

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Frankel offered the following:

Substitute Amendment for Amendment (121137) (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

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1 Care Administration's total number of authorized positions.
2 Effective July 1, 2002, 279 full-time equivalent positions are
3 authorized for the Department of Health, to be added to the
4 department's total number of authorized positions. However,
5 should the General Appropriations Act for fiscal year
6 2002-2003 reduce the number of positions from the practitioner
7 regulation component at the Agency for Health Care
8 Administration, that provision shall be construed to eliminate
9 the full-time equivalent positions from the practitioner
10 regulation component which is hereby transferred to the
11 Department of Health, thereby resulting in no more than 279
12 positions being eliminated from the agency and no more than
13 279 positions being authorized to the department.

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

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

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

31 Section 2. Paragraph (g) of subsection (3) of section

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

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1 part III of chapter 468.

2 16. The Board of Respiratory Care therapy, as created
3 ~~provided~~ under part V of chapter 468.

4 17. Dietetics and nutrition practice, as provided
5 under part X of chapter 468.

6 18. The Board of Athletic Training, created under part
7 XIII of chapter 468.

8 19. The Board of Orthotists and Prosthetists, created
9 under part XIV of chapter 468.

10 20. Electrolysis, as provided under chapter 478.

11 21. The Board of Massage Therapy, created under
12 chapter 480.

13 22. The Board of Clinical Laboratory Personnel,
14 created under part III of chapter 483.

15 23. Medical physicists, as provided under part IV of
16 chapter 483.

17 24. The Board of Opticianry, created under part I of
18 chapter 484.

19 25. The Board of Hearing Aid Specialists, created
20 under part II of chapter 484.

21 26. The Board of Physical Therapy Practice, created
22 under chapter 486.

23 27. The Board of Psychology, created under chapter
24 490.

25 28. School psychologists, as provided under chapter
26 490.

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

30

31 ~~The department may contract with the Agency for Health Care~~

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1 ~~Administration who shall provide consumer complaint,~~
2 ~~investigative, and prosecutorial services required by the~~
3 ~~Division of Medical Quality Assurance, councils, or boards, as~~
4 ~~appropriate.~~

5 Section 3. The Office of Legislative Services shall
6 contract for a business case study of the feasibility of
7 outsourcing the administrative, investigative, legal, and
8 prosecutorial functions and other tasks and services that are
9 necessary to carry out the regulatory responsibilities of the
10 Board of Dentistry; employing its own executive director and
11 other staff; and obtaining authority over collections and
12 expenditures of funds paid by professions regulated by the
13 board of Dentistry into the Medical Quality Assurance Trust
14 Fund. This feasibility study must include a business plan and
15 an assessment of the direct and indirect costs associated with
16 outsourcing these functions. The sum of \$50,000 is
17 appropriated from the Board of Dentistry account within the
18 Medical Quality Assurance Trust Fund to the Office of
19 Legislative Services for the purpose of contracting for the
20 study. The Office of Legislative Services shall submit the
21 completed study to the Governor, the President of the Senate,
22 and the Speaker of the House of Representatives by January 1,
23 2003.

24 Section 4. (1) On or before October 1, 2002, the
25 Department of Health shall contract with one or more private
26 entities to implement the electronic continuing education
27 tracking system required under s. 456.025(7), Florida
28 Statutes. The electronic continuing education tracking system
29 or systems must be compatible with the Department of Health's
30 licensure and renewal system no later than March 1, 2003. On
31 or before July 1, 2003, the Department of Health shall

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1 integrate such system or systems into the Department of
2 Health's licensure and renewal system.

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

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

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

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

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

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

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

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

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

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

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

24 456.076 Treatment programs for impaired
25 practitioners.--

26 (3)(a) Whenever the department receives a written or
27 oral legally sufficient complaint alleging that a licensee
28 under the jurisdiction of the Division of Medical Quality
29 Assurance within the department is impaired as a result of the
30 misuse or abuse of alcohol or drugs, or both, or due to a
31 mental or physical condition which could affect the licensee's

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

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

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

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

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

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

29 Section 8. Paragraph (b) of subsection (1) of section
30 456.0375, Florida Statutes, is amended to read:

31 456.0375 Registration of certain clinics;

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1 requirements; discipline; exemptions.--

2 (1)

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

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

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

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

31 4. Massage establishments licensed pursuant to s.

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1 480.043 so long as the massage establishment is only providing
2 massage as defined in s. 480.033(3) and no other medical or
3 health care service.

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

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

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

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

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

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

30 631.57 Powers and duties of the association.--

31 (7) Notwithstanding any other provision of law, the

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1 net direct written premiums of medical malpractice insurance
2 are not subject to assessment under this section to cover
3 claims and administrative costs for the type of insurance
4 defined in s. 624.604.

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

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

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

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

18 394.4787 Definitions; ss. 394.4786, 394.4787,
19 394.4788, and 394.4789.--As used in this section and ss.
20 394.4786, 394.4788, and 394.4789:

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

24 Section 13. Subsection (5) is added to section
25 395.0161, Florida Statutes, to read:

26 395.0161 Licensure inspection.--

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

30 1. Reports filed pursuant to s. 395.0197.

31 2. Complaints alleging violations of state or federal

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1 emergency access laws.

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

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

10 Section 14. Subsections (2), (14), and (16) of section
11 395.0197, Florida Statutes, are amended to read:

12 395.0197 Internal risk management program.--

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

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

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1 regulatory board, nor shall records obtained pursuant to s.
2 456.071 be available to the public as part of the record of
3 investigation for and prosecution in disciplinary proceedings
4 made available to the public by the agency or the appropriate
5 regulatory board. However, the agency or the appropriate
6 regulatory board shall make available, upon written request by
7 a health care professional against whom probable cause has
8 been found, any such records which form the basis of the
9 determination of probable cause, except that, with respect to
10 medical review committee records, s. 766.101 controls.

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

29 Section 15. Paragraph (b) of subsection (2) of section
30 465.019, Florida Statutes, is amended to read:

31 465.019 Institutional pharmacies; permits.--

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

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

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

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

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

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

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

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

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

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

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

31 (e)~~(5)~~ Cooperate with and accept assistance from

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1 federal, state, and local officials for the prevention and
2 suppression of communicable and other diseases, illnesses,
3 injuries, and hazards to human health.

4 ~~(f)(6)~~ Declare, enforce, modify, and abolish
5 quarantine of persons, animals, and premises as the
6 circumstances indicate for controlling communicable diseases
7 or providing protection from unsafe conditions that pose a
8 threat to public health, except as provided in ss. 384.28 and
9 392.545-392.60.

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

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

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

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

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

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

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

25 g. Methods of quarantine.

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

29 ~~(g)(7)~~ Provide for a thorough investigation and study
30 of the incidence, causes, modes of propagation and
31 transmission, and means of prevention, control, and cure of

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1 diseases, illnesses, and hazards to human health.
2 (h)~~(8)~~ Provide for the dissemination of information to
3 the public relative to the prevention, control, and cure of
4 diseases, illnesses, and hazards to human health. The
5 department shall conduct a workshop before issuing any health
6 alert or advisory relating to food-borne illness or
7 communicable disease in public lodging or food service
8 establishments in order to inform persons, trade associations,
9 and businesses of the risk to public health and to seek the
10 input of affected persons, trade associations, and businesses
11 on the best methods of informing and protecting the public,
12 except in an emergency, in which case the workshop must be
13 held within 14 days after the issuance of the emergency alert
14 or advisory.
15 (i)~~(9)~~ Act as registrar of vital statistics.
16 (j)~~(10)~~ Cooperate with and assist federal health
17 officials in enforcing public health laws and regulations.
18 (k)~~(11)~~ Cooperate with other departments, local
19 officials, and private boards and organizations for the
20 improvement and preservation of the public health.
21 (l)~~(12)~~ Cooperate with other departments, local
22 officials, and private organizations in developing and
23 implementing a statewide injury control program.
24 (m)~~(13)~~ Adopt rules pursuant to ss. 120.536(1) and
25 120.54 to implement the provisions of law conferring duties
26 upon it. This paragraph ~~subsection~~ does not authorize the
27 department to require a permit or license unless such
28 requirement is specifically provided by law.
29 (n)~~(14)~~ Perform any other duties prescribed by law.
30 (2) The State Health Officer is authorized to take the
31 following actions to protect the public health:

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1 (a) Notwithstanding chapters 465 and 499 and rules
2 adopted thereunder, the State Health Officer may direct
3 pharmacists employed by the department to compound bulk
4 prescription drugs and provide these bulk prescription drugs
5 to county health department physicians, physician assistants,
6 and nurses for administration to persons as part of a
7 prophylactic or treatment regimen when there is a significant
8 risk to the public health from a disease, an environmental
9 contaminant, or a suspected act of nuclear, biological, or
10 chemical terrorism.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 biological, and chemical terrorism ~~human immunodeficiency~~
2 ~~virus and acquired immune deficiency syndrome~~, for purposes of
3 relicensure or recertification for the additional licenses.

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

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

11 (1)(a) The Department of Health shall require all
12 ~~employees and clients of facilities licensed under chapters~~
13 ~~393, 394, and 397 and employees of facilities licensed under~~
14 ~~chapter 395 and parts II, III, IV, and VI of chapter 400 to~~
15 complete, biennially, a continuing educational course on the
16 modes of transmission, infection control procedures, clinical
17 management, and prevention of human immunodeficiency virus and
18 acquired immune deficiency syndrome with an emphasis on
19 appropriate behavior and attitude change. Such instruction
20 shall include information on current Florida law and its
21 impact on testing, confidentiality of test results, and
22 treatment of patients and any protocols and procedures
23 applicable to human immunodeficiency counseling and testing,
24 reporting, the offering of HIV testing to pregnant women, and
25 partner notification issues pursuant to ss. 381.004 and
26 384.25.

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

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

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

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

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

30 (5) In lieu of completing a course as required in
31 paragraph (1)(b), the employee may complete a course on

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1 end-of-life care and palliative health care or a course on
2 HIV/AIDS so long as the employee completed an approved course
3 on conditions caused by nuclear, biological, and chemical
4 terrorism in the immediately preceding biennium.

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

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

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

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

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

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

31 395.1027 Regional poison control centers.--

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1 (4) By October 1, 1999, each regional poison control
2 center shall develop a prehospital emergency dispatch protocol
3 with each licensee defined by s. 401.23~~(14)~~~~(13)~~in the
4 geographic area covered by the regional poison control center.
5 The prehospital emergency dispatch protocol shall be developed
6 by each licensee's medical director in conjunction with the
7 designated regional poison control center responsible for the
8 geographic area in which the licensee operates. The protocol
9 shall define toxic substances and describe the procedure by
10 which the designated regional poison control center may be
11 consulted by the licensee. If a call is transferred to the
12 designated regional poison control center in accordance with
13 the protocol established under this section and s. 401.268,
14 the designated regional poison control center shall assume
15 responsibility and liability for the call.

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

18 401.23 Definitions.--As used in this part, the term:

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

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1 ~~techniques such as endotracheal intubation, the administration~~
2 ~~of drugs or intravenous fluids, telemetry, cardiac monitoring,~~
3 ~~and cardiac defibrillation by a qualified person, pursuant to~~
4 ~~rules of the department.~~

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

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

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

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

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

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

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

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

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

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

26 (11) "Emergency medical condition" means:

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

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1 any of the following:

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

4 2. Serious impairment to bodily functions.

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

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

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

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

14 2. Serious jeopardy to the health of others.

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

18 (13)(12) "Interfacility transfer" means the
19 transportation by ambulance of a patient between two
20 facilities licensed under chapter 393, chapter 395, or chapter
21 400, pursuant to this part.

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

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

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

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1 including administrative and managerial functions, for daily
2 operations and training pursuant to this part.

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

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

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

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

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

27 (22)~~(21)~~ "Secretary" means the Secretary of Health.

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

31 Section 23. Paragraph (b) of subsection (2) of section

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1 401.245, Florida Statutes, is amended to read:

2 401.245 Emergency Medical Services Advisory Council.--

3 (2)

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

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

26 401.252 Interfacility transfer.--

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

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1 (a) The registered nurse or physician assistant holds
2 a current certificate of successful course completion in
3 advanced cardiac life support;

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

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

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

14 401.27 Personnel; standards and certification.--

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

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

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1 continuing education requirement may be satisfied by passing a
2 challenge examination.

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

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

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

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

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

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

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

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

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1 upon an affidavit showing good cause, be allowed 6 months to
2 complete this requirement.

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

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

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

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

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

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

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

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

31 (1) The following acts shall constitute grounds for

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1 which the disciplinary actions specified in subsection (2) may
2 be taken:

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

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

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

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

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1 458.319 Renewal of license.--

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

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

12 459.008 Renewal of licenses and certificates.--

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

21 Section 32. Subsections (1), (2), and (6) of section
22 765.512, Florida Statutes, are amended to read:

23 765.512 Persons who may make an anatomical gift.--

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

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1 may not modify the decedent's wishes or deny or prevent the
2 anatomical gift from being made.

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

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

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

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

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

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

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

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

30 (b) An oral statement that is+

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

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1 ~~2.~~ made in the presence of two persons, other than the
2 donor's spouse, and communicated to the donor's family or
3 attorney or to the donee.

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

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

10 Section 34. Subsection (5) of section 456.073, Florida
11 Statutes, is amended to read:

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

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

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

29 Section 35. The Office of Program Policy Analysis and
30 Government Accountability and the Auditor General shall
31 conduct a joint audit of all hearings and billings therefor

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

8 Section 36. Subsection (7) is added to section
9 456.076, Florida Statutes, to read:

10 456.076 Treatment programs for impaired
11 practitioners.--

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

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1 assist with such payment.

2 Section 37. Section 456.047, Florida Statutes, is
3 repealed.

4 Section 38. All revenues associated with s. 456.047,
5 Florida Statutes, and collected by the Department of Health on
6 or before July 1, 2002, shall remain in the Medical Quality
7 Assurance Trust Fund, and no refunds shall be given.

8 Section 39. Paragraph (d) of subsection (4) of section
9 456.039, Florida Statutes, is amended to read:

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

12 (4)

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

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1 the Department of Health ~~Health's health care practitioner~~
2 ~~credentialing system.~~

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

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

7 (4)

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

29 Section 41. Paragraph (v) of subsection (1) of section
30 456.072, Florida Statutes, is amended to read:

31 456.072 Grounds for discipline; penalties;

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1 enforcement.--

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

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

11 Section 42. Subsection (2) of section 456.077, Florida
12 Statutes, is amended to read:

13 456.077 Authority to issue citations.--

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

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

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1 458.309 Authority to make rules.--
2 (3) All physicians who perform level 2 procedures
3 lasting more than 5 minutes and all level 3 surgical
4 procedures in an office setting must register the office with
5 the department unless that office is licensed as a facility
6 pursuant to chapter 395. Each office that is required under
7 this subsection to be registered must be ~~The department shall~~
8 ~~inspect the physician's office annually unless the office is~~
9 accredited by a nationally recognized accrediting agency
10 approved by the Board of Medicine by rule or an accrediting
11 organization ~~subsequently~~ approved by the Board of Medicine by
12 rule. Each office registered but not accredited as required
13 by this subsection must achieve full and unconditional
14 accreditation no later than July 1, 2003, and must maintain
15 unconditional accreditation as long as procedures described in
16 this subsection that require the office to be registered and
17 accredited are performed. Accreditation reports shall be
18 submitted to the department. The actual costs for registration
19 and ~~inspection or~~ accreditation shall be paid by the person
20 seeking to register and operate the office setting in which
21 office surgery is performed. The board may adopt rules
22 pursuant to ss. 120.536(1) and 120.54 to implement this
23 subsection.

24 Section 44. Subsection (2) of section 459.005, Florida
25 Statutes, is amended to read:

26 459.005 Rulemaking authority.--
27 (2) All osteopathic physicians who perform level 2
28 procedures lasting more than 5 minutes and all level 3
29 surgical procedures in an office setting must register the
30 office with the department unless that office is licensed as a
31 facility pursuant to chapter 395. Each office that is

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

20 Section 45. Subsections (11) and (12) are added to
21 section 456.004, Florida Statutes, to read:

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

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

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

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

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

15 456.009 Legal and investigative services.--

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

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1 contracts for legal and investigative services must include
2 objective performance measures that reflect the expected
3 quality and quantity of the contracted services.

4 Section 47. Subsection (6) is added to section
5 456.011, Florida Statutes, to read:

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

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

21 Section 48. Subsection (11) is added to section
22 456.026, Florida Statutes, to read:

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

31 (11) The performance measures for all bureaus, units,

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1 boards, and contracted entities required by the department to
2 reflect the expected quality and quantity of services, and a
3 description of any effort to improve the performance of such
4 services.

5 Section 49. Section 458.3093, Florida Statutes, is
6 created to read:

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

16 Section 50. Section 459.0053, Florida Statutes, is
17 created to read:

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

28 Section 51. Paragraph (t) of subsection (1) of section
29 458.331, Florida Statutes, is amended to read:

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

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1 (1) The following acts constitute grounds for denial
2 of a license or disciplinary action, as specified in s.
3 456.072(2):

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

25 Section 52. Paragraph (x) of subsection (1) of section
26 459.015, Florida Statutes, is amended to read:

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

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

31 Section 53. Subsection (1) of section 627.912, Florida

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1 Statutes, is amended to read:

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

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

22 (a) A final judgment in any amount.

23 (b) A settlement in any amount.

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

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1 exceeding \$25,000, the report shall also be filed with the
2 Department of Health. Reports must be filed no later than 30
3 days following the occurrence of any event listed in this
4 subsection ~~paragraph (a) or paragraph (b)~~. The Department of
5 Health shall review each report and determine whether any of
6 the incidents that resulted in the claim potentially involved
7 conduct by the licensee that is subject to disciplinary
8 action, in which case the provisions of s. 456.073 shall
9 apply. The Department of Health, as part of the annual report
10 required by s. 456.026, shall publish annual statistics,
11 without identifying licensees, on the reports it receives,
12 including final action taken on such reports by the Department
13 of Health or the appropriate regulatory board.

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

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

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

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1 of a letter of guidance and the assessment of costs under this
2 subsection shall not be considered discipline, nor shall it be
3 considered a final order of discipline.

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

10 Section 55. The Office of Program Policy Analysis and
11 Governmental Accountability shall review the investigative
12 field office structure and organization of the Agency for
13 Health Care Administration to determine the feasibility of
14 eliminating all or some field offices, the feasibility of
15 combining field offices, and the feasibility of requiring
16 field inspectors and investigators to telecommute from home in
17 lieu of paying for office space. The review shall include all
18 agency programs that have field offices, including health
19 practitioner regulation even if health practitioner regulation
20 is transferred to the Department of Health. The review shall
21 be completed and a report issued to the President of the
22 Senate and the Speaker of the House of Representatives no
23 later than January 1, 2003.

24 Section 56. Subsection (1) of section 456.025, Florida
25 Statutes, is amended to read:

26 456.025 Fees; receipts; disposition.--

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

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

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

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

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

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

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

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

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

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

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

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

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1 utilities, or janitorial services. The college, university,
2 or vocational school may only charge the department the actual
3 cost of nonreusable supplies provided by the school at the
4 request of the department.

5 Section 58. Effective July 1, 2002, all licensure and
6 licensure renewal fees for professions within the Division of
7 Medical Quality Assurance shall be set at a level equal to at
8 least 85 percent of the profession's statutory fee cap or at a
9 level equal to at least 85 percent of the actual per licensee
10 cost to regulate that profession, whichever is less. Effective
11 July 1, 2005, all licensure and licensure renewal fees shall
12 be set at the profession's statutory fee cap or at a level
13 equal to 100 percent of the actual per licensee cost to
14 regulate that profession, whichever is less.

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

17 468.301 Definitions.--As used in this part, the term:

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

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

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

31 (3)

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1 (g) A person holding a certificate as a nuclear
2 medicine technologist may only:

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

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

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

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

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

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1 radiologic technology duties under the direct supervision of a
2 licensed practitioner:

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

5 2. Biological effects of radiation.

6 3. Radiation exposure and monitoring.

7 4. Radiation safety and protection.

8 5. Evaluation of radiographic equipment and
9 accessories.

10 6. Radiographic exposure and technique factors.

11 7. Film processing.

12 8. Image quality assurance.

13 9. Patient positioning.

14 10. Administration and complications of contrast
15 media.

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

18 Section 61. Section 468.352, Florida Statutes, is
19 amended to read:

20 (Substantial rewording of section. See

21 s. 468.352, F.S., for present text.)

22 468.352 Definitions.--As used in this part the term:

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

24 (2) "Certified respiratory therapist" means any person

25 licensed pursuant to this part who is certified by the

26 National Board for Respiratory Care or its successor, who is

27 employed to deliver respiratory care services, under the order

28 of a physician licensed pursuant to chapter 458 or chapter

29 459, in accordance with protocols established by a hospital or

30 other health care provider or the board, and who functions in

31 situations of unsupervised patient contact requiring

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1 individual judgment.

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

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

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

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

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

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

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1 459, in accordance with protocols established by a hospital or
2 other health care provider or the board, and who functions in
3 situations of unsupervised patient contact requiring
4 individual judgment.

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

10 (10) "Respiratory care services" includes:

11 (a) Evaluation and disease management.

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

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

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

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

27 (f) Cardiopulmonary rehabilitation.

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

31 (h) Insertion and maintenance of artificial airways

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1 and intravascular catheters.

2 (i) Performing sleep-disorder studies.

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

7 (k) Initiation and management of hyperbaric oxygen.

8 Section 62. Section 468.355, Florida Statutes, is
9 amended to read:

10 (Substantial rewording of section. See

11 s. 468.355, F.S., for present text.)

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

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

19 (Substantial rewording of section. See

20 s. 468.368, F.S., for present text.)

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

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

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

30 (3) A friend or family member who is providing
31 respiratory care services to an ill person and who does not

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1 represent himself or herself to be a respiratory care
2 practitioner or respiratory therapist.

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

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

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

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

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

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

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

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1 Section 64. Sections 468.356 and 468.357, Florida
2 Statutes, are repealed.

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

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

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

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1 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,
2 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
3 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
4 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
5 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
6 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,
7 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
8 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
9 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
10 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
11 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
12 491.0085, and 491.0145, Florida Statutes.

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

17 Section 67. Sections 381.0602, 381.6021, 381.6022,
18 381.6023, 381.6024, and 381.6026, Florida Statutes, are
19 renumbered as sections 765.53, 765.541, 765.542, 765.544,
20 765.545, and 765.547, Florida Statutes, respectively.

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

24 765.543 ~~381.60225~~ Background screening.--

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

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1 services.

2 Section 69. Section 381.6025, Florida Statutes, is
3 renumbered as section 765.546, Florida Statutes, and amended
4 to read:

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

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1 supervision is to be encouraged when appropriate.

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

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

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

9 765.541-765.547 ~~381.6021-381.6026~~.

10 Section 71. Paragraph (e) of subsection (2) of section
11 409.815, Florida Statutes, is amended to read:

12 409.815 Health benefits coverage; limitations.--

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

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

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

28 765.5216 Organ and tissue donor education panel.--

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

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

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

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

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

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

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

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

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

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

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

31 (j) A representative from a professional association

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1 or public relations or advertising organization.

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

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

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

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

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

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

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

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

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1 service as provided in this section.

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

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

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

11 2. Adult lung transplant services.

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

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

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

21 (4) Upon receipt of information that a
22 Florida-licensed health care practitioner has defaulted on a
23 student loan issued or guaranteed by the state or the Federal
24 Government, the department shall notify the licensee by
25 certified mail that he or she shall be subject to immediate
26 suspension of license unless, within 45 days after the date of
27 mailing, the licensee provides proof that new payment terms
28 have been agreed upon by all parties to the loan. The
29 department shall issue an emergency order suspending the
30 license of any licensee who, after 45 days following the date
31 of mailing from the department, has failed to provide such

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1 proof. Production of such proof shall not prohibit the
2 department from proceeding with disciplinary action against
3 the licensee pursuant to s. 456.073.

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

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

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

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

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

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

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

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

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

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

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

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

31 (g) Corrective action.

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

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

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

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

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

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

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

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

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

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

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

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

21 (5) The number of administrative complaints filed.

22 (6) The disposition of all administrative complaints.

23 (7) A description of disciplinary actions taken.

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

29 (9) The status of the development and implementation
30 of rules providing for disciplinary guidelines pursuant to s.
31 456.079.

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

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

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

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

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

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

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

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1 the probable cause panel may retain independent legal counsel,
2 employ investigators, and continue the investigation and
3 prosecution of the case as it deems necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 held liable in any civil action for reporting against such
2 health care provider if such person acts without intentional
3 fraud or malice.

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

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

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

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

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

6 400.925 Definitions.--As used in this part, the term:

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

28 Section 82. Subsections (5), (7), and (9) of section
29 409.91195, Florida Statutes, is amended to read:

30 409.91195 Medicaid Pharmaceutical and Therapeutics
31 Committee.--There is created a Medicaid Pharmaceutical and

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1 Therapeutics Committee within the Agency for Health Care
2 Administration for the purpose of developing a preferred drug
3 formulary pursuant to 42 U.S.C. s. 1396r-8.

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

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

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

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

8 Section 83. Subsection (4) is added to section
9 765.104, Florida Statutes, to read:

10 765.104 Amendment or revocation.--

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

20 Section 84. Subsections (1) and (3) of section
21 765.401, Florida Statutes, are amended to read:

22 765.401 The proxy.--

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

31 (a) The judicially appointed guardian of the patient

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

7 (b) The patient's spouse;

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

11 (d) A parent of the patient;

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

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

20 (g) A close friend of the patient.

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

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1 life-prolonging procedures, a proxy must comply with s.
2 393.12.

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

6 457.105 Licensure qualifications and fees.--

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

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

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

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1 completed only a 2-year course of study which meets standards
2 established by the board by rule, which standards must
3 include, but are not limited to, successful completion of
4 academic courses in western anatomy, western physiology, and
5 western pathology;

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

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

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

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1 1. Examination fee: \$500 plus the actual per applicant
2 cost to the department for purchase of the written and
3 practical portions of the examination from a national
4 organization approved by the board.

5 2. Application fee: \$300.

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

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

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

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

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

26 Section 87. Paragraph (y) of subsection (1) of section
27 457.109, Florida Statutes, is amended to read:

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

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

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1 456.072(2):

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

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

14 457.116 Prohibited acts; penalty.--

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

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

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

25 Section 90. Subsections (31), (32), and (33), of
26 section 395.002, Florida Statutes, are renumbered as
27 subsections (32), (33), and (34) respectively, and a new
28 subsection (31) of section 395.002, Florida Statutes, is
29 created to read:

30 395.002 Definitions.--As used in this chapter:

31 (31) "Surgical first assistant" means the first

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1 assistant to the surgeon during a surgical operation.

2 (32)~~(31)~~ "Utilization review" means a system for
3 reviewing the medical necessity or appropriateness in the
4 allocation of health care resources of hospital services given
5 or proposed to be given to a patient or group of patients.

6 (33)~~(32)~~ "Utilization review plan" means a description
7 of the policies and procedures governing utilization review
8 activities performed by a private review agent.

9 (34)~~(33)~~ "Validation inspection" means an inspection
10 of the premises of a licensed facility by the agency to assess
11 whether a review by an accrediting organization has adequately
12 evaluated the licensed facility according to minimum state
13 standards.

14 Section 91. Paragraph (b) of subsection (1) of section
15 395.0197, Florida Statutes, is amended to read:

16 395.0197 Internal risk management program.--

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

21 (b) The development of appropriate measures to
22 minimize the risk of adverse incidents to patients, including,
23 but not limited to:

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

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

28 b. At least 1 hour of such education and training
29 annually for all personnel of the licensed facility working in
30 clinical areas and providing patient care, except those
31 persons licensed as health care practitioners who are required

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1 to complete continuing education coursework pursuant to
2 chapter 456 or the respective practice act.

3 2. A prohibition, except when emergency circumstances
4 require otherwise, against a staff member of the licensed
5 facility attending a patient in the recovery room, unless the
6 staff member is authorized to attend the patient in the
7 recovery room and is in the company of at least one other
8 person. However, a licensed facility is exempt from the
9 two-person requirement if it has:

- 10 a. Live visual observation;
11 b. Electronic observation; or
12 c. Any other reasonable measure taken to ensure
13 patient protection and privacy.

14 3. A prohibition against an unlicensed person from
15 assisting or participating in any surgical procedure unless
16 the facility has authorized the person to do so following a
17 competency assessment, and such assistance or participation is
18 done under the direct and immediate supervision of a licensed
19 physician and is not otherwise an activity that may only be
20 performed by a licensed health care practitioner. Moreover,
21 the primary operating surgeon may select a surgical first
22 assistant from among available individuals who are approved or
23 credentialed by the facility.

24 4. Development, implementation, and ongoing evaluation
25 of procedures, protocols, and systems to accurately identify
26 patients, planned procedures, and the correct site of the
27 planned procedure so as to minimize the performance of a
28 surgical procedure on the wrong patient, a wrong surgical
29 procedure, a wrong-site surgical procedure, or a surgical
30 procedure otherwise unrelated to the patient's diagnosis or
31 medical condition.

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1 Section 92. Effective upon becoming law, paragraphs
2 (a) and (b) of subsection (2) of section 768.13, Florida
3 Statutes, are amended to read:

4 768.13 Good Samaritan Act; immunity from civil
5 liability.--

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

20 (b)1. Any hospital licensed under chapter 395, any
21 employee of such hospital working in a clinical area within
22 the facility and providing patient care, and any person
23 licensed to practice medicine who in good faith renders
24 medical care or treatment necessitated by a sudden, unexpected
25 situation or occurrence resulting in a serious medical
26 condition demanding immediate medical attention, for which the
27 patient enters the hospital through its emergency room or
28 trauma center, or necessitated by a public health emergency
29 declared pursuant to s. 381.00315 shall not be held liable for
30 any civil damages as a result of such medical care or
31 treatment unless such damages result from providing, or

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1 failing to provide, medical care or treatment under
2 circumstances demonstrating a reckless disregard for the
3 consequences so as to affect the life or health of another.
4 2. The immunity provided by this paragraph does not
5 apply to damages as a result of any act or omission of
6 providing medical care or treatment:
7 a. Which occurs after the patient is stabilized and is
8 capable of receiving medical treatment as a nonemergency
9 patient, unless surgery is required as a result of the
10 emergency within a reasonable time after the patient is
11 stabilized, in which case the immunity provided by this
12 paragraph applies to any act or omission of providing medical
13 care or treatment which occurs prior to the stabilization of
14 the patient following the surgery; or
15 b. Unrelated to the original medical emergency.
16 3. For purposes of this paragraph, "reckless
17 disregard" as it applies to a given health care provider
18 rendering emergency medical services shall be such conduct
19 which a health care provider knew or should have known, at the
20 time such services were rendered, would be likely to result in
21 injury so as to affect the life or health of another, taking
22 into account the following to the extent they may be present;
23 a. The extent or serious nature of the circumstances
24 prevailing.
25 b. The lack of time or ability to obtain appropriate
26 consultation.
27 c. The lack of a prior patient-physician relationship.
28 d. The inability to obtain an appropriate medical
29 history of the patient.
30 e. The time constraints imposed by coexisting
31 emergencies.

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1 4. Every emergency care facility granted immunity
2 under this paragraph shall accept and treat all emergency care
3 patients within the operational capacity of such facility
4 without regard to ability to pay, including patients
5 transferred from another emergency care facility or other
6 health care provider pursuant to Pub. L. No. 99-272, s. 9121.
7 The failure of an emergency care facility to comply with this
8 subparagraph constitutes grounds for the department to
9 initiate disciplinary action against the facility pursuant to
10 chapter 395.

11 Section 93. Paragraph (k) of subsection (2) of section
12 381.0066, Florida Statutes, is amended to read:

13 381.0066 Onsite sewage treatment and disposal systems;
14 fees.--

15 (2) The minimum fees in the following fee schedule
16 apply until changed by rule by the department within the
17 following limits:

18 (k) Research: An additional \$5 fee shall be added to
19 each new system construction permit issued ~~during fiscal years~~
20 ~~1996-2002~~ to be used for onsite sewage treatment and disposal
21 system research, demonstration, and training projects. Five
22 dollars from any repair permit fee collected under this
23 section shall be used for funding the hands-on training
24 centers described in s. 381.0065(3)(j).

25
26 The funds collected pursuant to this subsection must be
27 deposited in a trust fund administered by the department, to
28 be used for the purposes stated in this section and ss.
29 381.0065 and 381.00655.

30 Section 94. Part IV of chapter 489, Florida Statutes,
31 consisting of sections 489.661, 489.662, 489.663, 489.664,

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1 489.665, 489.666, 489.667, and 489.668, is created to read:

2 PART IV

3 PORTABLE RESTROOM CONTRACTING

4 489.661 Definitions.--As used in this part:

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

6 (2) "Portable restroom contractor" means a portable
7 restroom contractor whose services are unlimited in the
8 portable restroom trade who has had at least 3 years'
9 experience as a Florida-registered portable restroom
10 contractor, who has knowledge of state health code law and
11 rules, and who has the experience, knowledge, and skills to
12 handle, deliver, and pick up sanitary portable restrooms, to
13 install, safely handle, and maintain portable holding tanks,
14 and to handle, transport, and dispose of domestic portable
15 restroom and portable holding tank wastewater.

16 489.662 Registration required.--A person shall not
17 hold himself or herself out as a portable restroom contractor
18 in this state unless he or she is registered by the department
19 in accordance with the provisions of this part. However,
20 nothing in this part prohibits any person licensed pursuant to
21 s. 489.105(3)(m) in this state from engaging in the profession
22 for which he or she is licensed.

23 489.663 Administration of part; registration
24 qualifications; examination.--

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

28 (2) The department shall administer, coordinate, and
29 enforce the provisions of this part, provide qualifications
30 for applicants, administer the examination for applicants, and
31 be responsible for the granting of certificates of

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1 registration to qualified persons.

2 (3) The department shall adopt reasonable rules
3 pursuant to ss. 120.536(1) and 120.54 to administer this part,
4 including, but not limited to, rules that establish ethical
5 standards of practice, requirements for registering as a
6 contractor, requirements for obtaining an initial or renewal
7 certificate of registration, disciplinary guidelines, and
8 requirements for the certification of partnerships and
9 corporations. The department may amend or repeal the rules in
10 accordance with chapter 120, the Administrative Procedure Act.

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

13 (a) Be of good moral character. In considering good
14 moral character, the department may consider any matter that
15 has a substantial connection between the good moral character
16 of the applicant and the professional responsibilities of a
17 registered contractor, including, but not limited to, the
18 applicant being convicted or found guilty of, or entering a
19 plea of nolo contendere to, regardless of adjudication, a
20 crime in any jurisdiction that directly relates to the
21 practice of contracting or the ability to practice
22 contracting, and previous disciplinary action involving
23 portable restroom contracting, where all judicial reviews have
24 been completed.

25 (b) Pass an examination approved by the department
26 that demonstrates that the applicant has a fundamental
27 knowledge of the state laws relating to the installation,
28 maintenance, and wastewater disposal of portable restrooms,
29 portable sinks, and portable holding tanks.

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

31 (d) Have a total of at least 3 years of active

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

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

30 (5) The department shall provide each applicant for
31 registration pursuant to this part with a copy of this part

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1 and any rules adopted under this part. The department may
2 also prepare and disseminate such other material and
3 questionnaires as it deems necessary to effectuate the
4 registration provisions of this part.

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

11 489.665 Certification of partnerships and
12 corporations.--

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

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

15 (2) For the purposes of this section, a certificate of
16 authorization shall be required for a corporation,
17 partnership, association, or person practicing under a
18 fictitious name, offering portable restroom contracting
19 services to the public, except that when an individual is
20 practicing portable restroom contracting in his or her own
21 given name, he or she shall not be required to register under
22 this section.

23 (3) Each certification of authorization shall be
24 renewed every 2 years. Each partnership and corporation
25 certified under this section shall notify the department
26 within 1 month after any change in the information contained
27 in the application upon which the certification is based.

28 (4) Disciplinary action against a corporation or
29 partnership shall be administered in the same manner and on
30 the same grounds as disciplinary action against a registered
31 portable restroom contractor.

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1 (5) When a certificate of authorization has been
2 revoked, any person authorized by law to provide portable
3 restroom contracting services may not use the name or
4 fictitious name of the entity whose certificate was revoked,
5 or any other identifiers for the entity, including telephone
6 numbers, advertisements, or logos.

7 489.666 Suspension or revocation of registration.--A
8 certificate of registration may be suspended or revoked upon a
9 showing that the registrant has:

10 (1) Violated any provision of this part.

11 (2) Violated any lawful order or rule rendered or
12 adopted by the department.

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

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

18 489.667 Fees; establishment.--

19 (1) The department shall, by rule, establish fees as
20 follows:

21 (a) For portable restroom contractor registration:

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

24 2. Initial registration fee: not less than \$50 nor
25 more than \$100.

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

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

30 (2) Fees established pursuant to subsection (1) shall
31 be based on the actual costs incurred by the department in

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1 carrying out its registration and other related
2 responsibilities under this part.

3 489.668 Penalties and prohibitions.--

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

7 (2) The department may deny a registration if it
8 determines that an applicant does not meet all requirements of
9 this part or has violated any provision of this part. Any
10 applicant aggrieved by such denial shall be entitled to a
11 hearing, after reasonable notice thereof, upon filing a
12 written request for such hearing in accordance with chapter
13 120.

14 Section 95. Subsection (1) of section 491.0057,
15 Florida Statutes, is amended to read:

16 491.0057 Dual licensure as a marriage and family
17 therapist.--The department shall license as a marriage and
18 family therapist any person who demonstrates to the board that
19 he or she:

20 (1)(a) Holds a valid, active license as a psychologist
21 under chapter 490 or,

22 (b) Is ~~as~~ a clinical social worker or mental health
23 counselor under this chapter, or is certified under s. 464.012
24 as an advanced registered nurse practitioner who has been
25 determined by the Board of Nursing as a specialist in
26 psychiatric mental health, and demonstrates equivalent
27 education and training to that specified in Ch. 491.005(3)(c).

28 Section 96. Subsection (3) of section 627.638, Florida
29 Statutes, is added to read:

30 627.638 Direct payment for hospital, medical
31 services.--

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

14 Section 97. Subsection (1) of section 766.101, Florida
15 Statutes, is amended to read:

16 766.101 Medical review committee, immunity from
17 liability.--

18 (1) As used in this section:

19 (a) The term "medical review committee" or "committee"
20 means:

21 1.a. A committee of a hospital or ambulatory surgical
22 center licensed under chapter 395 or a health maintenance
23 organization certificated under part I of chapter 641,

24 b. A committee of a physician-hospital organization, a
25 provider-sponsored organization, or an integrated delivery
26 system,

27 c. A committee of a state or local professional
28 society of health care providers,

29 d. A committee of a medical staff of a licensed
30 hospital or nursing home, provided the medical staff operates
31 pursuant to written bylaws that have been approved by the

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- 1 governing board of the hospital or nursing home,
2 e. A committee of the Department of Corrections or the
3 Correctional Medical Authority as created under s. 945.602, or
4 employees, agents, or consultants of either the department or
5 the authority or both,
6 f. A committee of a professional service corporation
7 formed under chapter 621 or a corporation organized under
8 chapter 607 or chapter 617, which is formed and operated for
9 the practice of medicine as defined in s. 458.305(3), and
10 which has at least 25 health care providers who routinely
11 provide health care services directly to patients,
12 g. A committee of a mental health treatment facility
13 licensed under chapter 394 or a community mental health center
14 as defined in s. 394.907, provided the quality assurance
15 program operates pursuant to the guidelines which have been
16 approved by the governing board of the agency,
17 h. A committee of a substance abuse treatment and
18 education prevention program licensed under chapter 397
19 provided the quality assurance program operates pursuant to
20 the guidelines which have been approved by the governing board
21 of the agency,
22 i. A peer review or utilization review committee
23 organized under chapter 440,
24 j. A committee of the Department of Health, a county
25 health department, healthy start coalition, or certified rural
26 health network, when reviewing quality of care, or employees
27 of these entities when reviewing mortality records, or
28 k. A continuous quality improvement committee of a
29 pharmacy licensed pursuant to chapter 465, or
30 l. A committee established by a university board of
31 trustees, or

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1 m. A committee comprised of faculty, residents,
2 students, and administrators of an accredited college of
3 medicine, nursing or other health care discipline.

4
5 which committee is formed to evaluate and improve the quality
6 of health care rendered by providers of health service or to
7 determine that health services rendered were professionally
8 indicated or were performed in compliance with the applicable
9 standard of care or that the cost of health care rendered was
10 considered reasonable by the providers of professional health
11 services in the area; or

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

15 (b) The term "health care providers" means physicians
16 licensed under chapter 458, osteopathic physicians licensed
17 under chapter 459, podiatric physicians licensed under chapter
18 461, optometrists licensed under chapter 463, dentists
19 licensed under chapter 466, chiropractic physicians licensed
20 under chapter 460, pharmacists licensed under chapter 465, or
21 hospitals or ambulatory surgical centers licensed under
22 chapter 395.

23 Section 98. Effective upon becoming law, subsection
24 (10) of section 627.357 is amended to read:

25 627.357 Medical malpractice self-insurance.--

26 (10) An application to form a self-insurance fund
27 under this section must be filed with the department before
28 October 1, 2002. All self-insurance funds making application
29 under this section between March 1, 2002 and October 1, 2002
30 and created after March 1, 2002 must apply for a certificate
31 of authority to become an admitted insurance company by

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1 ~~October 1, 2007. A self-insurance fund may not be formed under~~
2 ~~this section after October 1, 1992.~~

3 Section 99. Except as otherwise provided herein, this
4 act shall take effect July 1, 2002.

5
6

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 On page ,

10 remove: Everything before the enacting clause

11

12 and insert:

13 An act relating to health care and health
14 professional responsibility; transferring to
15 the Department of Health the powers, duties,
16 functions, and assets that relate to the
17 consumer complaint services, investigations,
18 and prosecutorial services performed by the
19 Agency for Health Care Administration under
20 contract with the department; transferring
21 full-time equivalent positions and the
22 practitioner regulation component from the
23 agency to the department; amending s. 20.43,
24 F.S.; deleting the provision authorizing the
25 department to enter into such contract with the
26 agency, to conform; updating a reference to
27 provide the name of a regulatory board under
28 the Division of Medical Quality Assurance;
29 requiring the Office of Legislative Services to
30 develop a business plan for the Board of
31 Dentistry; providing an appropriation;

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1 requiring a report to the Governor and
2 Legislature; requiring the Department of Health
3 to contract for the implementation of the
4 electronic continuing education tracking system
5 and requiring said system to be compatible and
6 integrated with the department's licensure and
7 renewal system; amending s. 456.057, F.S.;
8 authorizing specified persons to release
9 certain medical records to a custodian upon
10 board order; exempting such persons from
11 liability for the release of such records;
12 amending s. 456.072, F.S.; providing additional
13 penalties to be imposed on certain health care
14 practitioners relating to notice to patients
15 concerning availability and access to medical
16 records; amending s. 456.076, F.S.; providing
17 additional conditions for impaired
18 practitioners to enroll in a treatment program
19 as an alternative to discipline; amending s.
20 456.0375, F.S.; revising the definition of
21 "clinic" to exempt public college and
22 university clinics from medical clinic
23 registration and to clarify when a health care
24 practitioner may supervise another health care
25 practitioner; amending s. 456.072, F.S.;
26 revising grounds for disciplinary action
27 relating to performing health care services
28 improperly and to leaving foreign bodies in
29 patients; amending s. 631.57, F.S.; exempting
30 medical malpractice insurance premiums from an
31 assessment; amending s. 395.002, F.S.; defining

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1 "medically unnecessary procedure"; amending s.
2 394.4787, F.S.; conforming a cross reference;
3 amending s. 395.0161, F.S.; providing
4 rulemaking authority relating to inspections
5 and investigations of facilities; amending s.
6 395.0197, F.S.; revising requirements for
7 internal risk management programs; amending s.
8 465.019, F.S.; revising the definition of
9 "class II institutional pharmacies" to allow
10 dispensing and consulting services to hospice
11 patients under certain circumstances; providing
12 legislative findings relating to responsiveness
13 to emergencies and disasters; amending s.
14 381.0011, F.S.; revising duties of the
15 Department of Health; authorizing the State
16 Health Officer to take specified emergency
17 actions to protect the public health; amending
18 s. 381.0034, F.S.; providing a requirement for
19 instruction of certain health care licensees on
20 conditions caused by nuclear, biological, and
21 chemical terrorism, as a condition of initial
22 licensure, and, in lieu of the requirement for
23 instruction on HIV and AIDS, as a condition of
24 relicensure; amending s. 381.0035, F.S.;
25 providing a requirement for instruction of
26 employees at certain health care facilities on
27 conditions caused by nuclear, biological, and
28 chemical terrorism, upon initial employment,
29 and, in lieu of the requirement of instruction
30 on HIV and AIDS, as biennial continuing
31 education; providing an exception; creating s.

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1 381.0421, F.S.; requiring postsecondary
2 education institutions to provide information
3 on hepatitis B; requiring individuals residing
4 in on-campus housing to document vaccinations
5 against hepatitis B or sign a waiver; amending
6 ss. 395.1027 and 401.245, F.S.; correcting
7 cross references; amending s. 401.23, F.S.;
8 revising definitions of "advanced life support"
9 and "basic life support" and defining
10 "emergency medical condition"; amending s.
11 401.252, F.S.; authorizing physician assistants
12 to conduct interfacility transfers in a
13 permitted ambulance under certain
14 circumstances; amending s. 401.27, F.S.;
15 providing that the course on conditions caused
16 by nuclear, biological, and chemical terrorism
17 shall count toward the total required hours for
18 biennial recertification of emergency medical
19 technicians and paramedics; amending s.
20 456.033, F.S.; providing a requirement for
21 instruction of certain health care
22 practitioners on conditions caused by nuclear,
23 biological, and chemical terrorism, as a
24 condition of initial licensure, and, in lieu of
25 the requirement for instruction on HIV and
26 AIDS, as part of biennial relicensure; creating
27 s. 456.0345, F.S.; providing continuing
28 education credits to health care practitioners
29 for certain life support training; amending s.
30 456.072, F.S.; conforming provisions relating
31 to grounds for disciplinary actions to changes

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1 in health care practitioners' course
2 requirements; amending s. 456.38, F.S.;
3 revising provisions relating to the health care
4 practitioner registry for disasters and
5 emergencies; prohibiting certain termination of
6 or discrimination against a practitioner
7 providing disaster medical assistance; amending
8 ss. 458.319 and 459.008, F.S.; conforming
9 provisions relating to exceptions to continuing
10 education requirements for physicians and
11 osteopathic physicians; amending s. 765.512,
12 F.S., relating to anatomical gifts; prohibiting
13 modification of a donor's intent; providing
14 that a donor document is legally binding;
15 authorizing specified persons to furnish
16 donors' medical records upon request; amending
17 s. 765.516, F.S.; revising procedures by which
18 the terms of an anatomical gift may be amended
19 or the gift may be revoked; amending s.
20 456.073, F.S.; revising procedures and
21 timeframes for formal hearings of health care
22 practitioner disciplinary cases; requiring a
23 joint audit of hearings and their billing
24 formulas and a report to the Legislature;
25 amending s. 456.076, F.S.; requiring each
26 impaired practitioner to pay a portion of the
27 cost of the consultant and impaired
28 practitioner program and the full cost of the
29 required treatment program or plan; providing
30 certain exceptions; repealing s. 456.047, F.S.,
31 to terminate the standardized credentialing

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1 program for health care practitioners;
2 prohibiting the refund of moneys collected
3 through the credentialing program; amending ss.
4 456.039, 456.0391, 456.072, and 456.077, F.S.;
5 removing references, to conform; amending s.
6 458.309, F.S.; requiring accreditation of
7 physician offices in which surgery is
8 performed; amending s. 459.005, F.S.; requiring
9 accreditation of osteopathic physician offices
10 in which surgery is performed; amending s.
11 456.004, F.S., relating to powers and duties of
12 the department; requiring performance measures
13 for certain entities; providing procedures for
14 considering board requests to privatize
15 regulatory functions; amending s. 456.009,
16 F.S.; requiring performance measures for
17 certain legal and investigative services and
18 annual review of such services to determine
19 whether such performance measures are being
20 met; amending s. 456.011, F.S.; requiring
21 regulatory board committee meetings, including
22 probable cause panels, to be held
23 electronically unless certain conditions are
24 met; providing for determination of location of
25 in-person meetings; amending s. 456.026, F.S.;
26 requiring inclusion of performance measures for
27 certain entities in the department's annual
28 report to the Legislature; creating s.
29 458.3093, F.S.; requiring submission of
30 credentials for initial physician licensure to
31 a national licensure verification service;

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1 requiring verification of such credentials by
2 that service or an equivalent program; creating
3 s. 459.0053, F.S.; requiring submission of
4 credentials for initial osteopathic physician
5 licensure to a national licensure verification
6 service; requiring verification of such
7 credentials by that service, a specified
8 association, or an equivalent program; amending
9 ss. 458.331, 459.015, and 627.912, F.S.;
10 raising the malpractice closed claims reporting
11 requirement amount; amending s. 456.073, F.S.;
12 requiring health care practitioner licensees to
13 pay the actual costs of investigation and
14 prosecution under certain circumstances;
15 requiring cases in which no probable cause has
16 been found to be closed within a specified
17 period of time; requiring a study of the field
18 office structure and organization of the Agency
19 for Health Care Administration and a report to
20 the Legislature; amending s. 456.025, F.S.;
21 eliminating certain restrictions on the setting
22 of licensure renewal fees for health care
23 practitioners; creating s. 456.0165, F.S.;
24 restricting the costs that may be charged by
25 educational institutions hosting health care
26 practitioner licensure examinations; requiring
27 health care practitioner licensure and
28 licensure renewal fees to be set at the
29 statutory fee cap or at graduated levels equal
30 to certain percentages of the actual regulatory
31 costs, whichever is less; amending s. 468.301,

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1 F.S.; revising the definition of "direct
2 supervision" applicable to the regulation of
3 radiologic technology; amending s. 468.302,
4 F.S.; authorizing certified nuclear medicine
5 technologists to administer X radiation from
6 certain devices under certain circumstances;
7 exempting certain persons from radiologic
8 technologist certification and providing
9 certain training requirements for such
10 exemption; amending s. 468.352, F.S.; revising
11 and providing definitions applicable to the
12 regulation of respiratory therapy; amending s.
13 468.355, F.S.; revising provisions relating to
14 respiratory therapy licensure and testing
15 requirements; amending s. 468.368, F.S.;
16 revising exemptions from respiratory therapy
17 licensure requirements; repealing s. 468.356,
18 F.S., relating to the approval of educational
19 programs; repealing s. 468.357, F.S., relating
20 to licensure by examination; requiring
21 applications for health care practitioner
22 licensure and licensure renewal to be submitted
23 electronically beginning July 1, 2003; annually
24 adjusting by 2.5 percent the statutory fee caps
25 applicable to regulation of health care
26 practitioners; renumbering ss. 381.0602,
27 381.6021, 381.6022, 381.6023, 381.6024, and
28 381.6026, F.S., and renumbering and amending
29 ss. 381.60225 and 381.6025, F.S., to move
30 provisions relating to organ and tissue
31 procurement, donation, and transplantation to

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1 part V, ch. 765, F.S., relating to anatomical
2 gifts; revising cross references, to conform;
3 amending ss. 395.2050, 409.815, 765.5216, and
4 765.522, F.S.; revising cross references, to
5 conform; providing coverage for certain organ
6 transplant services; amending s. 409.915, F.S.;
7 exempting counties from contributions for such
8 services; amending s. 456.074, F.S.; providing
9 for an emergency order suspending the license
10 of any health care practitioner who has
11 defaulted on a student loan issued or
12 guaranteed by the state or the Federal
13 Government; amending s. 456.072, F.S., and
14 reenacting subsection (2), relating to
15 disciplinary actions; clarifying the ground for
16 disciplinary action for failing to perform a
17 statutory or legal obligation to include
18 failing to repay a student loan issued or
19 guaranteed by the state or the Federal
20 Government in accordance with the terms of the
21 loan and for failing to comply with service
22 scholarship obligations; providing penalties;
23 directing the Department of Health to obtain
24 certain information from the United States
25 Department of Health and Human Services on a
26 monthly basis and to include certain
27 information in its annual report to the
28 Legislature; reenacting ss. 456.026 and
29 456.073, F.S., relating to the annual report
30 and disciplinary proceedings, respectively, to
31 conform; providing applicability; amending s.

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1 400.925, F.S.; eliminating the regulation of
2 certain home medical equipment by the Agency
3 for Health Care Administration; amending s.
4 765.104, F.S.; authorizing a patient whose
5 legal disability is removed to amend or revoke
6 the recognition of a medical proxy and any
7 uncompleted decision made by that proxy;
8 specifying when the amendment or revocation
9 takes effect; amends s. 395.002, F.S., to
10 provide a definition of "surgical first
11 assistant;" amends s. 395.0197, F.S., to allow
12 a operating surgeon to choose the surgical
13 first assistant under certain conditions;
14 amending s. 768.13, F.S.; providing immunity
15 from civil damages under the Good Samaritan Act
16 for actions taken in response to situations
17 during a declared public health emergency;
18 revising the circumstances under which immunity
19 from civil damages is extended to actions taken
20 by persons licensed to practice medicine;
21 amending s. 381.0066, F.S.; authorizing the
22 continuation of permit fees for system
23 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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