008,  
9 F.S.; conforming provisions relating to  
10 exceptions to continuing education requirements  
11 for physicians and osteopathic physicians;  
12 amending ss. 401.2715, 633.35, and 943.135,  
13 F.S.; authorizing certain substitution of  
14 terrorism response training for other training  
15 required for recertification of emergency  
16 medical technicians and paramedics,  
17 certification of firefighters, and continued  
18 employment or appointment of law enforcement  
19 officers, correctional officers, and  
20 correctional probation officers; authorizing  
21 rulemaking; amending s. 765.512, F.S., relating  
22 to anatomical gifts; prohibiting modification  
23 of a donor's intent; providing that a donor  
24 document is legally binding; authorizing  
25 specified persons to furnish donors' medical  
26 records upon request; amending s. 765.516,  
27 F.S.; revising procedures by which the terms of  
28 an anatomical gift may be amended or the gift  
29 may be revoked; amending s. 456.073, F.S.;  
30 revising procedures and timeframes for formal  
31 hearings of health care practitioner

1 disciplinary cases; requiring a joint audit of  
2 hearings and their billing formulas and a  
3 report to the Legislature; amending s. 456.076,  
4 F.S.; requiring each impaired practitioner to  
5 pay a portion of the cost of the consultant and  
6 impaired practitioner program and the full cost  
7 of the required treatment program or plan;  
8 providing certain exceptions; repealing s.  
9 456.047, F.S., to terminate the standardized  
10 credentialing program for health care  
11 practitioners; prohibiting the refund of moneys  
12 collected through the credentialing program;  
13 amending ss. 456.039, 456.0391, 456.072, and  
14 456.077, F.S.; removing references, to conform;  
15 amending s. 458.309, F.S.; requiring  
16 accreditation of physician offices in which  
17 surgery is performed; amending s. 459.005,  
18 F.S.; requiring accreditation of osteopathic  
19 physician offices in which surgery is  
20 performed; amending s. 456.004, F.S., relating  
21 to powers and duties of the department;  
22 requiring performance measures for certain  
23 entities; providing procedures for considering  
24 board requests to privatize regulatory  
25 functions; amending s. 456.009, F.S.; requiring  
26 performance measures for certain legal and  
27 investigative services and annual review of  
28 such services to determine whether such  
29 performance measures are being met; amending s.  
30 456.011, F.S.; requiring regulatory board  
31 committee meetings, including probable cause

1 panels, to be held electronically unless  
2 certain conditions are met; providing for  
3 determination of location of in-person  
4 meetings; amending s. 456.026, F.S.; requiring  
5 inclusion of performance measures for certain  
6 entities in the department's annual report to  
7 the Legislature; creating s. 458.3093, F.S.;  
8 requiring submission of credentials for initial  
9 physician licensure to a national licensure  
10 verification service; requiring verification of  
11 such credentials by that service or an  
12 equivalent program; creating s. 459.0053, F.S.;  
13 requiring submission of credentials for initial  
14 osteopathic physician licensure to a national  
15 licensure verification service; requiring  
16 verification of such credentials by that  
17 service, a specified association, or an  
18 equivalent program; amending ss. 458.331,  
19 459.015, and 627.912, F.S.; raising the  
20 malpractice closed claims reporting requirement  
21 amount; amending s. 456.073, F.S.; requiring  
22 health care practitioner licensees to pay  
23 certain costs of investigation and prosecution  
24 under certain circumstances; requiring cases in  
25 which no probable cause has been found to be  
26 closed within a specified period of time;  
27 requiring a study of the field office structure  
28 and organization of the Agency for Health Care  
29 Administration and a report to the Legislature;  
30 amending s. 456.025, F.S.; eliminating certain  
31 restrictions on the setting of licensure

1 renewal fees for health care practitioners;  
2 creating s. 456.0165, F.S.; restricting the  
3 costs that may be charged by educational  
4 institutions hosting health care practitioner  
5 licensure examinations; requiring health care  
6 practitioner licensure and licensure renewal  
7 fees to be set at graduated levels of the  
8 statutory fee cap or actual regulatory costs,  
9 whichever is less; amending s. 468.302, F.S.;  
10 authorizing certified nuclear medicine  
11 technologists to administer X radiation from  
12 certain devices under certain circumstances;  
13 exempting certain persons from radiologic  
14 technologist certification and providing  
15 certain training requirements for such  
16 exemption; amending s. 468.352, F.S.; revising  
17 and providing definitions applicable to the  
18 regulation of respiratory therapy; amending s.  
19 468.355, F.S.; revising provisions relating to  
20 respiratory therapy licensure and testing  
21 requirements; amending s. 468.368, F.S.;  
22 revising exemptions from respiratory therapy  
23 licensure requirements; repealing s. 468.356,  
24 F.S., relating to the approval of educational  
25 programs; repealing s. 468.357, F.S., relating  
26 to licensure by examination; amending s.  
27 468.80, F.S.; expanding a definition; requiring  
28 applications for health care practitioner  
29 licensure and licensure renewal to be submitted  
30 electronically beginning July 1, 2003, with  
31 certain exceptions; providing for transition to

1 such electronic licensure; annually adjusting  
2 by 2.5 percent the statutory fee caps  
3 applicable to regulation of health care  
4 practitioners; renumbering ss. 381.0602,  
5 381.6021, 381.6022, 381.6023, 381.6024, and  
6 381.6026, F.S., and renumbering and amending  
7 ss. 381.60225 and 381.6025, F.S., to move  
8 provisions relating to organ and tissue  
9 procurement, donation, and transplantation to  
10 part V, ch. 765, F.S., relating to anatomical  
11 gifts; revising cross references, to conform;  
12 amending ss. 395.2050, 409.815, 765.5216, and  
13 765.522, F.S.; revising cross references, to  
14 conform; providing a short title and providing  
15 coverage for certain organ transplant services;  
16 amending s. 409.915, F.S.; exempting counties  
17 from contributions for such services; amending  
18 s. 456.074, F.S.; providing for an emergency  
19 order suspending the license of any health care  
20 practitioner who has defaulted on a student  
21 loan issued or guaranteed by the state or the  
22 Federal Government; amending s. 456.072, F.S.,  
23 and reenacting subsection (2), relating to  
24 disciplinary actions; clarifying the ground for  
25 disciplinary action for failing to perform a  
26 statutory or legal obligation to include  
27 failing to repay a student loan issued or  
28 guaranteed by the state or the Federal  
29 Government in accordance with the terms of the  
30 loan and for failing to comply with service  
31 scholarship obligations; providing penalties;

1 directing the Department of Health to obtain  
2 certain information from the United States  
3 Department of Health and Human Services on a  
4 monthly basis and to include certain  
5 information in its annual report to the  
6 Legislature; reenacting ss. 456.026 and  
7 456.073, F.S., relating to the annual report  
8 and disciplinary proceedings, respectively, to  
9 conform; providing applicability; amending s.  
10 400.925, F.S.; eliminating the regulation of  
11 certain home medical equipment by the Agency  
12 for Health Care Administration; amending s.  
13 765.104, F.S.; authorizing a patient whose  
14 legal disability is removed to amend or revoke  
15 the recognition of a medical proxy and any  
16 uncompleted decision made by that proxy;  
17 specifying when the amendment or revocation  
18 takes effect; amending s. 765.401, F.S.;  
19 providing for health care decisions for persons  
20 having a developmental disability; amending s.  
21 457.1085, F.S.; removing obsolete dates  
22 relating to adoption of rules relating to  
23 infection control; amending s. 457.109, F.S.;  
24 prohibiting the use of certain titles relating  
25 to the practice of acupuncture unless properly  
26 licensed and certified; providing penalties;  
27 amending s. 457.116, F.S.; increasing the  
28 penalties applicable to prohibited acts  
29 relating to the practice of acupuncture;  
30 amending s. 395.002, F.S., to provide a  
31 definition of "surgical first assistant;"

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1 amending s. 395.0197, F.S., to allow an  
2 operating surgeon to choose the surgical first  
3 assistant under certain conditions; amending s.  
4 768.13, F.S.; providing immunity from civil  
5 damages under the Good Samaritan Act for  
6 actions taken in response to situations during  
7 a declared public health emergency; revising  
8 the circumstances under which immunity from  
9 civil damages is extended to actions taken by  
10 persons licensed to practice medicine; amending  
11 s. 381.0066, F.S.; authorizing the continuation  
12 of permit fees for system construction permits  
13 for onsite sewage treatment and disposal  
14 systems; creating part IV of chapter 489, F.S.,  
15 relating to portable restroom contracting;  
16 providing definitions; requiring registration  
17 and providing requirements therefor, including  
18 an examination; providing for administration;  
19 providing rulemaking authority; providing for  
20 renewal of registration, including continuing  
21 education; providing for certification of  
22 partnerships and corporations; providing  
23 grounds for suspension or revocation of  
24 registration; providing fees; providing  
25 penalties and prohibitions; amending s.  
26 491.0057, F.S.; revising requirements relating  
27 to dual licensure as a marriage and family  
28 therapist; amending s. 627.638, F.S., to  
29 require direct payment of benefits for hospital  
30 or medical services under certain  
31 circumstances; amending s. 766.101, F.S.;



1 expanding the definition of the term "medical  
2 review committee" for purposes of immunity from  
3 liability; amending s. 627.357, F.S., relating  
4 to medical malpractice insurance; providing  
5 requirements to apply to form a self-insurance  
6 fund; amending s. 631.54, F.S.; amending  
7 definition of member insurer; requiring the  
8 Agency for Health Care Administration to  
9 conduct a study of health care services  
10 provided to medically fragile or  
11 medical-technology-dependent children;  
12 requiring the Agency for Health Care  
13 Administration to conduct a pilot program for a  
14 subacute pediatric transitional care center;  
15 requiring background screening of center  
16 personnel; requiring the agency to amend the  
17 Medicaid state plan and seek federal waivers as  
18 necessary; requiring the center to have an  
19 advisory board; providing for membership on the  
20 advisory board; providing requirements for the  
21 admission, transfer, and discharge of a child  
22 to the center; requiring the agency to submit  
23 certain reports to the Legislature; amending s.  
24 393.064, F.S.; changing contract authority  
25 between the Department of Children and Families  
26 and the Department of Health; providing  
27 effective dates.

28  
29 WHEREAS, residents and visitors to Florida need  
access  
30 to quality and affordable health care, and

31 WHEREAS, the delivery of and payment for health  
care

1 services provided to patients by health care practitioners in  
2 health care facilities is integrated in such a manner that a  
3 change to one facet of health care almost always impacts  
4 another facet, and

5 WHEREAS, three state agencies play a role in  
overseeing  
6 health care providers, health care services, and health care  
7 payors in Florida, and

8 WHEREAS, it is the role of the Department of  
Health to  
9 protect and improve the health of Florida's patients by  
10 regulating most health care practitioners and some health  
care  
11 facilities and establishments, by preventing the  
occurrence  
12 and progression of communicable diseases, and by  
regulating  
13 certain environmental health issues, among other duties,  
and

14 WHEREAS, it is the role of the Agency for Health  
Care  
15 Administration to ensure access to quality, affordable  
health  
16 care by regulating most health care facilities, some health  
17 care providers, and certain health care payors such as  
managed  
18 care plans, and

19 WHEREAS, it is the role of the Department of  
Insurance  
20 to regulate certain health insurers who pay for health  
care  
21 for Floridians, and

22 WHEREAS, the regulation of health care  
practitioners  
23 relies on peer review by fellow health care practitioners  
and  
24 requires the costs of such regulation to be paid solely by  
25 practitioners through fines and licensure fees, and

26 WHEREAS, the current level of practitioner fees are  
not  
27 sufficient to cover the full costs of regulation, and

28 WHEREAS, Florida law requires health care  
practitioners

29 to be assessed a special fee if regular licensure fees are  
not

30 sufficient to pay the full costs of regulation, and

31 WHEREAS, the Medical Quality Assurance Trust  
Fund which

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1 holds all licensure fees and fines paid by health care  
 2 practitioners is projected to be in a deficit in 2003, and  
 3 WHEREAS, certain health care profession accounts  
 within  
 4 the Medical Quality Assurance Trust Fund are already in a  
 5 deficit, and

6 WHEREAS, it is vital that the Legislature ensure the  
 7 financial integrity and soundness of all trust funds, and

8 WHEREAS, the Legislature should encourage  
 innovative  
 9 methods of providing quality services at reduced costs,  
 and

10 WHEREAS, certain functions provided by state  
 agencies  
 11 could be performed at a lower cost or with more  
 efficiency in  
 12 the private sector in certain circumstances while still  
 being  
 13 accountable to the Legislature, and

14 WHEREAS, the Legislature finds that oversight of  
 the  
 15 health care delivery and payment system in Florida is an  
 16 important state interest, NOW, THEREFORE,

17  
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