

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

Representative(s) Farkas and Fasano offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

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

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

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

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- 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,~~

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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 October 1, 2002, 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 physical
5 control of the medical records may release them to the
6 custodian upon presentment of an order signed by the board
7 giving the custodian access to the records. A person or
8 entity is not liable in tort or contract for providing the
9 records to a validly appointed custodian.

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

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

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

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

23 456.076 Treatment programs for impaired
24 practitioners.--

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

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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.--

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1 (1)

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

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

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

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

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

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

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

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

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

10 (aa) Performing ~~or attempting to perform~~ health care
11 services on the wrong patient, a wrong-site procedure, a wrong
12 procedure, or an unauthorized procedure or a procedure that is
13 medically unnecessary or otherwise unrelated to the patient's
14 diagnosis or medical condition. For the purposes of this
15 paragraph, performing ~~or attempting to perform~~ health care
16 services includes the preparation of the patient.

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

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

29 631.57 Powers and duties of the association.--

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

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

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

8 395.002 Definitions.--As used in this chapter:
9 (22) "Medically unnecessary procedure" means a
10 surgical or other invasive procedure that a reasonable
11 physician, in light of the patient's history and available
12 diagnostic information, would not deem to be indicated in
13 order to treat, cure, or palliate the patient's condition or
14 disease.

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

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

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

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

25 395.0161 Licensure inspection.--

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

- 29 1. Reports filed pursuant to s. 395.0197.
30 2. Complaints alleging violations of state or federal
31 emergency access laws.

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

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

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

11 395.0197 Internal risk management program.--

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

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

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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 for Health Care
25 Administration shall employ or contract with a minimum of
26 three licensed risk managers in each district to conduct
27 inspections pursuant to this section.

28 Section 15. Paragraph (b) of subsection (2) of section
29 465.019, Florida Statutes, is amended to read:

30 465.019 Institutional pharmacies; permits.--

31 (2) The following classes of institutional pharmacies

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1 are established:

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

24 Section 16. Responsiveness to emergencies and
25 disasters; legislative findings.--The Legislature finds that
26 it is critical that Florida be prepared to respond
27 appropriately to a health crisis and injuries in the event of
28 an emergency or disaster. The Legislature finds that there is
29 a need to better educate health care practitioners on diseases
30 and conditions that might be caused by nuclear, biological,
31 and chemical terrorism so that health care practitioners can

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1 more effectively care for patients and better educate patients
2 as to prevention and treatment. Additionally, the Legislature
3 finds that not all health care practitioners have been
4 recently trained in life support and first aid and that all
5 health care practitioners should be encouraged to obtain such
6 training. The Legislature finds that health care practitioners
7 who are willing to respond in emergencies or disasters should
8 not be penalized for providing their assistance.

9 Section 17. Section 381.0011, Florida Statutes, is
10 amended to read:

11 381.0011 Duties and powers of the Department of
12 Health; authority of State Health Officer.--

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

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

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

21 (c)~~(3)~~ Include in the department's strategic plan
22 developed under s. 186.021 a summary of all aspects of the
23 public health mission and health status objectives to direct
24 the use of public health resources with an emphasis on
25 prevention.

26 (d)~~(4)~~ Administer and enforce laws and rules relating
27 to sanitation, control of communicable diseases, illnesses and
28 hazards to health among humans and from animals to humans, and
29 the general health of the people of the state.

30 (e)~~(5)~~ Cooperate with and accept assistance from
31 federal, state, and local officials for the prevention and

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1 suppression of communicable and other diseases, illnesses,
2 injuries, and hazards to human health.

3 ~~(f)(6)~~ Declare, enforce, modify, and abolish
4 quarantine of persons, animals, and premises as the
5 circumstances indicate for controlling communicable diseases
6 or providing protection from unsafe conditions that pose a
7 threat to public health, except as provided in ss. 384.28 and
8 392.545-392.60.

9 1.(a) The department shall adopt rules to specify the
10 conditions and procedures for imposing and releasing a
11 quarantine. The rules must include provisions related to:

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

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

15 ~~c.3.~~ The tests or ~~prophylactic~~ treatment, including
16 vaccination, for communicable disease required prior to
17 employment or admission to the premises or to comply with a
18 quarantine.

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

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

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

24 g. Methods of quarantine.

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

28 ~~(g)(7)~~ Provide for a thorough investigation and study
29 of the incidence, causes, modes of propagation and
30 transmission, and means of prevention, control, and cure of
31 diseases, illnesses, and hazards to human health.

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1 (h)~~(8)~~ Provide for the dissemination of information to
2 the public relative to the prevention, control, and cure of
3 diseases, illnesses, and hazards to human health. The
4 department shall conduct a workshop before issuing any health
5 alert or advisory relating to food-borne illness or
6 communicable disease in public lodging or food service
7 establishments in order to inform persons, trade associations,
8 and businesses of the risk to public health and to seek the
9 input of affected persons, trade associations, and businesses
10 on the best methods of informing and protecting the public,
11 except in an emergency, in which case the workshop must be
12 held within 14 days after the issuance of the emergency alert
13 or advisory.

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

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

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

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

23 (m)~~(13)~~ Adopt rules pursuant to ss. 120.536(1) and
24 120.54 to implement the provisions of law conferring duties
25 upon it. This paragraph subsection does not authorize the
26 department to require a permit or license unless such
27 requirement is specifically provided by law.

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

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

31 (a) Notwithstanding chapters 465 and 499 and rules

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1 adopted thereunder, the State Health Officer may direct
2 pharmacists employed by the department to compound bulk
3 prescription drugs and provide these bulk prescription drugs
4 to county health department physicians, physician assistants,
5 and nurses for administration to persons as part of a
6 prophylactic or treatment regimen when there is a significant
7 risk to the public health from a disease, an environmental
8 contaminant, or a suspected act of nuclear, biological, or
9 chemical terrorism.

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

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

23 2. Notwithstanding s. 456.036, temporarily
24 reactivating the inactive licenses of physicians licensed
25 under chapter 458 or chapter 459; physician assistants
26 licensed under chapter 458 or chapter 459; licensed practical
27 nurses, registered nurses, and advanced registered nurse
28 practitioners licensed under chapter 464; respiratory
29 therapists licensed under part V of chapter 468; and emergency
30 medical technicians and paramedics licensed under chapter 401
31 when such practitioners are needed to respond to the public

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1 health emergency. Only those licensees referenced in this
2 subparagraph who request reactivation and have unencumbered
3 inactive licenses are eligible for reactivation. Any inactive
4 license reactivated pursuant to this subparagraph shall return
5 to inactive status when the public health emergency ends or
6 prior to the end of the public health emergency if the State
7 Health Officer determines that the health care practitioner is
8 no longer needed to provide services during the emergency. The
9 license may only be reactivated for a period not to exceed 90
10 days without meeting the requirements of s. 456.036 or chapter
11 401. If a physician assistant or advanced registered nurse
12 practitioner requests reactivation and volunteers during the
13 declared public health emergency, the county health department
14 medical director, if appropriate, shall serve as the
15 supervising physician for the physician assistant and shall be
16 authorized to delegate acts of medical diagnosis and treatment
17 to the advanced registered nurse practitioner.

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

25 a. Examination, testing, or treatment may be performed
26 by any qualified person authorized by the State Health
27 Officer. Individuals who are unable or unwilling to be
28 examined, tested, vaccinated, or treated for reasons of
29 health, religion, or conscience may be subjected to
30 quarantine.

31 b. If the individual poses a danger to public health,

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1 the State Health Officer may subject the individual to
2 quarantine. If there is no practicable method to quarantine
3 the individual, the State Health Officer may use any means
4 necessary to vaccinate or treat the individual.

5 c. Any order of the State Health Officer given to
6 effectuate this subparagraph shall be immediately enforceable
7 by law enforcement.

8
9 Individuals who assist the State Health Officer at his or her
10 request on a volunteer basis during a public health emergency
11 declared pursuant to s. 381.00315 shall be entitled to the
12 benefits in s. 110.504(2), (3), (4), and (5).

13 Section 18. Section 381.0034, Florida Statutes, is
14 amended to read:

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

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

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

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

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

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

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

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1 ~~virus and acquired immune deficiency syndrome~~, for purposes of
2 relicensure or recertification for the additional licenses.

3 Section 19. Section 381.0035, Florida Statutes, is
4 amended to read:

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

10 (1)(a) The Department of Health shall require all
11 ~~employees and~~ clients of facilities licensed under chapters
12 393, 394, and 397 ~~and employees of facilities licensed under~~
13 ~~chapter 395 and parts II, III, IV, and VI of chapter 400~~ to
14 complete, biennially, a continuing educational course on the
15 modes of transmission, infection control procedures, clinical
16 management, and prevention of human immunodeficiency virus and
17 acquired immune deficiency syndrome with an emphasis on
18 appropriate behavior and attitude change. Such instruction
19 shall include information on current Florida law and its
20 impact on testing, confidentiality of test results, and
21 treatment of patients and any protocols and procedures
22 applicable to human immunodeficiency counseling and testing,
23 reporting, the offering of HIV testing to pregnant women, and
24 partner notification issues pursuant to ss. 381.004 and
25 384.25.

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

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

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

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

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

29 (5) In lieu of completing a course as required in
30 paragraph (1)(b), the employee may complete a course on
31 end-of-life care and palliative health care or a course on

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1 HIV/AIDS so long as the employee completed an approved course
2 on conditions caused by nuclear, biological, and chemical
3 terrorism in the immediately preceding biennium.

4 Section 20. Section 381.0421, Florida Statutes, is
5 created to read:

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

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

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

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

28 Section 21. Subsection (4) of section 395.1027,
29 Florida Statutes, is amended to read:

30 395.1027 Regional poison control centers.--

31 (4) By October 1, 1999, each regional poison control

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

15 Section 22. Section 401.23, Florida Statutes, is
16 amended to read:

17 401.23 Definitions.--As used in this part, the term:

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

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1 ~~of drugs or intravenous fluids, telemetry, cardiac monitoring,~~
2 ~~and cardiac defibrillation by a qualified person, pursuant to~~
3 ~~rules of the department.~~

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

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

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

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

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

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

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

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

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

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

25 (11) "Emergency medical condition" means:

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

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

3 2. Serious impairment to bodily functions.

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

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

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

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

13 2. Serious jeopardy to the health of others.

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

17 ~~(13)~~~~(12)~~ "Interfacility transfer" means the
18 transportation by ambulance of a patient between two
19 facilities licensed under chapter 393, chapter 395, or chapter
20 400, pursuant to this part.

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

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

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

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1 operations and training pursuant to this part.

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

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

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

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

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

26 (22)~~(21)~~ "Secretary" means the Secretary of Health.

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

30 Section 23. Paragraph (b) of subsection (2) of section
31 401.245, Florida Statutes, is amended to read:

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1 401.245 Emergency Medical Services Advisory Council.--

2 (2)

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

23 Section 24. Subsection (1) of section 401.252, Florida
24 Statutes, is amended to read:

25 401.252 Interfacility transfer.--

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

31 (a) The registered nurse or physician assistant holds

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1 a current certificate of successful course completion in
2 advanced cardiac life support;

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

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

11 Section 25. Subsection (6) of section 401.27, Florida
12 Statutes, is amended to read:

13 401.27 Personnel; standards and certification.--

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

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

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1 challenge examination.

2 Section 26. Section 456.033, Florida Statutes, is
3 amended to read:

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

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

31 (2) Each such licensee or certificateholder shall

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1 submit confirmation of having completed said course, on a form
2 as provided by the board, when submitting fees for each
3 biennial renewal.

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

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

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

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

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1 complete this requirement.

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

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

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

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

18 Section 27. Section 456.0345, Florida Statutes, is
19 created to read:

20 456.0345 Life support training.--Health care
21 practitioners who obtain training in advanced cardiac life
22 support, cardiopulmonary resuscitation, or emergency first aid
23 shall receive an equivalent number of continuing education
24 course credits which may be applied toward licensure renewal
25 requirements.

26 Section 28. Paragraph (e) of subsection (1) of section
27 456.072, Florida Statutes, is amended to read:

28 456.072 Grounds for discipline; penalties;
29 enforcement.--

30 (1) The following acts shall constitute grounds for
31 which the disciplinary actions specified in subsection (2) may

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1 be taken:

2 (e) Failing to comply with the educational course
3 requirements for conditions caused by nuclear, biological, and
4 chemical terrorism or for human immunodeficiency virus and
5 acquired immune deficiency syndrome.

6 Section 29. Section 456.38, Florida Statutes, is
7 amended to read:

8 456.38 Practitioner registry for disasters and
9 emergencies.--The Department of Health shall ~~may~~ include on
10 its application and renewal forms for the licensure or
11 certification of health care practitioners licensed pursuant
12 to chapter 458, chapter 459, chapter 464, or part V of chapter
13 468, as defined in s. 456.001, who could assist the department
14 in the event of a disaster a question asking if the
15 practitioner would be available to provide health care
16 services in special needs shelters or to help staff disaster
17 medical assistance teams during times of emergency or major
18 disaster. The names of practitioners who answer affirmatively
19 shall be maintained by the department as a health care
20 practitioner registry for disasters and emergencies. A health
21 care practitioner who volunteers his or her services in a
22 special needs shelter or as part of a disaster medical
23 assistance team during a time of emergency or disaster shall
24 not be terminated or discriminated against by his or her
25 employer for such volunteer work, provided that the health
26 care practitioner returns to his or her regular employment
27 within 2 weeks or within a longer period that has been
28 previously approved by the employer in writing.

29 Section 30. Subsection (4) of section 458.319, Florida
30 Statutes, is amended to read:

31 458.319 Renewal of license.--

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1 (4) Notwithstanding the provisions of s. 456.033, a
2 physician may complete continuing education on end-of-life
3 care and palliative care in lieu of continuing education in
4 conditions caused by nuclear, biological, and chemical
5 terrorism AIDS/HIV, if that physician has completed the
6 AIDS/HIV continuing education in conditions caused by nuclear,
7 biological, and chemical terrorism in the immediately
8 preceding biennium.

9 Section 31. Subsection (5) of section 459.008, Florida
10 Statutes, is amended to read:

11 459.008 Renewal of licenses and certificates.--

12 (5) Notwithstanding the provisions of s. 456.033, an
13 osteopathic physician may complete continuing education on
14 end-of-life and palliative care in lieu of continuing
15 education in conditions caused by nuclear, biological, and
16 chemical terrorism AIDS/HIV, if that physician has completed
17 the AIDS/HIV continuing education in conditions caused by
18 nuclear, biological, and chemical terrorism in the immediately
19 preceding biennium.

20 Section 32. 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

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

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

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

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

21 Section 33. Subsection (1) of section 765.516, Florida
22 Statutes, is amended to read:

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

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

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

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

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

31 ~~2. made in the presence of two persons, other than the~~

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1 donor's spouse, and communicated to the donor's family or
2 attorney or to the 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 34. 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 35. 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 36. 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 37. Section 456.047, Florida Statutes, is
2 repealed.

3 Section 38. 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 39. 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~~

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

1 ~~credentialing system.~~

2 Section 40. Paragraph (d) of subsection (4) of section
3 456.0391, Florida Statutes, is amended to read:

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

6 (4)

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

28 Section 41. Paragraph (v) of subsection (1) of section
29 456.072, Florida Statutes, is amended to read:

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

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

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

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

10 Section 42. 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 43. Subsection (3) of section 458.309, Florida
30 Statutes, is amended to read:

31 458.309 Authority to make rules.--

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

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

23 Section 44. 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 45. 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 department's
2 analysis the board desires to contract with a vendor for a
3 particular regulatory function and the board has a positive
4 cash balance, the department shall enter into a contract for
5 the service. The contract shall include objective performance
6 measures that reflect the expected quality and quantity of the
7 service and shall include a provision that terminates the
8 contract if the service falls below expected levels. For
9 purposes of this subsection, a "regulatory function" shall be
10 defined to include licensure, licensure renewal, examination,
11 complaint analysis, investigation, or prosecution.

12 Section 46. Subsection (1) of section 456.009, Florida
13 Statutes, is amended to read:

14 456.009 Legal and investigative services.--

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

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

3 Section 47. Subsection (6) is added to section
4 456.011, Florida Statutes, to read:

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

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

20 Section 48. Subsection (11) is added to section
21 456.026, Florida Statutes, to read:

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

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

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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 49. 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 50. 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 51. 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
6 physician as being acceptable under similar conditions and
7 circumstances. The board shall give great weight to the
8 provisions of s. 766.102 when enforcing this paragraph. As
9 used in this paragraph, "repeated malpractice" includes, but
10 is not limited to, three or more claims for medical
11 malpractice within the previous 5-year period resulting in
12 indemnities being paid in excess of ~~\$50,000~~~~\$25,000~~ each to
13 the claimant in a judgment or settlement and which incidents
14 involved negligent conduct by the physician. As used in this
15 paragraph, "gross malpractice" or "the failure to practice
16 medicine with that level of care, skill, and treatment which
17 is recognized by a reasonably prudent similar physician as
18 being acceptable under similar conditions and circumstances,"
19 shall not be construed so as to require more than one
20 instance, event, or act. Nothing in this paragraph shall be
21 construed to require that a physician be incompetent to
22 practice medicine in order to be disciplined pursuant to this
23 paragraph.

24 Section 52. 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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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 53. 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 this
3 subsection paragraph (a) or paragraph (b). The Department of
4 Health shall review each report and determine whether any of
5 the incidents that resulted in the claim potentially involved
6 conduct by the licensee that is subject to disciplinary
7 action, in which case the provisions of s. 456.073 shall
8 apply. The Department of Health, as part of the annual report
9 required by s. 456.026, shall publish annual statistics,
10 without identifying licensees, on the reports it receives,
11 including final action taken on such reports by the Department
12 of Health or the appropriate regulatory board.

13 Section 54. Subsections (14) and (15) are added to
14 section 456.073, Florida Statutes, to read:

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

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

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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 55. 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 56. 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 policy
10 plan, as required by s. 456.005;

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

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

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

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

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

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

24 Section 57. Section 456.0165, Florida Statutes, is
25 created to read:

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

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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 58. 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 59. Subsection (6) of section 468.301, Florida
15 Statutes, is amended to read:

16 468.301 Definitions.--As used in this part, the term:

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

25 Section 60. Paragraph (g) of subsection (3) and
26 paragraph (c) of subsection (6) of section 468.302, Florida
27 Statutes, are amended to read:

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

30 (3)

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

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1 medicine technologist may only:

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

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

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

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

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

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1 licensed practitioner:
2 1. Principles of X-ray production and equipment
3 operation.
4 2. Biological effects of radiation.
5 3. Radiation exposure and monitoring.
6 4. Radiation safety and protection.
7 5. Evaluation of radiographic equipment and
8 accessories.
9 6. Radiographic exposure and technique factors.
10 7. Film processing.
11 8. Image quality assurance.
12 9. Patient positioning.
13 10. Administration and complications of contrast
14 media.
15 11. Specific fluoroscopic and digital X-ray imaging
16 procedures related to invasive cardiovascular technology.
17 Section 61. Section 468.352, Florida Statutes, is
18 amended to read:
19 (Substantial rewording of section. See
20 s. 468.352, F.S., for present text.)
21 468.352 Definitions.--As used in this part the term:
22 (1) "Board" means the Board of Respiratory Care.
23 (2) "Certified respiratory therapist" means any person
24 licensed pursuant to this part who is certified by the
25 National Board for Respiratory Care or its successor, who is
26 employed to deliver respiratory care services, under the order
27 of a physician licensed pursuant to chapter 458 or chapter
28 459, in accordance with protocols established by a hospital or
29 other health care provider or the board, and who functions in
30 situations of unsupervised patient contact requiring
31 individual judgment.

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1 (3) "Critical care" means care given to a patient in
2 any setting involving a life-threatening emergency.

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

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

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

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

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

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

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

9 (10) "Respiratory care services" includes:

10 (a) Evaluation and disease management.

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

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

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

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

26 (f) Cardiopulmonary rehabilitation.

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

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

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1 (i) Performing sleep-disorder studies.

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

6 (k) Initiation and management of hyperbaric oxygen.
7 Section 62. Section 468.355, Florida Statutes, is
8 amended to read:

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

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

16 Section 63. Section 468.368, Florida Statutes, is
17 amended to read:

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

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

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

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

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

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1 practitioner or respiratory therapist.

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

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

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

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

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

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

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

31 Section 64. Sections 468.356 and 468.357, Florida

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1 Statutes, are repealed.

2 Section 65. (1) Beginning July 1, 2003, application
3 forms for initial licensure and licensure renewal for the
4 professions regulated by the Department of Health, Division of
5 Medical Quality Assurance, shall be submitted electronically
6 through the World Wide Web unless the applicant states on the
7 application form that he or she does not have access to the
8 World Wide Web, in which case a paper application may be
9 submitted. The department shall issue the license or renew a
10 license only if the licensee provides satisfactory evidence
11 that all conditions and requirements of licensure or renewal
12 have been met, including, but not limited to, the payment of
13 required fees, the completion of required continuing education
14 coursework, and, if applicable, the maintenance of financial
15 responsibility. This section shall not be construed to reduce
16 or eliminate any requirement set forth in chapter 456, Florida
17 Statutes, or the applicable practice act.

18 (2) In order to maximize the state's return on
19 investment, to increase the efficiency and timeliness of the
20 conversion, and to promote fiscal responsibility during the
21 transition to electronic licensure, the Department of Health
22 shall redirect its current resources and contracts which
23 support the existing practitioner credentialing system towards
24 the development and operation of an electronic licensure and
25 licensure renewal system effective upon this bill becoming
26 law.

27 Section 66. (1) Effective July 1, 2004, and each July
28 1 thereafter, the fee caps established in the following
29 sections are increased by 2.5 percent: ss. 456.025, 457.105,
30 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,
31 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,

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1 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
2 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
3 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
4 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
5 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,
6 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
7 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
8 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
9 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
10 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
11 491.0085, and 491.0145, Florida Statutes.

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

16 Section 67. Sections 381.0602, 381.6021, 381.6022,
17 381.6023, 381.6024, and 381.6026, Florida Statutes, are
18 renumbered as sections 765.53, 765.541, 765.542, 765.544,
19 765.545, and 765.547, Florida Statutes, respectively.

20 Section 68. Section 381.60225, Florida Statutes, is
21 renumbered as section 765.543, Florida Statutes, and
22 subsection (2) of said section is amended to read:

23 765.543 ~~381.60225~~ Background screening.--

24 (2) An organ procurement organization, tissue bank, or
25 eye bank certified by the Agency for Health Care
26 Administration in accordance with ss. 381.6021 and 765.542
27 ~~381.6022~~ is not subject to the requirements of this section if
28 the entity has no direct patient care responsibilities and
29 does not bill patients or insurers directly for services under
30 the Medicare or Medicaid programs, or for privately insured
31 services.

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1 Section 69. Section 381.6025, Florida Statutes, is
2 renumbered as section 765.546, Florida Statutes, and amended
3 to read:
4 765.546 ~~381.6025~~ Physician supervision of cadaveric
5 organ and tissue procurement coordinators.--Organ procurement
6 organizations, tissue banks, and eye banks may employ
7 coordinators, who are registered nurses, physician's
8 assistants, or other medically trained personnel who meet the
9 relevant standards for organ procurement organizations, tissue
10 banks, or eye banks as adopted by the Agency for Health Care
11 Administration under s. 765.541 ~~381.6021~~, to assist in the
12 medical management of organ donors or in the surgical
13 procurement of cadaveric organs, tissues, or eyes for
14 transplantation or research. A coordinator who assists in the
15 medical management of organ donors or in the surgical
16 procurement of cadaveric organs, tissues, or eyes for
17 transplantation or research must do so under the direction and
18 supervision of a licensed physician medical director pursuant
19 to rules and guidelines to be adopted by the Agency for Health
20 Care Administration. With the exception of organ procurement
21 surgery, this supervision may be indirect supervision. For
22 purposes of this section, the term "indirect supervision"
23 means that the medical director is responsible for the medical
24 actions of the coordinator, that the coordinator is operating
25 under protocols expressly approved by the medical director,
26 and that the medical director or his or her physician designee
27 is always available, in person or by telephone, to provide
28 medical direction, consultation, and advice in cases of organ,
29 tissue, and eye donation and procurement. Although indirect
30 supervision is authorized under this section, direct physician
31 supervision is to be encouraged when appropriate.

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1 Section 70. Subsection (2) of section 395.2050,
2 Florida Statutes, is amended to read:

3 395.2050 Routine inquiry for organ and tissue
4 donation; certification for procurement activities.--

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

8 765.541-765.547 ~~381.6021-381.6026~~.

9 Section 71. Paragraph (e) of subsection (2) of section
10 409.815, Florida Statutes, is amended to read:

11 409.815 Health benefits coverage; limitations.--

12 (2) BENCHMARK BENEFITS.--In order for health benefits
13 coverage to qualify for premium assistance payments for an
14 eligible child under ss. 409.810-409.820, the health benefits
15 coverage, except for coverage under Medicaid and Medikids,
16 must include the following minimum benefits, as medically
17 necessary.

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

25 Section 72. Subsection (2) of section 765.5216,
26 Florida Statutes, is amended to read:

27 765.5216 Organ and tissue donor education panel.--

28 (2) There is created within the Agency for Health Care
29 Administration a statewide organ and tissue donor education
30 panel, consisting of 12 members, to represent the interests of
31 the public with regard to increasing the number of organ and

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1 tissue donors within the state. The panel and the Organ and
2 Tissue Procurement and Transplantation Advisory Board
3 established in s. 765.544 ~~381.6023~~ shall jointly develop,
4 subject to the approval of the Agency for Health Care
5 Administration, education initiatives pursuant to s. 732.9215,
6 which the agency shall implement. The membership must be
7 balanced with respect to gender, ethnicity, and other
8 demographic characteristics so that the appointees reflect the
9 diversity of the population of this state. The panel members
10 must include:

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

13 (b) A representative from a Florida licensed organ
14 procurement organization.

15 (c) A representative from a Florida licensed tissue
16 bank.

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

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

19 (f) A representative from the Division of Driver
20 Licenses of the Department of Highway Safety and Motor
21 Vehicles, who possesses experience and knowledge in dealing
22 with the public.

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

25 (h) A representative who has been the recipient of a
26 transplanted organ, tissue, or eye, or is a family member of a
27 recipient.

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

30 (j) A representative from a professional association
31 or public relations or advertising organization.

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1 (k) A representative from a community service club or
2 organization.

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

4 Section 73. Subsection (5) of section 765.522, Florida
5 Statutes, is amended to read:

6 765.522 Duty of certain hospital administrators;
7 liability of hospital administrators, organ procurement
8 organizations, eye banks, and tissue banks.--

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

18 Section 74. Subject to the availability of funds and
19 subject to any limitations or directions provided for in the
20 General Appropriations Act or chapter 216, Florida Statutes,
21 the Medicaid program of the Agency for Health Care
22 Administration shall pay for medically necessary lung
23 transplant services for Medicaid recipients.

24 Section 75. Subsection (1) of section 409.915, Florida
25 Statutes, is amended to read:

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

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

3 (a) For both health maintenance members and
4 fee-for-service beneficiaries, payments for inpatient
5 hospitalization in excess of 10 days, but not in excess of 45
6 days, with the exception of payments for:

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

10 2. Adult lung transplant services.

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

14 Section 76. Effective upon becoming law and applicable
15 to any loan or scholarship that is in default on or after the
16 effective date, subsection (4) is added to section 456.074,
17 Florida Statutes, to read:

18 456.074 Certain health care practitioners; immediate
19 suspension of license.--

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

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1 department from proceeding with disciplinary action against
2 the licensee pursuant to s. 456.073.

3 Section 77. Effective upon becoming law and applicable
4 to any loan or scholarship that is in default on or after the
5 effective date, paragraph (k) of subsection (1) of section
6 456.072, Florida Statutes, is amended, and subsection (2) of
7 said section is reenacted, to read:

8 456.072 Grounds for discipline; penalties;
9 enforcement.--

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

13 (k) Failing to perform any statutory or legal
14 obligation placed upon a licensee. For purposes of this
15 section, failing to repay a student loan issued or guaranteed
16 by the state or the Federal Government in accordance with the
17 terms of the loan or failing to comply with service
18 scholarship obligations shall be considered a failure to
19 perform a statutory or legal obligation, and the minimum
20 disciplinary action imposed shall be a suspension of the
21 license until new payment terms are agreed upon or the
22 scholarship obligation is resumed, followed by probation for
23 the duration of the student loan or remaining scholarship
24 obligation period, and a fine equal to 10 percent of the
25 defaulted loan amount. Fines collected shall be deposited
26 into the Medical Quality Assurance Trust Fund.

27 (2) When the board, or the department when there is no
28 board, finds any person guilty of the grounds set forth in
29 subsection (1) or of any grounds set forth in the applicable
30 practice act, including conduct constituting a substantial
31 violation of subsection (1) or a violation of the applicable

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- 1 practice act which occurred prior to obtaining a license, it
2 may enter an order imposing one or more of the following
3 penalties:
- 4 (a) Refusal to certify, or to certify with
5 restrictions, an application for a license.
 - 6 (b) Suspension or permanent revocation of a license.
 - 7 (c) Restriction of practice or license, including, but
8 not limited to, restricting the licensee from practicing in
9 certain settings, restricting the licensee to work only under
10 designated conditions or in certain settings, restricting the
11 licensee from performing or providing designated clinical and
12 administrative services, restricting the licensee from
13 practicing more than a designated number of hours, or any
14 other restriction found to be necessary for the protection of
15 the public health, safety, and welfare.
 - 16 (d) Imposition of an administrative fine not to exceed
17 \$10,000 for each count or separate offense. If the violation
18 is for fraud or making a false or fraudulent representation,
19 the board, or the department if there is no board, must impose
20 a fine of \$10,000 per count or offense.
 - 21 (e) Issuance of a reprimand or letter of concern.
 - 22 (f) Placement of the licensee on probation for a
23 period of time and subject to such conditions as the board, or
24 the department when there is no board, may specify. Those
25 conditions may include, but are not limited to, requiring the
26 licensee to undergo treatment, attend continuing education
27 courses, submit to be reexamined, work under the supervision
28 of another licensee, or satisfy any terms which are reasonably
29 tailored to the violations found.
 - 30 (g) Corrective action.
 - 31 (h) Imposition of an administrative fine in accordance

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1 with s. 381.0261 for violations regarding patient rights.

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

4 (j) Requirement that the practitioner undergo remedial
5 education.

6
7 In determining what action is appropriate, the board, or
8 department when there is no board, must first consider what
9 sanctions are necessary to protect the public or to compensate
10 the patient. Only after those sanctions have been imposed may
11 the disciplining authority consider and include in the order
12 requirements designed to rehabilitate the practitioner. All
13 costs associated with compliance with orders issued under this
14 subsection are the obligation of the practitioner.

15 Section 78. The Department of Health shall obtain from
16 the United States Department of Health and Human Services
17 information necessary to investigate and prosecute health care
18 practitioners for failing to repay a student loan or comply
19 with scholarship service obligations pursuant to s.
20 456.072(1)(k), Florida Statutes. The department shall obtain
21 from the United States Department of Health and Human Services
22 a list of default health care practitioners each month, along
23 with the information necessary to investigate a complaint in
24 accordance with s. 456.073, Florida Statutes. The department
25 may obtain evidence to support the investigation and
26 prosecution from any financial institution or educational
27 institution involved in providing the loan or education to the
28 practitioner. The department shall report to the Legislature
29 as part of the annual report required by s. 456.026, Florida
30 Statutes, the number of practitioners in default, along with
31 the results of the department's investigations and

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1 prosecutions, and the amount of fines collected from
2 practitioners prosecuted for violating s. 456.072(1)(k),
3 Florida Statutes.

4 Section 79. Section 456.026, Florida Statutes, is
5 reenacted to read:

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

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

16 (2) The number of complaints received and
17 investigated.

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

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

20 (5) The number of administrative complaints filed.

21 (6) The disposition of all administrative complaints.

22 (7) A description of disciplinary actions taken.

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

28 (9) The status of the development and implementation
29 of rules providing for disciplinary guidelines pursuant to s.
30 456.079.

31 (10) Such recommendations for administrative and

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1 statutory changes necessary to facilitate efficient and
2 cost-effective operation of the department and the various
3 boards.

4 Section 80. Section 456.073, Florida Statutes, is
5 reenacted to read:

6 456.073 Disciplinary proceedings.--Disciplinary
7 proceedings for each board shall be within the jurisdiction of
8 the department.

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

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

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

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

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1 employ investigators, and continue the investigation and
2 prosecution of the case as it deems necessary.

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

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

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

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

28 (5) A formal hearing before an administrative law
29 judge from the Division of Administrative Hearings shall be
30 held pursuant to chapter 120 if there are any disputed issues
31 of material fact. The administrative law judge shall issue a

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1 recommended order pursuant to chapter 120. If any party raises
2 an issue of disputed fact during an informal hearing, the
3 hearing shall be terminated and a formal hearing pursuant to
4 chapter 120 shall be held.

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

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

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

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

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

31 1. A written explanation of how an administrative

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1 complaint is resolved by the disciplinary process.

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

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

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

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

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

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

25 (12)(a) No person who reports in any capacity, whether
26 or not required by law, information to the department with
27 regard to the incompetence, impairment, or unprofessional
28 conduct of any health care provider licensed under chapter
29 458, chapter 459, chapter 460, chapter 461, chapter 462,
30 chapter 463, chapter 464, chapter 465, or chapter 466 shall be
31 held liable in any civil action for reporting against such

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1 health care provider if such person acts without intentional
2 fraud or malice.

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

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

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

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1 limitations is extended forward, but in no event to exceed 12
2 years after the time of the incident or occurrence.

3 Section 81. Subsection (8) of section 400.925, Florida
4 Statutes, is amended to read:

5 400.925 Definitions.--As used in this part, the term:

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

27 Section 82. Subsections (5), (7), and (9) of section
28 409.91195, Florida Statutes, is amended to read:

29 409.91195 Medicaid Pharmaceutical and Therapeutics
30 Committee.--There is created a Medicaid Pharmaceutical and
31 Therapeutics Committee within the Agency for Health Care

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1 Administration for the purpose of developing a preferred drug
2 formulary pursuant to 42 U.S.C. s. 1396r-8.

3 (5) Except for mental health-related drugs,
4 antiretroviral drugs, and drugs for nursing home residents and
5 other institutional residents, reimbursement of drugs not
6 included in the formulary is subject to prior authorization.
7 If the prior authorization is approved, the approval shall be
8 in effect for the subsequent 12 month period.

9 (7) The committee shall ensure that interested
10 parties, including pharmaceutical manufacturers agreeing to
11 provide a supplemental rebate as outlined in this chapter have
12 an opportunity to present public testimony to the committee
13 with information or evidence supporting inclusion of a product
14 on the preferred drug list. Such public testimony shall occur
15 prior to any decisions being made by the Committee for
16 inclusion or exclusion from the drugs available to the
17 Medicaid recipients. Upon timely notice, the agency shall
18 ensure that any drug that has been approved or had any of its
19 particular uses approved by the United States Food and Drug
20 Administration under a priority review classification will be
21 reviewed by the Medicaid Pharmaceutical and Therapeutics
22 Committee at the next regularly scheduled meeting. To the
23 extent possible, upon notice by a manufacturer the agency
24 shall also schedule a product review for any new product at
25 the next regularly scheduled Medicaid Pharmaceutical and
26 Therapeutics Committee.

27 (9) The Medicaid Pharmaceutical and Therapeutics
28 Committee shall develop its preferred drug list
29 recommendations by considering the clinical efficacy, safety,
30 and cost-effectiveness of a product. In addition,
31 recommendations shall include a review and approval by a

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1 physician who is board-certified in the specialty that most
2 commonly treats the disease or prescribes the relevant
3 therapeutic class of drugs.When the preferred drug formulary
4 is adopted by the agency, if a product on the formulary is one
5 of the first four brand-name drugs used by a recipient in a
6 month the drug shall not require prior authorization.

7 Section 83. Subsection (4) is added to section
8 765.104, Florida Statutes, to read:

9 765.104 Amendment or revocation.--

10 (4) Any patient for whom a medical proxy has been
11 recognized under s. 765.401 and for whom any previous legal
12 disability that precluded the patient's ability to consent is
13 removed may amend or revoke the recognition of the medical
14 proxy and any uncompleted decision made by that proxy. The
15 amendment or revocation takes effect when it is communicated
16 to the proxy, the health care provider, or the health care
17 facility in writing or, if communicated orally, in the
18 presence of a third person.

19 Section 84. Subsections (1) and (3) of section
20 765.401, Florida Statutes, are amended to read:

21 765.401 The proxy.--

22 (1) If an incapacitated or developmentally disabled
23 ~~the~~ patient has not executed an advance directive, or
24 designated a surrogate to execute an advance directive, or the
25 designated or alternate surrogate is no longer available to
26 make health care decisions, health care decisions may be made
27 for the patient by any of the following individuals, in the
28 following order of priority, if no individual in a prior class
29 is reasonably available, willing, or competent to act:

30 (a) The judicially appointed guardian of the patient
31 or the guardian advocate of the person having a developmental

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1 disability as defined in s. 393.063, who has been authorized
2 to consent to medical treatment, if such guardian has
3 previously been appointed; however, this paragraph shall not
4 be construed to require such appointment before a treatment
5 decision can be made under this subsection;

6 (b) The patient's spouse;

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

10 (d) A parent of the patient;

11 (e) The adult sibling of the patient or, if the
12 patient has more than one sibling, a majority of the adult
13 siblings who are reasonably available for consultation.

14 (f) An adult relative of the patient who has exhibited
15 special care and concern for the patient and who has
16 maintained regular contact with the patient and who is
17 familiar with the patient's activities, health, and religious
18 or moral beliefs; or

19 (g) A close friend of the patient.

20 (3) Before exercising the incapacitated patient's
21 rights to select or decline health care, the proxy must comply
22 with the provisions of ss. 765.205 and 765.305, except that a
23 proxy's decision to withhold or withdraw life-prolonging
24 procedures must be supported by clear and convincing evidence
25 that the decision would have been the one the patient would
26 have chosen had the patient been competent or, if there is no
27 indication of what the patient would have chosen, that the
28 decision is in the patient's best interest. Before exercising
29 the rights of a person who has a developmental disability as
30 defined under s. 393.063(12) to withhold or withdraw
31 life-prolonging procedures, a proxy must comply with s.

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1 393.12.

2 Section 85. Subsection (2) of section 457.105, Florida
3 Statutes, is amended and subsection (3) of section 457.105,
4 Florida Statutes, is created to read:

5 457.105 Licensure qualifications and fees.--

6 (2) A person may become licensed to practice
7 acupuncture if the person applies to the department and:

8 (a) Is 21 years of age or older, has good moral
9 character, and has the ability to communicate in English,
10 which is demonstrated by having passed the national written
11 examination in English or, if such examination was passed in a
12 foreign language, by also having passed a nationally
13 recognized English proficiency examination;

14 (b) ~~Has completed 60 college credits from an~~
15 ~~accredited postsecondary institution~~ received a bachelor's
16 degree from an accredited College or University as a
17 prerequisite to enrollment in an authorized 3-year course of
18 study in acupuncture and oriental medicine, and has completed
19 a 3-year course of study in acupuncture and oriental medicine,
20 and effective July 31, 2001, a 4-year course of study in
21 acupuncture and oriental medicine, and effective July 31,
22 2003, a 4 year, 3200 hour course of study in acupuncture and
23 oriental medicine which meets standards established by the
24 board by rule, which standards include, but are not limited
25 to, successful completion of academic courses in western
26 anatomy, western physiology, western pathology, western
27 biomedical terminology, first aid, and cardiopulmonary
28 resuscitation (CPR). However, any person who enrolled in an
29 authorized course of study in acupuncture before August 1,
30 1997, and who applies on or before July 1, 2003, must have
31 completed only a 2-year course of study which meets standards

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1 established by the board by rule, which standards must
2 include, but are not limited to, successful completion of
3 academic courses in western anatomy, western physiology, and
4 western pathology;

5 (c) Has successfully completed a board-approved
6 national certification process, is actively licensed in a
7 state that has examination requirements that are substantially
8 equivalent to or more stringent than those of this state, or
9 passes an examination administered by the department, which
10 examination tests the applicant's competency and knowledge of
11 the practice of acupuncture and oriental medicine. At the
12 request of any applicant, oriental nomenclature for the points
13 shall be used in the examination. The examination shall
14 include a practical examination of the knowledge and skills
15 required to practice modern and traditional acupuncture and
16 oriental medicine, covering diagnostic and treatment
17 techniques and procedures; and

18 (d) Has submitted to the department a set of
19 fingerprints on a form and under procedures specified by the
20 department along with a payment in an amount equal to the
21 costs to be incurred by the Department of Health for the
22 criminal background check of an applicant. The Department of
23 Health shall submit the fingerprints provided by the applicant
24 to the Florida Department of Law Enforcement for a statewide
25 criminal history check, and the Florida Department of Law
26 Enforcement shall forward the fingerprints to the Federal
27 Bureau of Investigation for a national criminal history check
28 of the applicant.

29 ~~(d)~~(e) Pays the required fees set by the board by rule
30 not to exceed the following amounts:

31 1. Examination fee: \$500 plus the actual per applicant

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1 cost to the department for purchase of the written and
2 practical portions of the examination from a national
3 organization approved by the board.

4 2. Application fee: \$300.

5 3. Reexamination fee: \$500 plus the actual per
6 applicant cost to the department for purchase of the written
7 and practical portions of the examination from a national
8 organization approved by the board.

9 4. Initial biennial licensure fee: \$400, if licensed
10 in the first half of the biennium, and \$200, if licensed in
11 the second half of the biennium.

12 (3) The board may deny an applicant who within a three
13 year period does not pass the licensing examination after five
14 attempts.

15 Section 86. Section 457.1085, Florida Statutes, is
16 amended to read:

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

25 Section 87. Paragraph (y) of subsection (1) of section
26 457.109, Florida Statutes, is amended to read:

27 457.109 Disciplinary actions; grounds; action by the
28 board.--

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

31 456.072(2):

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1 (y) Using the specialty titles of "Diplomat in
2 Acupuncture" or "National Board Certified Diplomat in
3 Acupuncture" or "Board Certified Diplomat in Acupuncture" in
4 conjunction with one's name, place of business, or acupuncture
5 practice unless the licensee holds an active license under
6 Chapter 457, F.S., and is also an active holder of such Board
7 Certification from the nationally recognized "Acupuncture
8 Credentials Verification Organization", the National
9 Certification Commission for Acupuncture and Oriental Medicine
10 (NCCAOM).

11 Section 88. Subsection (2) of section 457.116, Florida
12 Statutes, is amended to read:

13 457.116 Prohibited acts; penalty.--

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

17 Section 89. Section 457.119, Florida Statutes, is
18 created to read:

19 457.119 Approval of Educational Programs--The board
20 shall adopt rules regarding educational objectives, faculty
21 qualifications, curriculum guidelines, and clinical training
22 necessary to ensure that approved programs graduate
23 practitioners capable of competent practice under this act.

24 Section 90. Effective upon becoming law, paragraph (t)
25 is added to subsection (3) of section 408.036, Florida
26 Statutes, to read:

27 408.036 Projects subject to review.--

28 (3) EXEMPTIONS.--Upon request, the following projects
29 are subject to exemption from the provisions of subsection
30 (1):

31 (t) For the establishment of a satellite hospital

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1 through the relocation of 100 general acute care beds from an
2 existing hospital located in the same district, as defined in
3 s. 408.032(5).

4 Section 91. Subsections (31), (32), and (33), of
5 section 395.002, Florida Statutes, are renumbered as
6 subsections (32), (33), and (34) respectively, and a new
7 subsection (31) of section 395.002, Florida Statutes, is
8 created to read:

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

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

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

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

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

24 Section 92. Paragraph (b) of subsection (1) of section
25 395.0197, Florida Statutes, is amended to read:

26 395.0197 Internal risk management program.--

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

31 (b) The development of appropriate measures to

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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 approved or
2 credentialed by the facility.

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

11 Section 93. Subsection (5) is added to section
12 408.043, Florida Statutes, to read:

13 408.043 Special provisions.--

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

23 Section 94. Effective upon becoming law, paragraphs
24 (a) and (b) of subsection (2) of section 768.13, Florida
25 Statutes, are amended to read:

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

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

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1 health emergency declared pursuant to s. 381.00315, a state of
2 emergency which has been declared pursuant to s. 252.36 or at
3 the scene of an emergency outside of a hospital, doctor's
4 office, or other place having proper medical equipment,
5 without objection of the injured victim or victims thereof,
6 shall not be held liable for any civil damages as a result of
7 such care or treatment or as a result of any act or failure to
8 act in providing or arranging further medical treatment where
9 the person acts as an ordinary reasonably prudent person would
10 have acted under the same or similar circumstances.

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

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

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

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

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1 chapter 395.

2 Section 95. Paragraph (k) of subsection (2) of section
3 381.0066, Florida Statutes, is amended to read:

4 381.0066 Onsite sewage treatment and disposal systems;
5 fees.--

6 (2) The minimum fees in the following fee schedule
7 apply until changed by rule by the department within the
8 following limits:

9 (k) Research: An additional \$5 fee shall be added to
10 each new system construction permit issued ~~during fiscal years~~
11 ~~1996-2002~~ to be used for onsite sewage treatment and disposal
12 system research, demonstration, and training projects. Five
13 dollars from any repair permit fee collected under this
14 section shall be used for funding the hands-on training
15 centers described in s. 381.0065(3)(j).

16
17 The funds collected pursuant to this subsection must be
18 deposited in a trust fund administered by the department, to
19 be used for the purposes stated in this section and ss.
20 381.0065 and 381.00655.

21 Section 96. Part IV of chapter 489, Florida Statutes,
22 consisting of sections 489.661, 489.662, 489.663, 489.664,
23 489.665, 489.666, 489.667, and 489.668, is created to read:

24 PART IV

25 PORTABLE RESTROOM CONTRACTING

26 489.661 Definitions.--As used in this part:

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

28 (2) "Portable restroom contractor" means a portable
29 restroom contractor whose services are unlimited in the
30 portable restroom trade who has had at least 3 years'
31 experience as a Florida-registered portable restroom

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

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

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

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

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

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

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1 accordance with chapter 120, the Administrative Procedure Act.
2 (4) To be eligible for registration by the department
3 as a portable restroom contractor, the applicant shall:
4 (a) Be of good moral character. In considering good
5 moral character, the department may consider any matter that
6 has a substantial connection between the good moral character
7 of the applicant and the professional responsibilities of a
8 registered contractor, including, but not limited to, the
9 applicant being convicted or found guilty of, or entering a
10 plea of nolo contendere to, regardless of adjudication, a
11 crime in any jurisdiction that directly relates to the
12 practice of contracting or the ability to practice
13 contracting, and previous disciplinary action involving
14 portable restroom contracting, where all judicial reviews have
15 been completed.
16 (b) Pass an examination approved by the department
17 that demonstrates that the applicant has a fundamental
18 knowledge of the state laws relating to the installation,
19 maintenance, and wastewater disposal of portable restrooms,
20 portable sinks, and portable holding tanks.
21 (c) Be at least 18 years of age.
22 (d) Have a total of at least 3 years of active
23 experience serving an apprenticeship as a skilled worker under
24 the supervision and control of a registered portable restroom
25 contractor. Related work experience or educational experience
26 may be substituted for no more than 2 years of active
27 contracting experience. Each 30 hours of coursework approved
28 by the department will substitute for 6 months of work
29 experience. Out-of-state work experience shall be accepted on
30 a year-for-year basis for any applicant who demonstrates that
31 he or she holds a current license issued by another state for

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

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

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

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

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1 portable restroom contractors.
2 489.665 Certification of partnerships and
3 corporations.--
4 (1) The practice of or the offer to practice portable
5 restroom contracting services by registrants through a parent
6 corporation, corporation, subsidiary of a corporation, or
7 partnership offering portable restroom contracting services to
8 the public through registrants under this chapter as agents,
9 employers, officers, or partners is permitted, provided that
10 one or more of the principal officers of the corporation or
11 one or more partners of the partnership and all personnel of
12 the corporation or partnership who act on its behalf as
13 portable restroom contractors in this state are registered as
14 provided by this part, and further provided that the
15 corporation or partnership has been issued a certificate of
16 authorization by the department as provided in this section.
17 A registered contractor may not be the sole qualifying
18 contractor for more than one business that requests a
19 certificate of authorization. A business organization that
20 loses its qualifying contractor has 60 days following the date
21 the qualifier terminates his or her affiliation within which
22 to obtain another qualifying contractor. During this period,
23 the business organization may complete any existing contract
24 or continuing contract, but may not undertake any new
25 contract. This period may be extended once by the department
26 for an additional 60 days upon a showing of good cause.
27 Nothing in this section shall be construed to mean that a
28 certificate of registration to practice portable restroom
29 contracting shall be held by a corporation. No corporation or
30 partnership shall be relieved of responsibility for the
31 conduct or acts of its agents, employees, or officers by

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1 reason of its compliance with this section, nor shall any
2 individual practicing portable restroom contracting be
3 relieved of responsibility for professional services performed
4 by reason of his or her employment or relationship with a
5 corporation or partnership.

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

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

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

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

29 489.666 Suspension or revocation of registration.--A
30 certificate of registration may be suspended or revoked upon a
31 showing that the registrant has:

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- 1 (1) Violated any provision of this part.
2 (2) Violated any lawful order or rule rendered or
3 adopted by the department.
4 (3) Obtained his or her registration or any other
5 order, ruling, or authorization by means of fraud,
6 misrepresentation, or concealment of material facts.
7 (4) Been found guilty of gross misconduct in the
8 pursuit of his or her profession.
9 489.667 Fees; establishment.--
10 (1) The department shall, by rule, establish fees as
11 follows:
12 (a) For portable restroom contractor registration:
13 1. Application and examination fee: not less than \$25
14 nor more than \$75.
15 2. Initial registration fee: not less than \$50 nor
16 more than \$100.
17 3. Renewal of registration fee: not less than \$50 nor
18 more than \$100.
19 (b) Certification of partnerships and corporations:
20 not less than \$100 nor more than \$250.
21 (2) Fees established pursuant to subsection (1) shall
22 be based on the actual costs incurred by the department in
23 carrying out its registration and other related
24 responsibilities under this part.
25 489.668 Penalties and prohibitions.--
26 (1) Any person who violates any provision of this part
27 commits a misdemeanor of the first degree, punishable as
28 provided in s. 775.082 or s. 775.083.
29 (2) The department may deny a registration if it
30 determines that an applicant does not meet all requirements of
31 this part or has violated any provision of this part. Any

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1 applicant aggrieved by such denial shall be entitled to a
2 hearing, after reasonable notice thereof, upon filing a
3 written request for such hearing in accordance with chapter
4 120.

5 Section 97. Subsection (1) of section 491.0057,
6 Florida Statutes, is amended to read:

7 491.0057 Dual licensure as a marriage and family
8 therapist.--The department shall license as a marriage and
9 family therapist any person who demonstrates to the board that
10 he or she:

11 (1)(a) Holds a valid, active license as a psychologist
12 under chapter 490 or,

13 (b) Is as a clinical social worker or mental health
14 counselor under this chapter, or is certified under s. 464.012
15 as an advanced registered nurse practitioner who has been
16 determined by the Board of Nursing as a specialist in
17 psychiatric mental health, and demonstrates equivalent
18 education and training to that specified in Ch. 491.005(3)(c).

19 Section 98. Subsection (3) of section 627.638, Florida
20 Statutes, is added to read:

21 627.638 Direct payment for hospital, medical
22 services.--

23 (3) Under any health insurance policy insuring against
24 loss or expense due to hospital confinement or to medical and
25 related services, payment of benefits shall be made directly
26 to any recognized hospital, doctor, or other person who
27 provided services for the treatment of a psychological
28 disorder or treatment for substance abuse, including drug and
29 alcohol abuse, when the treatment is in accordance with the
30 provisions of the policy and the insured specifically
31 authorizes direct payment of benefits. Payments shall be made

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1 under this section, notwithstanding any contrary provisions in
2 the health insurance contract. This subsection applies to all
3 health insurance policies now or hereafter in force as of the
4 effective date of this act.

5 Section 99. Subsection (1) of section 766.101, Florida
6 Statutes, is amended to read:

7 766.101 Medical review committee, immunity from
8 liability.--

9 (1) As used in this section:

10 (a) The term "medical review committee" or "committee"
11 means:

12 1.a. A committee of a hospital or ambulatory surgical
13 center licensed under chapter 395 or a health maintenance
14 organization certificated under part I of chapter 641,

15 b. A committee of a physician-hospital organization, a
16 provider-sponsored organization, or an integrated delivery
17 system,

18 c. A committee of a state or local professional
19 society of health care providers,

20 d. A committee of a medical staff of a licensed
21 hospital or nursing home, provided the medical staff operates
22 pursuant to written bylaws that have been approved by the
23 governing board of the hospital or nursing home,

24 e. A committee of the Department of Corrections or the
25 Correctional Medical Authority as created under s. 945.602, or
26 employees, agents, or consultants of either the department or
27 the authority or both,

28 f. A committee of a professional service corporation
29 formed under chapter 621 or a corporation organized under
30 chapter 607 or chapter 617, which is formed and operated for
31 the practice of medicine as defined in s. 458.305(3), and

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1 which has at least 25 health care providers who routinely
2 provide health care services directly to patients,
3 g. A committee of a mental health treatment facility
4 licensed under chapter 394 or a community mental health center
5 as defined in s. 394.907, provided the quality assurance
6 program operates pursuant to the guidelines which have been
7 approved by the governing board of the agency,
8 h. A committee of a substance abuse treatment and
9 education prevention program licensed under chapter 397
10 provided the quality assurance program operates pursuant to
11 the guidelines which have been approved by the governing board
12 of the agency,
13 i. A peer review or utilization review committee
14 organized under chapter 440,
15 j. A committee of the Department of Health, a county
16 health department, healthy start coalition, or certified rural
17 health network, when reviewing quality of care, or employees
18 of these entities when reviewing mortality records, or
19 k. A continuous quality improvement committee of a
20 pharmacy licensed pursuant to chapter 465, or
21 l. A committee established by a university board of
22 trustees, or
23 m. A committee comprised of faculty, residents,
24 students, and administrators of an accredited college of
25 medicine, nursing or other health care discipline.
26
27 which committee is formed to evaluate and improve the quality
28 of health care rendered by providers of health service or to
29 determine that health services rendered were professionally
30 indicated or were performed in compliance with the applicable
31 standard of care or that the cost of health care rendered was

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1 considered reasonable by the providers of professional health
2 services in the area; or

3 2. A committee of an insurer, self-insurer, or joint
4 underwriting association of medical malpractice insurance, or
5 other persons conducting review under s. 766.106.

6 (b) The term "health care providers" means physicians
7 licensed under chapter 458, osteopathic physicians licensed
8 under chapter 459, podiatric physicians licensed under chapter
9 461, optometrists licensed under chapter 463, dentists
10 licensed under chapter 466, chiropractic physicians licensed
11 under chapter 460, pharmacists licensed under chapter 465, or
12 hospitals or ambulatory surgical centers licensed under
13 chapter 395.

14 Section 100. Effective upon becoming law, subsection
15 (10) of section 627.357 is amended to read:

16 627.357 Medical malpractice self-insurance.--

17 (10) An application to form a self-insurance fund
18 under this section must be filed with the department before
19 October 1, 2002. All self-insurance funds making application
20 under this section between March 1, 2002 and October 1, 2002
21 and created after March 1, 2002 must apply for a certificate
22 of authority to become an admitted insurance company by
23 October 1, 2007. ~~A self-insurance fund may not be formed under~~
24 ~~this section after October 1, 1992.~~

25 Section 101. Except as otherwise provided herein, this
26 act shall take effect July 1, 2002.

27
28

29 ===== T I T L E A M E N D M E N T =====
30 And the title is amended as follows:

31 On page ,

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1 remove: Everything before the enacting clause

2

3 and insert:

4 An act relating to health care and health
5 professional responsibility; transferring to
6 the Department of Health the powers, duties,
7 functions, and assets that relate to the
8 consumer complaint services, investigations,
9 and prosecutorial services performed by the
10 Agency for Health Care Administration under
11 contract with the department; transferring
12 full-time equivalent positions and the
13 practitioner regulation component from the
14 agency to the department; amending s. 20.43,
15 F.S.; deleting the provision authorizing the
16 department to enter into such contract with the
17 agency, to conform; updating a reference to
18 provide the name of a regulatory board under
19 the Division of Medical Quality Assurance;
20 requiring the Office of Legislative Services to
21 develop a business plan for the Board of
22 Dentistry; providing an appropriation;
23 requiring a report to the Governor and
24 Legislature; requiring the Department of Health
25 to contract for the implementation of the
26 electronic continuing education tracking system
27 and requiring said system to be compatible and
28 integrated with the department's licensure and
29 renewal system; amending s. 456.057, F.S.;
30 authorizing specified persons to release
31 certain medical records to a custodian upon

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1 board order; exempting such persons from
2 liability for the release of such records;
3 amending s. 456.072, F.S.; providing additional
4 penalties to be imposed on certain health care
5 practitioners relating to notice to patients
6 concerning availability and access to medical
7 records; amending s. 456.076, F.S.; providing
8 additional conditions for impaired
9 practitioners to enroll in a treatment program
10 as an alternative to discipline; amending s.
11 456.0375, F.S.; revising the definition of
12 "clinic" to exempt public college and
13 university clinics from medical clinic
14 registration and to clarify when a health care
15 practitioner may supervise another health care
16 practitioner; amending s. 456.072, F.S.;
17 revising grounds for disciplinary action
18 relating to performing health care services
19 improperly and to leaving foreign bodies in
20 patients; amending s. 631.57, F.S.; exempting
21 medical malpractice insurance premiums from an
22 assessment; amending s. 395.002, F.S.; defining
23 "medically unnecessary procedure"; amending s.
24 394.4787, F.S.; conforming a cross reference;
25 amending s. 395.0161, F.S.; providing
26 rulemaking authority relating to inspections
27 and investigations of facilities; amending s.
28 395.0197, F.S.; revising requirements for
29 internal risk management programs; amending s.
30 465.019, F.S.; revising the definition of
31 "class II institutional pharmacies" to allow

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1 dispensing and consulting services to hospice
2 patients under certain circumstances; providing
3 legislative findings relating to responsiveness
4 to emergencies and disasters; amending s.
5 381.0011, F.S.; revising duties of the
6 Department of Health; authorizing the State
7 Health Officer to take specified emergency
8 actions to protect the public health; amending
9 s. 381.0034, F.S.; providing a requirement for
10 instruction of certain health care licensees on
11 conditions caused by nuclear, biological, and
12 chemical terrorism, as a condition of initial
13 licensure, and, in lieu of the requirement for
14 instruction on HIV and AIDS, as a condition of
15 relicensure; amending s. 381.0035, F.S.;
16 providing a requirement for instruction of
17 employees at certain health care facilities on
18 conditions caused by nuclear, biological, and
19 chemical terrorism, upon initial employment,
20 and, in lieu of the requirement of instruction
21 on HIV and AIDS, as biennial continuing
22 education; providing an exception; creating s.
23 381.0421, F.S.; requiring postsecondary
24 education institutions to provide information
25 on hepatitis B; requiring individuals residing
26 in on-campus housing to document vaccinations
27 against hepatitis B or sign a waiver; amending
28 ss. 395.1027 and 401.245, F.S.; correcting
29 cross references; amending s. 401.23, F.S.;
30 revising definitions of "advanced life support"
31 and "basic life support" and defining

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1 "emergency medical condition"; amending s.
2 401.252, F.S.; authorizing physician assistants
3 to conduct interfacility transfers in a
4 permitted ambulance under certain
5 circumstances; amending s. 401.27, F.S.;
6 providing that the course on conditions caused
7 by nuclear, biological, and chemical terrorism
8 shall count toward the total required hours for
9 biennial recertification of emergency medical
10 technicians and paramedics; amending s.
11 456.033, F.S.; providing a requirement for
12 instruction of certain health care
13 practitioners 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 part of biennial relicensure; creating
18 s. 456.0345, F.S.; providing continuing
19 education credits to health care practitioners
20 for certain life support training; amending s.
21 456.072, F.S.; conforming provisions relating
22 to grounds for disciplinary actions to changes
23 in health care practitioners' course
24 requirements; amending s. 456.38, F.S.;
25 revising provisions relating to the health care
26 practitioner registry for disasters and
27 emergencies; prohibiting certain termination of
28 or discrimination against a practitioner
29 providing disaster medical assistance; amending
30 ss. 458.319 and 459.008, F.S.; conforming
31 provisions relating to exceptions to continuing

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1 education requirements for physicians and
2 osteopathic physicians; amending s. 765.512,
3 F.S., relating to anatomical gifts; prohibiting
4 modification of a donor's intent; providing
5 that a donor document is legally binding;
6 authorizing specified persons to furnish
7 donors' medical records upon request; amending
8 s. 765.516, F.S.; revising procedures by which
9 the terms of an anatomical gift may be amended
10 or the gift may be revoked; amending s.
11 456.073, F.S.; revising procedures and
12 timeframes for formal hearings of health care
13 practitioner disciplinary cases; requiring a
14 joint audit of hearings and their billing
15 formulas and a report to the Legislature;
16 amending s. 456.076, F.S.; requiring each
17 impaired practitioner to pay a portion of the
18 cost of the consultant and impaired
19 practitioner program and the full cost of the
20 required treatment program or plan; providing
21 certain exceptions; repealing s. 456.047, F.S.,
22 to terminate the standardized credentialing
23 program for health care practitioners;
24 prohibiting the refund of moneys collected
25 through the credentialing program; amending ss.
26 456.039, 456.0391, 456.072, and 456.077, F.S.;
27 removing references, to conform; amending s.
28 458.309, F.S.; requiring accreditation of
29 physician offices in which surgery is
30 performed; amending s. 459.005, F.S.; requiring
31 accreditation of osteopathic physician offices

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1 in which surgery is performed; amending s.
2 456.004, F.S., relating to powers and duties of
3 the department; requiring performance measures
4 for certain entities; providing procedures for
5 considering board requests to privatize
6 regulatory functions; amending s. 456.009,
7 F.S.; requiring performance measures for
8 certain legal and investigative services and
9 annual review of such services to determine
10 whether such performance measures are being
11 met; amending s. 456.011, F.S.; requiring
12 regulatory board committee meetings, including
13 probable cause panels, to be held
14 electronically unless certain conditions are
15 met; providing for determination of location of
16 in-person meetings; amending s. 456.026, F.S.;
17 requiring inclusion of performance measures for
18 certain entities in the department's annual
19 report to the Legislature; creating s.
20 458.3093, F.S.; requiring submission of
21 credentials for initial physician licensure to
22 a national licensure verification service;
23 requiring verification of such credentials by
24 that service or an equivalent program; creating
25 s. 459.0053, F.S.; requiring submission of
26 credentials for initial osteopathic physician
27 licensure to a national licensure verification
28 service; requiring verification of such
29 credentials by that service, a specified
30 association, or an equivalent program; amending
31 ss. 458.331, 459.015, and 627.912, F.S.;

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

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1 exemption; amending s. 468.352, F.S.; revising
2 and providing definitions applicable to the
3 regulation of respiratory therapy; amending s.
4 468.355, F.S.; revising provisions relating to
5 respiratory therapy licensure and testing
6 requirements; amending s. 468.368, F.S.;
7 revising exemptions from respiratory therapy
8 licensure requirements; repealing s. 468.356,
9 F.S., relating to the approval of educational
10 programs; repealing s. 468.357, F.S., relating
11 to licensure by examination; requiring
12 applications for health care practitioner
13 licensure and licensure renewal to be submitted
14 electronically beginning July 1, 2003; annually
15 adjusting by 2.5 percent the statutory fee caps
16 applicable to regulation of health care
17 practitioners; renumbering ss. 381.0602,
18 381.6021, 381.6022, 381.6023, 381.6024, and
19 381.6026, F.S., and renumbering and amending
20 ss. 381.60225 and 381.6025, F.S., to move
21 provisions relating to organ and tissue
22 procurement, donation, and transplantation to
23 part V, ch. 765, F.S., relating to anatomical
24 gifts; revising cross references, to conform;
25 amending ss. 395.2050, 409.815, 765.5216, and
26 765.522, F.S.; revising cross references, to
27 conform; providing coverage for certain organ
28 transplant services; amending s. 409.915, F.S.;
29 exempting counties from contributions for such
30 services; amending s. 456.074, F.S.; providing
31 for an emergency order suspending the license

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1 of any health care practitioner who has
2 defaulted on a student loan issued or
3 guaranteed by the state or the Federal
4 Government; amending s. 456.072, F.S., and
5 reenacting subsection (2), relating to
6 disciplinary actions; clarifying the ground for
7 disciplinary action for failing to perform a
8 statutory or legal obligation to include
9 failing to repay a student loan issued or
10 guaranteed by the state or the Federal
11 Government in accordance with the terms of the
12 loan and for failing to comply with service
13 scholarship obligations; providing penalties;
14 directing the Department of Health to obtain
15 certain information from the United States
16 Department of Health and Human Services on a
17 monthly basis and to include certain
18 information in its annual report to the
19 Legislature; reenacting ss. 456.026 and
20 456.073, F.S., relating to the annual report
21 and disciplinary proceedings, respectively, to
22 conform; providing applicability; amending s.
23 400.925, F.S.; eliminating the regulation of
24 certain home medical equipment by the Agency
25 for Health Care Administration; amending s.
26 765.104, F.S.; authorizing a patient whose
27 legal disability is removed to amend or revoke
28 the recognition of a medical proxy and any
29 uncompleted decision made by that proxy;
30 specifying when the amendment or revocation
31 takes effect; amending s. 408.036, F.S., to

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1 exempt satellite hospitals from certificate of
2 need review; amends s. 395.002, F.S., to
3 provide a definition of "surgical first
4 assistant;" amends s. 395.0197, F.S., to allow
5 a operating surgeon to choose the surgical
6 first assistant under certain conditions;
7 amending s. 408.043, F.S.; specifying that
8 certain hospitals in certain counties may add
9 additional beds without agency review under
10 certain circumstances; amending s. 408.036,
11 F.S.; revising the exemptions from
12 certificate-of-need requirements for certain
13 open heart surgery programs and for a satellite
14 hospital; amending s. 768.13, F.S.; providing
15 immunity from civil damages under the Good
16 Samaritan Act for actions taken in response to
17 situations during a declared public health
18 emergency; revising the circumstances under
19 which immunity from civil damages is extended
20 to actions taken by persons licensed to
21 practice medicine; amending s. 381.0066, F.S.;
22 authorizing the continuation of permit fees for
23 system construction permits for onsite sewage
24 treatment and disposal systems; creating part
25 IV of chapter 489, F.S., relating to portable
26 restroom contracting; providing definitions;
27 requiring registration and providing
28 requirements therefor, including an
29 examination; providing for administration;
30 providing rulemaking authority; providing for
31 renewal of registration, including continuing

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1 education; providing for certification of
2 partnerships and corporations; providing
3 grounds for suspension or revocation of
4 registration; providing fees; providing
5 penalties and prohibitions; amends s. 627.638,
6 F.S., to require direct payments under certain
7 circumstances; providing effective dates.
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