

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

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

1 395.0197, F.S.; revising requirements for
2 internal risk management programs; amending s.
3 465.019, F.S.; revising the definition of
4 "class II institutional pharmacies" to allow
5 dispensing and consulting services to hospice
6 patients under certain circumstances; amending
7 s. 499.007, F.S.; deleting requirement for
8 labeling of name and place of business of the
9 manufacturer; providing legislative findings
10 relating to responsiveness to emergencies and
11 disasters; amending s. 381.0011, F.S.;
12 revising the rulemaking authority of the
13 Department of Health with respect to its power
14 to impose quarantine, including requiring
15 vaccination; amending s. 381.00315, F.S.;
16 defining the terms "public health advisory" and
17 "public health emergency"; specifying the terms
18 under which a public health emergency is
19 declared; providing for consultation for,
20 notice, and duration of a declaration of a
21 public health emergency; authorizing the State
22 Health Officer to take specified actions upon
23 the declaration of a public health emergency
24 relating to shipping of specified drugs,
25 directing the compounding of bulk prescription
26 drugs, and specifying the use of such drugs;
27 authorizing the State Health Officer to
28 reactivate the inactive licenses of certain
29 practitioners who request such reactivation;
30 authorizing the State Health Officer to order
31 that an individual be examined, tested,

1 vaccinated, treated, or quarantined for certain
 2 communicable diseases under specified
 3 circumstances; specifying benefits to be made
 4 available to volunteers acting under a public
 5 health emergency; amending s. 381.0034, F.S.;
 6 providing a requirement for instruction of
 7 certain health care licensees on conditions
 8 caused by nuclear, biological, and chemical
 9 terrorism, as a condition of initial licensure,
 10 and, in lieu of the requirement for instruction
 11 on HIV and AIDS, as a condition of relicensure;
 12 amending s. 381.0035, F.S.; providing a
 13 requirement for instruction of employees at
 14 certain health care facilities on conditions
 15 caused by nuclear, biological, and chemical
 16 terrorism, upon initial employment, and, in
 17 lieu of the requirement of instruction on HIV
 18 and AIDS, as biennial continuing education;
 19 providing an exception; creating s. 381.0421,
 20 F.S.; requiring postsecondary education
 21 institutions to provide information on
 22 meningococcal meningitis and hepatitis B;
 23 requiring individuals residing in on-campus
 24 housing to document vaccinations against
 25 meningococcal meningitis and hepatitis B or
 26 sign a waiver; amending ss. 395.1027 and
 27 401.245, F.S.; correcting cross references;
 28 amending s. 401.23, F.S.; revising definitions
 29 of "advanced life support" and "basic life
 30 support" and defining "emergency medical
 31 condition"; amending s. 401.252, F.S.;

1 authorizing physician assistants to conduct
2 interfacility transfers in a permitted
3 ambulance under certain circumstances; amending
4 s. 401.27, F.S.; providing that the course on
5 conditions caused by nuclear, biological, and
6 chemical terrorism shall count toward the total
7 required hours for biennial recertification of
8 emergency medical technicians and paramedics;
9 amending s. 456.033, F.S.; providing a
10 requirement for instruction of certain health
11 care practitioners on conditions caused by
12 nuclear, biological, and chemical terrorism, as
13 a condition of initial licensure, and, in lieu
14 of the requirement for instruction on HIV and
15 AIDS, as part of biennial relicensure; amending
16 s. 381.003, F.S.; requiring the Department of
17 Health to adopt certain standards applicable to
18 all public-sector employers; requiring the
19 compilation and maintenance of certain
20 information by the department for use by
21 employers; creating s. 456.0345, F.S.;
22 providing continuing education credits to
23 health care practitioners for certain life
24 support training; amending s. 456.072, F.S.;
25 conforming provisions relating to grounds for
26 disciplinary actions to changes in health care
27 practitioners' course requirements; amending s.
28 456.38, F.S.; revising provisions relating to
29 the health care practitioner registry for
30 disasters and emergencies; prohibiting certain
31 termination of or discrimination against a

1 practitioner providing disaster medical
2 assistance; amending ss. 458.319 and 459.008,
3 F.S.; conforming provisions relating to
4 exceptions to continuing education requirements
5 for physicians and osteopathic physicians;
6 amending ss. 401.2715, 633.35, and 943.135,
7 F.S.; authorizing certain substitution of
8 terrorism response training for other training
9 required for recertification of emergency
10 medical technicians and paramedics,
11 certification of firefighters, and continued
12 employment or appointment of law enforcement
13 officers, correctional officers, and
14 correctional probation officers; authorizing
15 rulemaking; amending s. 765.512, F.S., relating
16 to anatomical gifts; prohibiting modification
17 of a donor's intent; providing that a donor
18 document is legally binding; authorizing
19 specified persons to furnish donors' medical
20 records upon request; amending s. 765.516,
21 F.S.; revising procedures by which the terms of
22 an anatomical gift may be amended or the gift
23 may be revoked; amending s. 456.073, F.S.;
24 revising procedures and timeframes for formal
25 hearings of health care practitioner
26 disciplinary cases; requiring a joint audit of
27 hearings and their billing formulas and a
28 report to the Legislature; amending s. 456.076,
29 F.S.; requiring each impaired practitioner to
30 pay a portion of the cost of the consultant and
31 impaired practitioner program and the full cost

1 of the required treatment program or plan;
2 providing certain exceptions; repealing s.
3 456.047, F.S., to terminate the standardized
4 credentialing program for health care
5 practitioners; prohibiting the refund of moneys
6 collected through the credentialing program;
7 amending ss. 456.039, 456.0391, 456.072, and
8 456.077, F.S.; removing references, to conform;
9 amending s. 458.309, F.S.; requiring
10 accreditation of physician offices in which
11 surgery is performed; amending s. 459.005,
12 F.S.; requiring accreditation of osteopathic
13 physician offices in which surgery is
14 performed; amending s. 456.004, F.S., relating
15 to powers and duties of the department;
16 requiring performance measures for certain
17 entities; providing procedures for considering
18 board requests to privatize regulatory
19 functions; amending s. 456.009, F.S.; requiring
20 performance measures for certain legal and
21 investigative services and annual review of
22 such services to determine whether such
23 performance measures are being met; amending s.
24 456.011, F.S.; requiring regulatory board
25 committee meetings, including probable cause
26 panels, to be held electronically unless
27 certain conditions are met; providing for
28 determination of location of in-person
29 meetings; amending s. 456.026, F.S.; requiring
30 inclusion of performance measures for certain
31 entities in the department's annual report to

1 the Legislature; creating s. 458.3093, F.S.;
 2 requiring submission of credentials for initial
 3 physician licensure to a national licensure
 4 verification service; requiring verification of
 5 such credentials by that service or an
 6 equivalent program; creating s. 459.0053, F.S.;
 7 requiring submission of credentials for initial
 8 osteopathic physician licensure to a national
 9 licensure verification service; requiring
 10 verification of such credentials by that
 11 service, a specified association, or an
 12 equivalent program; amending ss. 458.331,
 13 459.015, and 627.912, F.S.; raising the
 14 malpractice closed claims reporting requirement
 15 amount; amending s. 456.073, F.S.; requiring
 16 health care practitioner licensees to pay
 17 certain costs of investigation and prosecution
 18 under certain circumstances; requiring cases in
 19 which no probable cause has been found to be
 20 closed within a specified period of time;
 21 requiring a study of the field office structure
 22 and organization of the Agency for Health Care
 23 Administration and a report to the Legislature;
 24 amending s. 456.025, F.S.; eliminating certain
 25 restrictions on the setting of licensure
 26 renewal fees for health care practitioners;
 27 creating s. 456.0165, F.S.; restricting the
 28 costs that may be charged by educational
 29 institutions hosting health care practitioner
 30 licensure examinations; requiring health care
 31 practitioner licensure and licensure renewal

1 fees to be set at graduated levels of the
2 statutory fee cap or actual regulatory costs,
3 whichever is less; amending s. 468.302, F.S.;
4 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; amending s.
21 468.80, F.S.; expanding a definition; requiring
22 applications for health care practitioner
23 licensure and licensure renewal to be submitted
24 electronically beginning July 1, 2003, with
25 certain exceptions; providing for transition to
26 such electronic licensure; annually adjusting
27 by 2.5 percent the statutory fee caps
28 applicable to regulation of health care
29 practitioners; renumbering ss. 381.0602,
30 381.6021, 381.6022, 381.6023, 381.6024, and
31 381.6026, F.S., and renumbering and amending

1 ss. 381.60225 and 381.6025, F.S., to move
2 provisions relating to organ and tissue
3 procurement, donation, and transplantation to
4 part V, ch. 765, F.S., relating to anatomical
5 gifts; revising cross references, to conform;
6 amending ss. 395.2050, 409.815, 765.5216, and
7 765.522, F.S.; revising cross references, to
8 conform; providing a short title and providing
9 coverage for certain organ transplant services;
10 amending s. 409.915, F.S.; exempting counties
11 from contributions for such services; amending
12 s. 456.074, F.S.; providing for an emergency
13 order suspending the license of any health care
14 practitioner who has defaulted on a student
15 loan issued or guaranteed by the state or the
16 Federal Government; amending s. 456.072, F.S.,
17 and reenacting subsection (2), relating to
18 disciplinary actions; clarifying the ground for
19 disciplinary action for failing to perform a
20 statutory or legal obligation to include
21 failing to repay a student loan issued or
22 guaranteed by the state or the Federal
23 Government in accordance with the terms of the
24 loan and for failing to comply with service
25 scholarship obligations; providing penalties;
26 directing the Department of Health to obtain
27 certain information from the United States
28 Department of Health and Human Services on a
29 monthly basis and to include certain
30 information in its annual report to the
31 Legislature; reenacting ss. 456.026 and

1 456.073, F.S., relating to the annual report
2 and disciplinary proceedings, respectively, to
3 conform; providing applicability; amending s.
4 400.925, F.S.; eliminating the regulation of
5 certain home medical equipment by the Agency
6 for Health Care Administration; amending s.
7 765.104, F.S.; authorizing a patient whose
8 legal disability is removed to amend or revoke
9 the recognition of a medical proxy and any
10 uncompleted decision made by that proxy;
11 specifying when the amendment or revocation
12 takes effect; amending s. 765.401, F.S.;
13 providing for health care decisions for persons
14 having a developmental disability; designating
15 a service district of the Department of
16 Children and Family Services to inspect certain
17 residential child-caring agencies within Hardee
18 County; amending s. 457.1085, F.S.; removing
19 obsolete dates relating to adoption of rules
20 relating to infection control; amending s.
21 457.109, F.S.; prohibiting the use of certain
22 titles relating to the practice of acupuncture
23 unless properly licensed and certified;
24 providing penalties; amending s. 457.116, F.S.;
25 increasing the penalties applicable to
26 prohibited acts relating to the practice of
27 acupuncture; amending s. 395.002, F.S., to
28 provide a definition of "surgical first
29 assistant;" amending s. 395.0197, F.S., to
30 allow an operating surgeon to choose the
31 surgical first assistant under certain

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

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

26
27 WHEREAS, residents and visitors to Florida need access
28 to quality and affordable health care, and

29 WHEREAS, the delivery of and payment for health care
30 services provided to patients by health care practitioners in
31 health care facilities is integrated in such a manner that a

1 change to one facet of health care almost always impacts
2 another facet, and

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

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

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

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

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

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

26 WHEREAS, Florida law requires health care practitioners
27 to be assessed a special fee if regular licensure fees are not
28 sufficient to pay the full costs of regulation, and

29 WHEREAS, the Medical Quality Assurance Trust Fund which
30 holds all licensure fees and fines paid by health care
31 practitioners is projected to be in a deficit in 2003, and

1 WHEREAS, certain health care profession accounts within
2 the Medical Quality Assurance Trust Fund are already in a
3 deficit, and

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

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

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

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

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. (1) Effective July 1, 2002, all powers,
19 duties, functions, records, personnel, property, and
20 unexpended balances of appropriations, allocations, and other
21 funds of the Agency for Health Care Administration that relate
22 to consumer complaint services, investigations, and
23 prosecutorial services currently provided by the Agency for
24 Health Care Administration under a contract with the
25 Department of Health are transferred to the Department of
26 Health by a type two transfer, as defined in s. 20.06(2),
27 Florida Statutes. This transfer of funds shall include all
28 advance payments made from the Medical Quality Assurance Trust
29 Fund to the Agency for Health Care Administration.

30 (2)(a) Effective July 1, 2002, 279 full-time
31 equivalent positions are eliminated from the Agency for Health

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

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

3 20.43 Department of Health.--There is created a
4 Department of Health.

5 (3) The following divisions of the Department of
6 Health are established:

7 (g) Division of Medical Quality Assurance, which is
8 responsible for the following boards and professions
9 established within the division:

10 1. The Board of Acupuncture, created under chapter
11 457.

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

13 3. The Board of Osteopathic Medicine, created under
14 chapter 459.

15 4. The Board of Chiropractic Medicine, created under
16 chapter 460.

17 5. The Board of Podiatric Medicine, created under
18 chapter 461.

19 6. Naturopathy, as provided under chapter 462.

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

21 8. The Board of Nursing, created under part I of
22 chapter 464.

23 9. Nursing assistants, as provided under part II of
24 chapter 464.

25 10. The Board of Pharmacy, created under chapter 465.

26 11. The Board of Dentistry, created under chapter 466.

27 12. Midwifery, as provided under chapter 467.

28 13. The Board of Speech-Language Pathology and
29 Audiology, created under part I of chapter 468.

30 14. The Board of Nursing Home Administrators, created
31 under part II of chapter 468.

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

1 ~~The department may contract with the Agency for Health Care~~
2 ~~Administration who shall provide consumer complaint,~~
3 ~~investigative, and prosecutorial services required by the~~
4 ~~Division of Medical Quality Assurance, councils, or boards, as~~
5 ~~appropriate.~~

6 Section 3. The Office of Legislative Services shall
7 contract for a business case study of the feasibility of
8 outsourcing the administrative, investigative, legal, and
9 prosecutorial functions and other tasks and services that are
10 necessary to carry out the regulatory responsibilities of the
11 Board of Dentistry; employing its own executive director and
12 other staff; and obtaining authority over collections and
13 expenditures of funds paid by professions regulated by the
14 Board of Dentistry into the Medical Quality Assurance Trust
15 Fund. This feasibility study must include a business plan and
16 an assessment of the direct and indirect costs associated with
17 outsourcing these functions. The sum of \$50,000 is
18 appropriated from the Board of Dentistry account within the
19 Medical Quality Assurance Trust Fund to the Office of
20 Legislative Services for the purpose of contracting for the
21 study. The Office of Legislative Services shall submit the
22 completed study to the Governor, the President of the Senate,
23 and the Speaker of the House of Representatives by January 1,
24 2003.

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

1 or before July 1, 2003, the Department of Health shall
2 integrate such system or systems into the Department of
3 Health's licensure and renewal system.

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

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

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

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

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

30 (19) The board, or department when there is no board,
31 may temporarily or permanently appoint a person or entity as a

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

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

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

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

23 Section 7. Paragraph (a) of subsection (3) of section
24 456.076, Florida Statutes, is amended to read:

25 456.076 Treatment programs for impaired
26 practitioners.--

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

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

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

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

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

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

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

30
31

1 Section 8. Paragraph (b) of subsection (1) and
2 paragraph (a) of subsection (4), of section 456.0375, Florida
3 Statutes, is amended to read:

4 456.0375 Registration of certain clinics;
5 requirements; discipline; exemptions.--

6 (1)

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

10 1. Entities licensed or registered by the state
11 pursuant to chapter 390, chapter 394, chapter 395, chapter
12 397, chapter 400, chapter 463, chapter 465, chapter 466,
13 chapter 478, ~~chapter 480~~, or chapter 484.

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

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

1 construed to prohibit a health care practitioner from
2 providing administrative or managerial supervision for
3 personnel purposes.

4 4. Massage establishments licensed pursuant to s.
5 480.043 so long as the massage establishment is only providing
6 massage as defined in s. 480.033(3) and no other medical or
7 health care service.

8 (4)(a) All charges or reimbursement claims made by or
9 on behalf of a clinic that is required to be registered under
10 this section, but that is not so registered, are unlawful
11 charges and therefore are noncompensable and unenforceable.
12 However, an insurer shall not deny a claim submitted by a
13 provider on the basis that the provider is not registered
14 pursuant to s. 456.0375 unless at the time of denial the
15 insurer has reasonable proof from a source other than the
16 provider that the provider is an entity, sole proprietorship,
17 group practice, partnership or corporation which is required
18 to register pursuant to this section.

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

21 456.072 Grounds for discipline; penalties;
22 enforcement.--

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

26 (aa) Performing ~~or attempting to perform~~ health care
27 services on the wrong patient, a wrong-site procedure, a wrong
28 procedure, or an unauthorized procedure or a procedure that is
29 medically unnecessary or otherwise unrelated to the patient's
30 diagnosis or medical condition. For the purposes of this
31

1 paragraph, performing ~~or attempting to perform~~ health care
2 services includes the preparation of the patient.

3 (bb) Leaving a foreign body in a patient, such as a
4 sponge, clamp, forceps, surgical needle, or other
5 paraphernalia commonly used in surgical, examination, or other
6 diagnostic procedures, unless leaving the foreign body is
7 medically indicated and documented in the patient record. For
8 the purposes of this paragraph, it shall be legally presumed
9 that retention of a foreign body is not in the best interest
10 of the patient and is not within the standard of care of the
11 profession, unless medically indicated and documented in the
12 patient record ~~regardless of the intent of the professional~~.

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

15 631.57 Powers and duties of the association.--

16 (7) Notwithstanding any other provision of law, the
17 net direct written premiums of medical malpractice insurance
18 are not subject to assessment under this section to cover
19 claims and administrative costs for the type of insurance
20 defined in s. 624.604.

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

25 395.002 Definitions.--As used in this chapter:

26 (22) "Medically unnecessary procedure" means a
27 surgical or other invasive procedure that a reasonable
28 physician, in light of the patient's history and available
29 diagnostic information, would not deem to be indicated in
30 order to treat, cure, or palliate the patient's condition or
31 disease.

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

3 394.4787 Definitions; ss. 394.4786, 394.4787,
4 394.4788, and 394.4789.--As used in this section and ss.
5 394.4786, 394.4788, and 394.4789:

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

9 Section 13. Subsection (5) is added to section
10 395.0161, Florida Statutes, to read:

11 395.0161 Licensure inspection.--

12 (5)(a) The agency shall adopt rules governing the
13 conduct of inspections or investigations it initiates in
14 response to:

15 1. Reports filed pursuant to s. 395.0197.

16 2. Complaints alleging violations of state or federal
17 emergency access laws.

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

20 (b) Such rules shall set forth the procedures to be
21 used in such investigations or inspections in order to protect
22 the due process rights of licensed facilities and personnel
23 and to minimize, to the greatest reasonable extent possible,
24 the disruption of facility operations and the cost to
25 facilities resulting from such investigations.

26 Section 14. Subsections (2), (14), and (16) of section
27 395.0197, Florida Statutes, are amended to read:

28 395.0197 Internal risk management program.--

29 (2) The internal risk management program is the
30 responsibility of the governing board of the health care
31 facility. Each licensed facility shall utilize the services of

1 hire a risk manager, licensed under s. 395.10974, who is
2 responsible for implementation and oversight of such
3 facility's internal risk management program as required by
4 this section. ~~A risk manager must not be made responsible for
5 more than four internal risk management programs in separate
6 licensed facilities, unless the facilities are under one
7 corporate ownership or the risk management programs are in
8 rural hospitals.~~

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

27 (16) The agency shall review, as part of its licensure
28 inspection process, the internal risk management program at
29 each licensed facility regulated by this section to determine
30 whether the program meets standards established in statutes
31 and rules, whether the program is being conducted in a manner

1 designed to reduce adverse incidents, and whether the program
2 is appropriately reporting incidents under this section. Only
3 a risk manager licensed under s. 395.10974 and employed by or
4 under contract with the agency may conduct inspections to
5 determine whether a program meets the requirements of this
6 section. Such determination shall be based on that level of
7 care, skill, and judgment which, in light of all relevant
8 surrounding circumstances, is recognized as acceptable and
9 appropriate by reasonably prudent similar licensed risk
10 managers. By July 1, 2004, the agency shall employ or contract
11 with a minimum of three licensed risk managers in each
12 district to conduct inspections pursuant to this section.

13 Section 15. Paragraph (b) of subsection (2) of section
14 465.019, Florida Statutes, is amended to read:

15 465.019 Institutional pharmacies; permits.--

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

18 (b) "Class II institutional pharmacies" are those
19 institutional pharmacies which employ the services of a
20 registered pharmacist or pharmacists who, in practicing
21 institutional pharmacy, shall provide dispensing and
22 consulting services on the premises to patients of that
23 institution and to patients receiving care in a hospice
24 licensed under part VI of chapter 400 which is located or
25 providing services on the premises of that institution, for
26 use on the premises of that institution. However, an
27 institutional pharmacy located in an area or county included
28 in an emergency order or proclamation of a state of emergency
29 declared by the Governor may provide dispensing and consulting
30 services to individuals who are not patients of the
31 institution. However, a single dose of a medicinal drug may be

1 obtained and administered to a patient on a valid physician's
2 drug order under the supervision of a physician or charge
3 nurse, consistent with good institutional practice procedures.
4 The obtaining and administering of such single dose of a
5 medicinal drug shall be pursuant to drug-handling procedures
6 established by a consultant pharmacist. Medicinal drugs may
7 be dispensed in a Class II institutional pharmacy, but only in
8 accordance with the provisions of this section.

9 Section 16. Paragraph (a) of subsection (2) of section
10 499.007, Florida Statutes, is amended to read:

11 499.007 Misbranded drug or device.--A drug or device
12 is misbranded:

13 (2) Unless, if in package form, it bears a label
14 containing:

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

24 Section 17. Responsiveness to emergencies and
25 disasters; legislative findings.--The Legislature finds that
26 it is critical that Florida be prepared to respond
27 appropriately to a health crisis and injuries in the event of
28 an emergency or disaster. The Legislature finds that there is
29 a need to better educate health care practitioners on diseases
30 and conditions that might be caused by nuclear, biological,
31 and chemical terrorism so that health care practitioners can

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

9 Section 18. Subsection (6) of section 381.0011,
10 Florida Statutes, is amended to read:

11 381.0011 Duties and powers of the Department of
12 Health.--It is the duty of the Department of Health to:

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

18 (a) The department shall adopt rules to specify the
19 conditions and procedures for imposing and releasing a
20 quarantine. The rules must include provisions related to:

- 21 1. The closure of premises.
- 22 2. The movement of persons or animals exposed to or
23 infected with a communicable disease.
- 24 3. The tests or ~~prophylactic~~ treatment, including
25 vaccination,for communicable disease required prior to
26 employment or admission to the premises or to comply with a
27 quarantine.

28 4. Testing or destruction of animals with or suspected
29 of having a disease transmissible to humans.

30 5. Access by the department to quarantined premises.

31

1 6. The disinfection of quarantined animals, persons,
2 or premises.

3 7. Methods of quarantine.

4 (b) Any health regulation that restricts travel or
5 trade within the state may not be adopted or enforced in this
6 state except by authority of the department.

7 Section 19. Section 381.00315, Florida Statutes, is
8 amended to read:

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

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

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

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

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

15 1. Directing manufacturers of prescription drugs or
16 over-the-counter drugs who are permitted under chapter 499 and
17 wholesalers of prescription drugs located in this state who
18 are permitted under chapter 499 to give priority to the
19 shipping of specified drugs to pharmacies and health care
20 providers within geographic areas that have been identified by
21 the State Health Officer. The State Health Officer must
22 identify the drugs to be shipped. Manufacturers and
23 wholesalers located in the state must respond to the State
24 Health Officer's priority shipping directive before shipping
25 the specified drugs.

26 2. Notwithstanding chapters 465 and 499 and rules
27 adopted thereunder, directing pharmacists employed by the
28 department to compound bulk prescription drugs and provide
29 these bulk prescription drugs to physicians, physician
30 assistants, and nurses of county health departments or any
31 qualified person authorized by the State Health Officer for

1 administration to persons as part of a prophylactic or
2 treatment regimen.

3 3. Notwithstanding s. 456.036, temporarily
4 reactivating the inactive license of the following health care
5 practitioners, when such practitioners are needed to respond
6 to the public health emergency: physicians licensed under
7 chapter 458 or chapter 459; physician assistants licensed
8 under chapter 458 or chapter 459; licensed practical nurses,
9 registered nurses, and advanced registered nurse practitioners
10 licensed under part I of chapter 464; respiratory therapists
11 licensed under part V of chapter 468; and emergency medical
12 technicians and paramedics certified under part III of chapter
13 401. Only those health care practitioners specified in this
14 paragraph who possess an unencumbered inactive license and who
15 request that such license be reactivated are eligible for
16 reactivation. An inactive license that is reactivated under
17 this paragraph shall return to inactive status when the public
18 health emergency ends or prior to the end of the public health
19 emergency if the State Health Officer determines that the
20 health care practitioner is no longer needed to provide
21 services during the public health emergency. Such licenses may
22 only be reactivated for a period not to exceed 90 days without
23 meeting the requirements of s. 456.036 or chapter 401, as
24 applicable. If a physician assistant requests reactivation and
25 volunteers during the declared public health emergency, the
26 county health department may serve as the supervising
27 physician for the physician assistant.

28 4. Ordering an individual to be examined, tested,
29 vaccinated, treated, or quarantined for communicable diseases
30 that have significant morbidity or mortality and present a
31 severe danger to public health. Individuals who are unable or

1 unwilling to be examined, tested, vaccinated or treated for
2 reasons of health, religion or conscience may be subjected to
3 quarantine.

4 a. Examination, testing, vaccination, or treatment may
5 be performed by any qualified person authorized by the State
6 Health Officer.

7 b. If the individual poses a danger to the public
8 health, the State Health Officer may subject the individual to
9 quarantine. If there is no practical method to quarantine the
10 individual, the State Health Officer may use any means
11 necessary to vaccinate or treat the individual.

12
13 Any order of the State Health Officer given to effectuate this
14 paragraph shall be immediately enforceable by a law
15 enforcement officer under s. 381.0012.

16 (2) Individuals who assist the State Health Officer at
17 his or her request on a volunteer basis during a public health
18 emergency are entitled to the benefits specified in s. 110.504
19 (2), (3), (4), and (5).

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

22 381.0034 Requirement for instruction on conditions
23 caused by nuclear, biological, and chemical terrorism and on
24 human immunodeficiency virus and acquired immune deficiency
25 syndrome.--

26 (1) ~~As of July 1, 1991,~~The Department of Health shall
27 require each person licensed or certified under chapter 401,
28 chapter 467, part IV of chapter 468, or chapter 483, as a
29 condition of biennial relicensure, to complete an educational
30 course approved by the department on conditions caused by
31 nuclear, biological, and chemical terrorism. The course shall

1 consist of education on diagnosis and treatment,~~the~~ modes of
2 transmission, infection control procedures, and clinical
3 management. Such course shall also include information on
4 reporting suspected cases of conditions caused by nuclear,
5 biological, or chemical terrorism to the appropriate health
6 and law enforcement authorities, ~~and prevention of human~~
7 ~~immunodeficiency virus and acquired immune deficiency~~
8 ~~syndrome. Such course shall include information on current~~
9 ~~Florida law on acquired immune deficiency syndrome and its~~
10 ~~impact on testing, confidentiality of test results, and~~
11 ~~treatment of patients.~~ Each such licensee or certificateholder
12 shall submit confirmation of having completed said course, on
13 a form provided by the department, when submitting fees or
14 application for each biennial renewal.

15 (2) Failure to complete the requirements of this
16 section shall be grounds for disciplinary action contained in
17 the chapters specified in subsection (1). In addition to
18 discipline by the department, the licensee or
19 certificateholder shall be required to complete the required
20 ~~said~~ course or courses.

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

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

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

10 Section 21. Section 381.0035, Florida Statutes, is
11 amended to read:

12 381.0035 Educational courses ~~course~~ on human
13 immunodeficiency virus and acquired immune deficiency syndrome
14 and on conditions caused by nuclear, biological, and chemical
15 terrorism; employees and clients of certain health care
16 facilities.--

17 (1)(a) The Department of Health shall require all
18 ~~employees and~~ clients of facilities licensed under chapters
19 393, 394, and 397 ~~and employees of facilities licensed under~~
20 ~~chapter 395 and parts II, III, IV, and VI of chapter 400~~ to
21 complete, biennially, a continuing educational course on the
22 modes of transmission, infection control procedures, clinical
23 management, and prevention of human immunodeficiency virus and
24 acquired immune deficiency syndrome with an emphasis on
25 appropriate behavior and attitude change. Such instruction
26 shall include information on current Florida law and its
27 impact on testing, confidentiality of test results, and
28 treatment of patients and any protocols and procedures
29 applicable to human immunodeficiency counseling and testing,
30 reporting, the offering of HIV testing to pregnant women, and
31

1 partner notification issues pursuant to ss. 381.004 and
2 384.25.

3 (b) The department shall require all employees of
4 facilities licensed under chapters 393, 394, 395, and 397 and
5 parts II, III, IV, and VI of chapter 400 to complete,
6 biennially, a continuing educational course on conditions
7 caused by nuclear, biological, and chemical terrorism. The
8 course shall consist of education on diagnosis and treatment,
9 modes of transmission, infection control procedures, and
10 clinical management. Such course shall also include
11 information on reporting suspected cases of conditions caused
12 by nuclear, biological, or chemical terrorism to the
13 appropriate health and law enforcement authorities.

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

26 (3) Facilities licensed under chapters 393, 394, 395,
27 and 397, and parts II, III, IV, and VI of chapter 400 shall
28 maintain a record of employees and dates of attendance at
29 human immunodeficiency virus and acquired immune deficiency
30 syndrome educational courses on human immunodeficiency virus
31

1 and acquired immune deficiency syndrome and on conditions
2 caused by nuclear, biological, and chemical terrorism.

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

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

13 Section 22. Section 381.0421, Florida Statutes, is
14 created to read:

15 381.0421 Vaccination against meningococcal meningitis
16 and hepatitis B.--

17 (1) A postsecondary educational institution shall
18 provide detailed information concerning the risks associated
19 with meningococcal meningitis and hepatitis B and the
20 availability, effectiveness, and known contraindications of
21 any required or recommended vaccine against meningococcal
22 meningitis and hepatitis B to every student, or to the
23 student's parent or guardian if the student is a minor, who
24 has been accepted for admission.

25 (2) An individual enrolled in a postsecondary
26 educational institution who will be residing in on-campus
27 housing shall provide documentation of vaccinations against
28 meningococcal meningitis and hepatitis B unless the
29 individual, if the individual is 18 years of age or older, or
30 the individual's parent or guardian, if the individual is a
31 minor, declines the vaccinations by signing a separate waiver

1 for each of these vaccines provided by the institution
2 acknowledging receipt and review of the information provided.

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

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

8 395.1027 Regional poison control centers.--

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

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

26 401.23 Definitions.--As used in this part, the term:

27 (1) "Advanced life support" means the use of skills
28 and techniques described in the most recent United States
29 Department of Transportation National Standard Paramedic
30 Curriculum by a paramedic under the supervision of a
31 licensee's medical director as required by rules of the

1 department. The term "advanced life support" also includes
2 other techniques that have been approved and are performed
3 under conditions specified by rules of the department. The
4 term "advanced life support" also includes provision of care
5 by a paramedic 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~~
8 ~~life-threatening medical emergencies through the use of~~
9 ~~techniques such as endotracheal intubation, the administration~~
10 ~~of drugs or intravenous fluids, telemetry, cardiac monitoring,~~
11 ~~and cardiac defibrillation by a qualified person, pursuant to~~
12 ~~rules of the department.~~

13 (2) "Advanced life support service" means any
14 emergency medical transport or nontransport service which uses
15 advanced life support techniques.

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

20 (4) "Air ambulance service" means any publicly or
21 privately owned service, licensed in accordance with the
22 provisions of this part, which operates air ambulances to
23 transport persons requiring or likely to require medical
24 attention during transport.

25 (5) "Ambulance" or "emergency medical services
26 vehicle" means any privately or publicly owned land or water
27 vehicle that is designed, constructed, reconstructed,
28 maintained, equipped, or operated for, and is used for, or
29 intended to be used for, land or water transportation of sick
30 or injured persons requiring or likely to require medical
31 attention during transport.

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

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

28 (8) "Basic life support service" means any emergency
29 medical service which uses only basic life support techniques.
30
31

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

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

5 (11) "Emergency medical condition" means:

6 (a) A medical condition manifesting itself by acute
7 symptoms of sufficient severity, which may include severe
8 pain, psychiatric disturbances, symptoms of substance abuse,
9 or other acute symptoms, such that the absence of immediate
10 medical attention could reasonably be expected to result in
11 any of the following:

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

14 2. Serious impairment to bodily functions.

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

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

19 (c) With respect to a person exhibiting acute
20 psychiatric disturbance or substance abuse, that the absence
21 of immediate medical attention could reasonably be expected to
22 result in:

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

24 2. Serious jeopardy to the health of others.

25 ~~(11)~~ (12) "Emergency medical technician" means a person
26 who is certified by the department to perform basic life
27 support pursuant to this part.

28 ~~(12)~~ (13) "Interfacility transfer" means the
29 transportation by ambulance of a patient between two
30 facilities licensed under chapter 393, chapter 395, or chapter
31 400, pursuant to this part.

1 (14)~~(13)~~ "Licensee" means any basic life support
2 service, advanced life support service, or air ambulance
3 service licensed pursuant to this part.

4 (15)~~(14)~~ "Medical direction" means direct supervision
5 by a physician through two-way voice communication or, when
6 such voice communication is unavailable, through established
7 standing orders, pursuant to rules of the department.

8 (16)~~(15)~~ "Medical director" means a physician who is
9 employed or contracted by a licensee and who provides medical
10 supervision, including appropriate quality assurance but not
11 including administrative and managerial functions, for daily
12 operations and training pursuant to this part.

13 (17)~~(16)~~ "Mutual aid agreement" means a written
14 agreement between two or more entities whereby the signing
15 parties agree to lend aid to one another under conditions
16 specified in the agreement and as sanctioned by the governing
17 body of each affected county.

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

21 (19)~~(18)~~ "Permit" means any authorization issued
22 pursuant to this part for a vehicle to be operated as a basic
23 life support or advanced life support transport vehicle or an
24 advanced life support nontransport vehicle providing basic or
25 advanced life support.

26 (20)~~(19)~~ "Physician" means a practitioner who is
27 licensed under the provisions of chapter 458 or chapter 459.
28 For the purpose of providing "medical direction" as defined in
29 subsection (15)~~(14)~~ for the treatment of patients immediately
30 prior to or during transportation to a United States
31 Department of Veterans Affairs medical facility, "physician"

1 also means a practitioner employed by the United States
2 Department of Veterans Affairs.

3 (21)~~(20)~~ "Registered nurse" means a practitioner who
4 is licensed to practice professional nursing pursuant to part
5 I of chapter 464.

6 (22)~~(21)~~ "Secretary" means the Secretary of Health.

7 (23)~~(22)~~ "Service location" means any permanent
8 location in or from which a licensee solicits, accepts, or
9 conducts business under this part.

10 Section 25. Paragraph (b) of subsection (2) of section
11 401.245, Florida Statutes, is amended to read:

12 401.245 Emergency Medical Services Advisory Council.--

13 (2)

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

1 Motor Vehicles, the Department of Transportation, and the
2 Department of Community Affairs.

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

5 401.252 Interfacility transfer.--

6 (1) A licensed basic or advanced life support
7 ambulance service may conduct interfacility transfers in a
8 permitted ambulance, using a registered nurse or physician
9 assistant in place of an emergency medical technician or
10 paramedic, if:

11 (a) The registered nurse or physician assistant holds
12 a current certificate of successful course completion in
13 advanced cardiac life support;

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

18 (c) The registered nurse operates within the scope of
19 part I of chapter 464 or the physician assistant operates
20 within the physician assistant's scope of practice under
21 chapter 458 or chapter 459.

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

24 401.27 Personnel; standards and certification.--

25 (6)(a) The department shall establish by rule a
26 procedure for biennial renewal certification of emergency
27 medical technicians. Such rules must require a United States
28 Department of Transportation refresher training program of at
29 least 30 hours as approved by the department every 2 years.
30 Completion of the course required by s. 381.0034(1) shall
31 count toward the 30 hours.The refresher program may be

1 offered in multiple presentations spread over the 2-year
 2 period. The rules must also provide that the refresher course
 3 requirement may be satisfied by passing a challenge
 4 examination.

5 (b) The department shall establish by rule a procedure
 6 for biennial renewal certification of paramedics. Such rules
 7 must require candidates for renewal to have taken at least 30
 8 hours of continuing education units during the 2-year period.
 9 Completion of the course required by s. 381.0034(1) shall
 10 count toward the 30 hours.The rules must provide that the
 11 continuing education requirement may be satisfied by passing a
 12 challenge examination.

13 Section 28. Section 456.033, Florida Statutes, is
 14 amended to read:

15 456.033 Requirement for instruction for certain
 16 licensees on conditions caused by nuclear, biological, and
 17 chemical terrorism and on HIV and AIDS.--

18 (1) The appropriate board shall require each person
 19 licensed or certified under chapter 457; chapter 458; chapter
 20 459; chapter 460; chapter 461; chapter 463; part I of chapter
 21 464; chapter 465; chapter 466; part II, part III, part V, or
 22 part X of chapter 468; or chapter 486 to complete a continuing
 23 educational course, approved by the board, on conditions
 24 caused by nuclear, biological, and chemical terrorism ~~human~~
 25 ~~immunodeficiency virus and acquired immune deficiency syndrome~~
 26 as part of biennial relicensure or recertification. The course
 27 shall consist of education on diagnosis and treatment, ~~the~~
 28 modes of transmission, infection control procedures, and
 29 clinical management. Such course shall also include
 30 information on reporting suspected cases of conditions caused
 31 by nuclear, biological, or chemical terrorism to the

1 appropriate health and law enforcement authorities, ~~and~~
2 ~~prevention of human immunodeficiency virus and acquired immune~~
3 ~~deficiency syndrome. Such course shall include information on~~
4 ~~current Florida law on acquired immune deficiency syndrome and~~
5 ~~its impact on testing, confidentiality of test results,~~
6 ~~treatment of patients, and any protocols and procedures~~
7 ~~applicable to human immunodeficiency virus counseling and~~
8 ~~testing, reporting, the offering of HIV testing to pregnant~~
9 ~~women, and partner notification issues pursuant to ss. 381.004~~
10 ~~and 384.25.~~

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

15 (3) The board shall have the authority to approve
16 additional equivalent courses that may be used to satisfy the
17 requirements in subsection (1). Each licensing board that
18 requires a licensee to complete an educational course pursuant
19 to this section may count the hours required for completion of
20 the course included in the total continuing educational
21 requirements as required by law.

22 (4) Any person holding two or more licenses subject to
23 the provisions of this section shall be permitted to show
24 proof of having taken one board-approved course on conditions
25 caused by nuclear, biological, and chemical terrorism ~~human~~
26 ~~immunodeficiency virus and acquired immune deficiency~~
27 ~~syndrome~~, for purposes of relicensure or recertification for
28 additional licenses.

29 (5) Failure to comply with the ~~above~~ requirements of
30 this section shall constitute grounds for disciplinary action
31 under each respective licensing chapter and s. 456.072(1)(e).

1 In addition to discipline by the board, the licensee shall be
2 required to complete the required course or courses.

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

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

15 (8) The board shall report to the Legislature by March
16 1 of each year as to the implementation and compliance with
17 the requirements of this section.

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

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

29 Section 29. Subsection (3) is added to section
30 381.003, Florida Statutes, to read:

31

1 381.003 Communicable disease and AIDS prevention and
2 control.--

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

18 Section 30. Section 456.0345, Florida Statutes, is
19 created to read:

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

26 Section 31. Paragraph (e) of subsection (1) of section
27 456.072, Florida Statutes, is amended to read:

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

30
31

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

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

8 Section 32. Section 456.38, Florida Statutes, is
9 amended to read:

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

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

3 458.319 Renewal of license.--

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

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

14 459.008 Renewal of licenses and certificates.--

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

23 Section 35. Subsection (4) is added to section
24 401.2715, Florida Statutes, to read:

25 401.2715 Recertification training of emergency medical
26 technicians and paramedics.--

27 (4) Any certified emergency medical technician or
28 paramedic may, as a condition of recertification, complete up
29 to 8 hours of training to respond to terrorism, as defined in
30 s. 775.30, and such hours completed may be substituted on an
31 hour-for-hour basis for any other areas of training required

1 for recertification. The department may adopt rules necessary
2 to administer this subsection.

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

5 633.35 Firefighter training and certification.--

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

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

19 943.135 Requirements for continued employment.--

20 (1) The commission shall, by rule, adopt a program
21 that requires all officers, as a condition of continued
22 employment or appointment as officers, to receive periodic
23 commission-approved continuing training or education. Such
24 continuing training or education shall be required at the rate
25 of 40 hours every 4 years, up to 8 hours of which may consist
26 of training to respond to terrorism as defined in s. 775.30.
27 No officer shall be denied a reasonable opportunity by the
28 employing agency to comply with this section. The employing
29 agency must document that the continuing training or education
30 is job-related and consistent with the needs of the employing
31 agency. The employing agency must maintain and submit, or

1 electronically transmit, the documentation to the commission,
2 in a format approved by the commission. The rule shall also
3 provide:

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

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

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

16 Section 38. Subsections (1), (2), and (6) of section
17 765.512, Florida Statutes, are amended to read:

18 765.512 Persons who may make an anatomical gift.--

19 (1) Any person who may make a will may give all or
20 part of his or her body for any purpose specified in s.
21 765.510, the gift to take effect upon death. An anatomical
22 gift made by an adult donor and not revoked by the donor as
23 provided in s. 765.516 is irrevocable ~~and does not require the~~
24 ~~consent or concurrence of any person~~ after the donor's death.
25 A family member, guardian, representative ad litem, or health
26 care surrogate of a decedent who has made an anatomical gift
27 may not modify the decedent's wishes or deny or prevent the
28 anatomical gift from being made.

29 (2) If the decedent has executed an agreement
30 concerning an anatomical gift, by ~~including~~ signing an organ
31 and tissue donor card, by expressing his or her wish to donate

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

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

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

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

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

19 765.516 Amendment of the terms of or the revocation of
20 the gift.--

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

23 (a) The execution and delivery to the donee of a
24 signed statement.

25 (b) An oral statement that is+

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

27 ~~2. made in the presence of two persons and~~
28 communicated to the donor's family or attorney or to the
29 donee.

30 (c) A statement during a terminal illness or injury
31 addressed to an attending physician, who must communicate the

1 revocation of the gift to the procurement organization that is
2 certified by the state.

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

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

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

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

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

24 Section 41. The Office of Program Policy Analysis and
25 Government Accountability and the Auditor General shall
26 conduct a joint audit of all hearings and billings therefor
27 conducted by the Division of Administrative Hearings for all
28 state agencies and nonstate agencies and shall present a
29 report to the President of the Senate and the Speaker of the
30 House of Representatives on or before January 1, 2003, which
31 contains findings and recommendations regarding the manner in

1 which the division charges for its services. The report shall
2 recommend alternative billing formulas.

3 Section 42. Subsection (7) is added to section
4 456.076, Florida Statutes, to read:

5 456.076 Treatment programs for impaired
6 practitioners.--

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

28 Section 43. Section 456.047, Florida Statutes, is
29 repealed.

30 Section 44. All revenues associated with s. 456.047,
31 Florida Statutes, and collected by the Department of Health on

1 or before July 1, 2002, shall remain in the Medical Quality
2 Assurance Trust Fund, and no refunds shall be given.

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

5 456.039 Designated health care professionals;
6 information required for licensure.--

7 (4)

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

29 Section 46. Paragraph (d) of subsection (4) of section
30 456.0391, Florida Statutes, is amended to read:

31

1 456.0391 Advanced registered nurse practitioners;
2 information required for certification.--

3 (4)

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

25 Section 47. Paragraph (v) of subsection (1) of section
26 456.072, Florida Statutes, is amended to read:

27 456.072 Grounds for discipline; penalties;
28 enforcement.--

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

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

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

9 456.077 Authority to issue citations.--

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

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

28 458.309 Authority to make rules.--

29 (3) All physicians who perform level 2 procedures
30 lasting more than 5 minutes and all level 3 surgical
31 procedures in an office setting must register the office with

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

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

22 459.005 Rulemaking authority.--

23 (2) All osteopathic physicians who perform level 2
 24 procedures lasting more than 5 minutes and all level 3
 25 surgical procedures in an office setting must register the
 26 office with the department unless that office is licensed as a
 27 facility pursuant to chapter 395. Each office that is
 28 required under this subsection to be registered must be ~~The~~
 29 ~~department shall inspect the physician's office annually~~
 30 ~~unless the office is~~ accredited by a nationally recognized
 31 accrediting agency approved by the Board of Medicine or the

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

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

18 456.004 Department; powers and duties.--The
19 department, for the professions under its jurisdiction, shall:

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

24 (12) Consider all board requests to use private
25 vendors for particular regulatory functions. In considering a
26 board request, the department shall conduct an analysis to
27 determine if the function could be appropriately and
28 successfully performed by a private entity at a lower cost or
29 with improved efficiency. If after reviewing the department's
30 analysis the board desires to contract with a vendor for a
31 particular regulatory function and the board has a positive

1 cash balance, the department shall enter into a contract for
2 the service. The contract shall include objective performance
3 measures that reflect the expected quality and quantity of the
4 service and shall include a provision that terminates the
5 contract if the service falls below expected levels. For
6 purposes of this subsection, a "regulatory function" shall be
7 defined to include licensure, licensure renewal, examination,
8 complaint analysis, investigation, or prosecution.

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

11 456.009 Legal and investigative services.--

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

31

1 Section 53. Subsection (6) is added to section
2 456.011, Florida Statutes, to read:

3 456.011 Boards; organization; meetings; compensation
4 and travel expenses.--

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

18 Section 54. Subsection (11) is added to section
19 456.026, Florida Statutes, to read:

20 456.026 Annual report concerning finances,
21 administrative complaints, disciplinary actions, and
22 recommendations.--The department is directed to prepare and
23 submit a report to the President of the Senate and the Speaker
24 of the House of Representatives by November 1 of each year. In
25 addition to finances and any other information the Legislature
26 may require, the report shall include statistics and relevant
27 information, profession by profession, detailing:

28 (11) The performance measures for all bureaus, units,
29 boards, and contracted entities required by the department to
30 reflect the expected quality and quantity of services, and a
31

1 description of any effort to improve the performance of such
2 services.

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

5 458.3093 Licensure credentials verification.--All
6 applicants for initial physician licensure pursuant to this
7 chapter must submit their credentials to the Federation of
8 State Medical Boards. Effective January 1, 2003, the board
9 and the department shall only consider applications for
10 initial physician licensure pursuant to this chapter that have
11 been verified by the Federation of State Medical Boards
12 Credentials Verification Service or an equivalent program
13 approved by the board.

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

16 459.0053 Licensure credentials verification.--All
17 applicants for initial osteopathic physician licensure
18 pursuant to this chapter must submit their credentials to the
19 Federation of State Medical Boards. Effective January 1,
20 2003, the board and the department shall only consider
21 applications for initial osteopathic physician licensure
22 pursuant to this chapter that have been verified by the
23 Federation of State Medical Boards Credentials Verification
24 Service, the American Osteopathic Association, or an
25 equivalent program approved by the board.

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

28 458.331 Grounds for disciplinary action; action by the
29 board and department.--

30
31

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 58. 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):

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

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

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

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

23 (a) A final judgment in any amount.

24 (b) A settlement in any amount.

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

1 466 and the final judgment or settlement was in an amount
2 exceeding \$25,000, the report shall also be filed with the
3 Department of Health. Reports must be filed no later than 30
4 days following the occurrence of any event listed in this
5 subsection ~~paragraph (a) or paragraph (b)~~. The Department of
6 Health shall review each report and determine whether any of
7 the incidents that resulted in the claim potentially involved
8 conduct by the licensee that is subject to disciplinary
9 action, in which case the provisions of s. 456.073 shall
10 apply. The Department of Health, as part of the annual report
11 required by s. 456.026, shall publish annual statistics,
12 without identifying licensees, on the reports it receives,
13 including final action taken on such reports by the Department
14 of Health or the appropriate regulatory board.

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

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

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

1 result of the subject failing to pay the costs. The issuance
2 of a letter of guidance and the assessment of costs under this
3 subsection shall not be considered discipline, nor shall it be
4 considered a final order of discipline.

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

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

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

27 456.025 Fees; receipts; disposition.--

28 (1) It is the intent of the Legislature that all costs
29 of regulating health care professions and practitioners shall
30 be borne solely by licensees and licensure applicants. It is
31 also the intent of the Legislature that fees should be

1 reasonable and not serve as a barrier to licensure. Moreover,
2 it is the intent of the Legislature that the department
3 operate as efficiently as possible and regularly report to the
4 Legislature additional methods to streamline operational
5 costs. Therefore, the boards in consultation with the
6 department, or the department if there is no board, shall, by
7 rule, set renewal fees which:

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

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

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

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

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

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

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

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

26 Section 63. Section 456.0165, Florida Statutes, is
27 created to read:

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

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

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

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

19 468.302 Use of radiation; identification of certified
20 persons; limitations; exceptions.--

21 (3)

22 (g) A person holding a certificate as a nuclear
23 medicine technologist may only:

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

27 2. Administer X radiation from a combination nuclear
28 medicine-computed tomography device if that radiation is
29 administered as an integral part of a nuclear medicine
30 procedure that uses an automated computed tomography protocol

31

1 and the person has received device-specific training on the
2 combination device.

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

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

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

25 1. Principles of X-ray production and equipment
26 operation.

27 2. Biological effects of radiation.

28 3. Radiation exposure and monitoring.

29 4. Radiation safety and protection.

30 5. Evaluation of radiographic equipment and
31 accessories.

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

1 (6) "Physician supervision" means supervision and
2 control by a physician licensed under chapter 458 or chapter
3 459 who assumes the legal liability for the services rendered
4 by the personnel employed in his or her office. Except in the
5 case of an emergency, physician supervision requires the easy
6 availability of the physician within the office or the
7 physical presence of the physician for consultation and
8 direction of the actions of the persons who deliver
9 respiratory care services.

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

19 (8) "Registered respiratory therapist" means any
20 person licensed under this part who is registered by the
21 National Board for Respiratory Care or its successor, and who
22 is employed to deliver respiratory care services under the
23 order of a physician licensed under chapter 458 or chapter
24 459, in accordance with protocols established by a hospital or
25 other health care provider or the board, and who functions in
26 situations of unsupervised patient contact requiring
27 individual judgment.

28 (9) "Respiratory care practitioner" means any person
29 licensed under this part who is employed to deliver
30 respiratory care services, under direct supervision, pursuant
31

1 to the order of a physician licensed under chapter 458 or
2 chapter 459.

3 (10) "Respiratory care services" includes:

4 (a) Evaluation and disease management.

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

7 (c) Administration of drugs, as duly ordered or
8 prescribed by a physician licensed under chapter 458 or
9 chapter 459 and in accordance with protocols, policies, and
10 procedures established by a hospital or other health care
11 provider or the board.

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

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

20 (f) Cardiopulmonary rehabilitation.

21 (g) Cardiopulmonary resuscitation, advanced cardiac
22 life support, neonatal resuscitation, and pediatric advanced
23 life support, or equivalent functions.

24 (h) Insertion and maintenance of artificial airways
25 and intravascular catheters.

26 (i) Performing sleep-disorder studies.

27 (j) Education of patients, families, the public, or
28 other health care providers, including disease process and
29 management programs and smoking prevention and cessation
30 programs.

31 (k) Initiation and management of hyperbaric oxygen.

1 Section 67. Section 468.355, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 468.355, F.S., for present text.)
5 468.355 Licensure requirements.--To be eligible for
6 licensure by the board, an applicant must be certified as a
7 "Certified Respiratory Therapist" or be registered as a
8 "Registered Respiratory Therapist" by the National Board for
9 Respiratory Care, or its successor.

10 Section 68. Section 468.368, Florida Statutes, is
11 amended to read:

12 (Substantial rewording of section. See
13 s. 468.368, F.S., for present text.)
14 468.368 Exemptions.--This part may not be construed to
15 prevent or restrict the practice, service, or activities of:

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

19 (2) Any legally qualified person in the state or
20 another state or territory who is employed by the United
21 States Government or any agency thereof while such person is
22 discharging his or her official duties.

23 (3) A friend or family member who is providing
24 respiratory care services to an ill person and who does not
25 represent himself or herself to be a respiratory care
26 practitioner or respiratory therapist.

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

30 (5) Any individual employed to deliver, assemble, set
31 up, or test equipment for use in a home, upon the order of a

1 physician licensed pursuant to chapter 458 or chapter 459.

2 This subsection does not, however, authorize the practice of
3 respiratory care without a license.

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

8 (7) Any individual certified or registered as a
9 pulmonary function technologist who is credentialed by the
10 National Board for Respiratory Care from performing
11 cardiopulmonary diagnostic studies.

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

16 (9) The delivery of incidental respiratory care to
17 noninstitutionalized persons by surrogate family members who
18 do not represent themselves as registered or certified
19 respiratory care therapists.

20 (10) Any individual credentialed by the Underseas
21 Hyperbaric Society in hyperbaric medicine or its equivalent as
22 determined by the board, while performing related duties. This
23 subsection does not, however, authorize the practice of
24 respiratory care without a license.

25 Section 69. Sections 468.356 and 468.357, Florida
26 Statutes, are repealed.

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

29 468.80 Definitions.--As used in this act, the term:

30 (4) "Orthosis" means a medical device used to provide
31 support, correction, or alleviation of neuromuscular or

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

23 Section 71. Beginning July 1, 2003, application forms
24 for initial licensure and licensure renewal for the
25 professions regulated by the Department of Health, Division of
26 Medical Quality Assurance, shall be submitted electronically
27 through the World Wide Web unless the applicant states on the
28 application form that he or she does not have access to the
29 World Wide Web, in which case a paper application may be
30 submitted. The department shall issue the license or renew a
31 license only if the licensee provides satisfactory evidence

1 that all conditions and requirements of licensure or renewal
 2 have been met, including, but not limited to, the payment of
 3 required fees, the completion of required continuing education
 4 coursework, and, if applicable, the maintenance of financial
 5 responsibility. This section shall not be construed to reduce
 6 or eliminate any requirement set forth in chapter 456, Florida
 7 Statutes, or the applicable practice act.

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

16 Section 73. (1) Effective July 1, 2004, and each July
 17 1 thereafter, the fee caps established in the following
 18 sections are increased by 2.5 percent: ss. 456.025, 457.105,
 19 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,
 20 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,
 21 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
 22 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
 23 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
 24 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
 25 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,
 26 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
 27 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
 28 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
 29 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
 30 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
 31 491.0085, and 491.0145, Florida Statutes.

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

5 Section 74. Sections 381.0602, 381.6021, 381.6022,
6 381.6023, 381.6024, and 381.6026, Florida Statutes, are
7 renumbered as sections 765.53, 765.541, 765.542, 765.544,
8 765.545, and 765.547, Florida Statutes, respectively.

9 Section 75. Section 381.60225, Florida Statutes, is
10 renumbered as section 765.543, Florida Statutes, and
11 subsection (2) of said section is amended to read:

12 765.543 ~~381.60225~~ Background screening.--

13 (2) An organ procurement organization, tissue bank, or
14 eye bank certified by the Agency for Health Care
15 Administration in accordance with ss. 381.6021 and 765.542
16 ~~381.6022~~ is not subject to the requirements of this section if
17 the entity has no direct patient care responsibilities and
18 does not bill patients or insurers directly for services under
19 the Medicare or Medicaid programs, or for privately insured
20 services.

21 Section 76. Section 381.6025, Florida Statutes, is
22 renumbered as section 765.546, Florida Statutes, and amended
23 to read:

24 765.546 ~~381.6025~~ Physician supervision of cadaveric
25 organ and tissue procurement coordinators.--Organ procurement
26 organizations, tissue banks, and eye banks may employ
27 coordinators, who are registered nurses, physician's
28 assistants, or other medically trained personnel who meet the
29 relevant standards for organ procurement organizations, tissue
30 banks, or eye banks as adopted by the Agency for Health Care
31 Administration under s. 765.541 ~~381.6021~~, to assist in the

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

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

23 395.2050 Routine inquiry for organ and tissue
 24 donation; certification for procurement activities.--

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

28 765.541-765.547 ~~381.6021-381.6026~~.

29 Section 78. Paragraph (e) of subsection (2) of section
 30 409.815, Florida Statutes, is amended to read:

31 409.815 Health benefits coverage; limitations.--

1 (2) BENCHMARK BENEFITS.--In order for health benefits
2 coverage to qualify for premium assistance payments for an
3 eligible child under ss. 409.810-409.820, the health benefits
4 coverage, except for coverage under Medicaid and Medikids,
5 must include the following minimum benefits, as medically
6 necessary.

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

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

16 765.5216 Organ and tissue donor education panel.--

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

- 1 (a) A representative from the Agency for Health Care
2 Administration, who shall serve as chairperson of the panel.
- 3 (b) A representative from a Florida licensed organ
4 procurement organization.
- 5 (c) A representative from a Florida licensed tissue
6 bank.
- 7 (d) A representative from a Florida licensed eye bank.
- 8 (e) A representative from a Florida licensed hospital.
- 9 (f) A representative from the Division of Driver
10 Licenses of the Department of Highway Safety and Motor
11 Vehicles, who possesses experience and knowledge in dealing
12 with the public.
- 13 (g) A representative from the family of an organ,
14 tissue, or eye donor.
- 15 (h) A representative who has been the recipient of a
16 transplanted organ, tissue, or eye, or is a family member of a
17 recipient.
- 18 (i) A representative who is a minority person as
19 defined in s. 381.81.
- 20 (j) A representative from a professional association
21 or public relations or advertising organization.
- 22 (k) A representative from a community service club or
23 organization.
- 24 (l) A representative from the Department of Education.
25 Section 80. Subsection (5) of section 765.522, Florida
26 Statutes, is amended to read:
- 27 765.522 Duty of certain hospital administrators;
28 liability of hospital administrators, organ procurement
29 organizations, eye banks, and tissue banks.--
- 30 (5) There shall be no civil or criminal liability
31 against any organ procurement organization, eye bank, or

1 tissue bank certified under s. 765.542 ~~381.6022~~, or against
2 any hospital or hospital administrator or designee, when
3 complying with the provisions of this part and the rules of
4 the Agency for Health Care Administration or when, in the
5 exercise of reasonable care, a request for organ donation is
6 inappropriate and the gift is not made according to this part
7 and the rules of the Agency for Health Care Administration.

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

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

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

18 409.915 County contributions to Medicaid.--Although
19 the state is responsible for the full portion of the state
20 share of the matching funds required for the Medicaid program,
21 in order to acquire a certain portion of these funds, the
22 state shall charge the counties for certain items of care and
23 service as provided in this section.

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

26 (a) For both health maintenance members and
27 fee-for-service beneficiaries, payments for inpatient
28 hospitalization in excess of 10 days, but not in excess of 45
29 days, with the exception of payments for:
30
31

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

4 2. Adult lung transplant services.

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

8 Section 83. Effective upon this act becoming a law and
9 applicable to any loan or scholarship that is in default on or
10 after the effective date, subsection (4) is added to section
11 456.074, Florida Statutes, to read:

12 456.074 Certain health care practitioners; immediate
13 suspension of license.--

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

28 Section 84. Effective upon this act becoming a law and
29 applicable to any loan or scholarship that is in default on or
30 after the effective date, paragraph (k) of subsection (1) of
31

1 section 456.072, Florida Statutes, is amended, and subsection
2 (2) of said section is reenacted, to read:

3 456.072 Grounds for discipline; penalties;
4 enforcement.--

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

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

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

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

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

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

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

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

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

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

30 (g) Corrective action.

31

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 85. 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

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 86. 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.

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 87. 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

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

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,

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

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

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

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:

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

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

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

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 88. 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 practitioner.
18 ~~Home medical equipment includes assistive technology devices,~~
19 ~~including: manual wheelchairs, motorized wheelchairs,~~
20 ~~motorized scooters, voice-synthesized computer modules,~~
21 ~~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 beds,~~
26 ~~including demonstrator, for use by a person with a medical~~
27 ~~need.~~

28 Section 89. Subsection (4) is added to section
29 765.104, Florida Statutes, to read:

30 765.104 Amendment or revocation.--

31

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

10 Section 90. Subsections (1) and (3) of section
11 765.401, Florida Statutes, are amended to read:

12 765.401 The proxy.--

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

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

28 (b) The patient's spouse;

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

1 (d) A parent of the patient;

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

5 (f) An adult relative of the patient who has exhibited
6 special care and concern for the patient and who has
7 maintained regular contact with the patient and who is
8 familiar with the patient's activities, health, and religious
9 or moral beliefs; or

10 (g) A close friend of the patient.

11 (3) Before exercising the incapacitated patient's
12 rights to select or decline health care, the proxy must comply
13 with the provisions of ss. 765.205 and 765.305, except that a
14 proxy's decision to withhold or withdraw life-prolonging
15 procedures must be supported by clear and convincing evidence
16 that the decision would have been the one the patient would
17 have chosen had the patient been competent or, if there is no
18 indication of what the patient would have chosen, that the
19 decision is in the patient's best interest. Before exercising
20 the rights of a person who has a developmental disability as
21 defined under s. 393.063(12) to withhold or withdraw
22 life-prolonging procedures, a proxy must comply with s.
23 393.12.

24 Section 91. Section 457.1085, Florida Statutes, is
25 amended to read:

26 457.1085 Infection control. ~~---Prior to November 1,~~
27 ~~1986,~~The board shall adopt rules relating to the prevention
28 of infection, the safe disposal of any potentially infectious
29 materials, and other requirements to protect the health,
30 safety, and welfare of the public. ~~Beginning October 1, 1997,~~
31 All acupuncture needles that are to be used on a patient must

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

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

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

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

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

18 Section 93. Section 457.116, Florida Statutes, is
19 amended to read:

20 457.116 Prohibited acts; penalty.--

21 (1) A person may not:

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

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

1 acupuncture unless he or she is a holder of a valid license
2 issued pursuant to ss. 457.101-457.118;

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

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

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

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

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

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

17 Section 94. Subsections (31), (32), and (33) of
18 section 395.002, Florida Statutes, are renumbered as
19 subsections (32), (33), and (34), respectively, and a new
20 subsection (31) is added to said section, to read:

21 395.002 Definitions.--As used in this chapter:

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

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

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

31

1 ~~(34)~~(33) "Validation inspection" means an inspection
2 of the premises of a licensed facility by the agency to assess
3 whether a review by an accrediting organization has adequately
4 evaluated the licensed facility according to minimum state
5 standards.

6 Section 95. Paragraph (b) of subsection (1) of section
7 395.0197, Florida Statutes, is amended to read:

8 395.0197 Internal risk management program.--

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

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

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

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

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

26 2. A prohibition, except when emergency circumstances
27 require otherwise, against a staff member of the licensed
28 facility attending a patient in the recovery room, unless the
29 staff member is authorized to attend the patient in the
30 recovery room and is in the company of at least one other
31

1 person. However, a licensed facility is exempt from the
2 two-person requirement if it has:

- 3 a. Live visual observation;
- 4 b. Electronic observation; or
- 5 c. Any other reasonable measure taken to ensure
6 patient protection and privacy.

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

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

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

28 768.13 Good Samaritan Act; immunity from civil
29 liability.--

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

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

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

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

31

1 a. Which occurs after the patient is stabilized and is
2 capable of receiving medical treatment as a nonemergency
3 patient, unless surgery is required as a result of the
4 emergency within a reasonable time after the patient is
5 stabilized, in which case the immunity provided by this
6 paragraph applies to any act or omission of providing medical
7 care or treatment which occurs prior to the stabilization of
8 the patient following the surgery; or

9 b. Unrelated to the original medical emergency.

10 3. For purposes of this paragraph, "reckless
11 disregard" as it applies to a given health care provider
12 rendering emergency medical services shall be such conduct
13 which a health care provider knew or should have known, at the
14 time such services were rendered, would be likely to result in
15 injury so as to affect the life or health of another, taking
16 into account the following to the extent they may be present;

17 a. The extent or serious nature of the circumstances
18 prevailing.

19 b. The lack of time or ability to obtain appropriate
20 consultation.

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

22 d. The inability to obtain an appropriate medical
23 history of the patient.

24 e. The time constraints imposed by coexisting
25 emergencies.

26 4. Every emergency care facility granted immunity
27 under this paragraph shall accept and treat all emergency care
28 patients within the operational capacity of such facility
29 without regard to ability to pay, including patients
30 transferred from another emergency care facility or other
31 health care provider pursuant to Pub. L. No. 99-272, s. 9121.

1 The failure of an emergency care facility to comply with this
2 subparagraph constitutes grounds for the department to
3 initiate disciplinary action against the facility pursuant to
4 chapter 395.

5 Section 97. Paragraph (k) of subsection (2) of section
6 381.0066, Florida Statutes, is amended to read:

7 381.0066 Onsite sewage treatment and disposal systems;
8 fees.--

9 (2) The minimum fees in the following fee schedule
10 apply until changed by rule by the department within the
11 following limits:

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

19
20 The funds collected pursuant to this subsection must be
21 deposited in a trust fund administered by the department, to
22 be used for the purposes stated in this section and ss.
23 381.0065 and 381.00655.

24 Section 98. Part IV of chapter 489, Florida Statutes,
25 consisting of sections 489.661, 489.662, 489.663, 489.664,
26 489.665, 489.666, 489.667, and 489.668, is created to read:

27 PART IV

28 PORTABLE RESTROOM CONTRACTING

29 489.661 Definitions.--As used in this part:

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

31

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

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

18 489.663 Administration of part; registration
19 qualifications; examination.--

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

23 (2) The department shall administer, coordinate, and
24 enforce the provisions of this part, provide qualifications
25 for applicants, administer the examination for applicants, and
26 be responsible for the granting of certificates of
27 registration to qualified persons.

28 (3) The department shall adopt reasonable rules
29 pursuant to ss. 120.536(1) and 120.54 to administer this part,
30 including, but not limited to, rules that establish ethical
31 standards of practice, requirements for registering as a

1 contractor, requirements for obtaining an initial or renewal
2 certificate of registration, disciplinary guidelines, and
3 requirements for the certification of partnerships and
4 corporations. The department may amend or repeal the rules in
5 accordance with chapter 120, the Administrative Procedure Act.

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

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

20 (b) Pass an examination approved by the department
21 that demonstrates that the applicant has a fundamental
22 knowledge of the state laws relating to the installation,
23 maintenance, and wastewater disposal of portable restrooms,
24 portable sinks, and portable holding tanks.

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

26 (d) Have a total of at least 3 years of active
27 experience serving an apprenticeship as a skilled worker under
28 the supervision and control of a registered portable restroom
29 contractor. Related work experience or educational experience
30 may be substituted for no more than 2 years of active
31 contracting experience. Each 30 hours of coursework approved

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

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

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

31

1 (6) Any person who was employed one or more years in
2 this state by a portable restroom service holding a permit
3 issued by the department on or before October 1, 2002, has
4 until October 1, 2003, to be registered by the department in
5 accordance with the provisions of this act and may continue to
6 perform portable restroom contracting services until that
7 time. Such persons are exempt until October 1, 2003, from the
8 three years active work experience requirement of s.
9 489.663(4)(d).

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

16 489.665 Certification of partnerships and
17 corporations.--

18 (1) The practice of or the offer to practice portable
19 restroom contracting services by registrants through a parent
20 corporation, corporation, subsidiary of a corporation, or
21 partnership offering portable restroom contracting services to
22 the public through registrants under this chapter as agents,
23 employers, officers, or partners is permitted, provided that
24 one or more of the principal officers of the corporation or
25 one or more partners of the partnership and all personnel of
26 the corporation or partnership who act on its behalf as
27 portable restroom contractors in this state are registered as
28 provided by this part, and further provided that the
29 corporation or partnership has been issued a certificate of
30 authorization by the department as provided in this section.
31 A registered contractor may not be the sole qualifying

1 contractor for more than one business that requests a
2 certificate of authorization. A business organization that
3 loses its qualifying contractor has 60 days following the date
4 the qualifier terminates his or her affiliation within which
5 to obtain another qualifying contractor. During this period,
6 the business organization may complete any existing contract
7 or continuing contract, but may not undertake any new
8 contract. This period may be extended once by the department
9 for an additional 60 days upon a showing of good cause.
10 Nothing in this section shall be construed to mean that a
11 certificate of registration to practice portable restroom
12 contracting shall be held by a corporation. No corporation or
13 partnership shall be relieved of responsibility for the
14 conduct or acts of its agents, employees, or officers by
15 reason of its compliance with this section, nor shall any
16 individual practicing portable restroom contracting be
17 relieved of responsibility for professional services performed
18 by reason of his or her employment or relationship with a
19 corporation or partnership.

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

28 (3) Each certification of authorization shall be
29 renewed every 2 years. Each partnership and corporation
30 certified under this section shall notify the department
31

1 within 1 month after any change in the information contained
2 in the application upon which the certification is based.

3 (4) Disciplinary action against a corporation or
4 partnership shall be administered in the same manner and on
5 the same grounds as disciplinary action against a registered
6 portable restroom contractor.

7 (5) When a certificate of authorization has been
8 revoked, any person authorized by law to provide portable
9 restroom contracting services may not use the name or
10 fictitious name of the entity whose certificate was revoked,
11 or any other identifiers for the entity, including telephone
12 numbers, advertisements, or logos.

13 489.666 Suspension or revocation of registration.--A
14 certificate of registration may be suspended or revoked upon a
15 showing that the registrant has:

16 (1) Violated any provision of this part.

17 (2) Violated any lawful order or rule rendered or
18 adopted by the department.

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

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

24 489.667 Fees; establishment.--

25 (1) The department shall, by rule, establish fees as
26 follows:

27 (a) For portable restroom contractor registration:

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

30 2. Initial registration fee: not less than \$50 nor
31 more than \$100.

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

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

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

9 489.668 Penalties and prohibitions.--

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

13 (2) The department may deny a registration if it
14 determines that an applicant does not meet all requirements of
15 this part or has violated any provision of this part. Any
16 applicant aggrieved by such denial shall be entitled to a
17 hearing, after reasonable notice thereof, upon filing a
18 written request for such hearing in accordance with chapter
19 120.

20 Section 99. Subsection (3) is added to section
21 627.638, Florida Statutes, to read:

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

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

1 authorizes direct payment of benefits. Payments shall be made
2 under this section, notwithstanding any contrary provisions in
3 the health insurance contract. This subsection applies to all
4 health insurance policies now or hereafter in force as of
5 October 1, 2002.

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

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

10 (1) As used in this section:

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

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

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

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

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

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

29 f. A committee of a professional service corporation
30 formed under chapter 621 or a corporation organized under
31 chapter 607 or chapter 617, which is formed and operated for

1 the practice of medicine as defined in s. 458.305(3), and
2 which has at least 25 health care providers who routinely
3 provide health care services directly to patients,

4 g. A committee of a mental health treatment facility
5 licensed under chapter 394 or a community mental health center
6 as defined in s. 394.907, provided the quality assurance
7 program operates pursuant to the guidelines which have been
8 approved by the governing board of the agency,

9 h. A committee of a substance abuse treatment and
10 education prevention program licensed under chapter 397
11 provided the quality assurance program operates pursuant to
12 the guidelines which have been approved by the governing board
13 of the agency,

14 i. A peer review or utilization review committee
15 organized under chapter 440,

16 j. A committee of the Department of Health, a county
17 health department, healthy start coalition, or certified rural
18 health network, when reviewing quality of care, or employees
19 of these entities when reviewing mortality records, ~~or~~

20 k. A continuous quality improvement committee of a
21 pharmacy licensed pursuant to chapter 465,

22 l. A committee established by a university board of
23 trustees, or

24 m. A committee comprised of faculty, residents,
25 students, and administrators of an accredited college of
26 medicine, nursing, or other health care discipline,

27
28 which committee is formed to evaluate and improve the quality
29 of health care rendered by providers of health service or to
30 determine that health services rendered were professionally
31 indicated or were performed in compliance with the applicable

1 standard of care or that the cost of health care rendered was
2 considered reasonable by the providers of professional health
3 services in the area; or

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

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

15 Section 101. Effective upon this act becoming a law,
16 subsection (10) of section 627.357, Florida Statutes, is
17 amended to read:

18 627.357 Medical malpractice self-insurance.--

19 (10)(a) An application to form a self-insurance fund
20 under this section must be filed with the department before
21 October 1, 2002. All self-insurance funds authorized under
22 this paragraph must apply for a certificate of authority to
23 become an authorized insurer by October 1, 2006. Any such fund
24 failing to obtain a certificate of authority as an authorized
25 insurer within 1 year of the date of application therefore
26 shall wind down its affair and shall not issue coverage after
27 the expiration of the 1-year period.

28 (b) Any self insurance fund established pursuant to
29 this section after April 1, 2002, shall also comply with ss.
30 624.460-624.489, notwithstanding s. 624.462(2)(a). In the
31 event of a conflict between the provisions of this section and

1 ss. 624.460-624.489, the latter sections shall govern. With
2 respect to those sections, provisions solely applicable to
3 workers' compensation and employers liability insurance shall
4 not apply to medical malpractice funds.~~A self insurance may~~
5 ~~not be formed under this section after October 1, 1992.~~

6 Section 102. Subsection (7) of section 631.54, Florida
7 Statutes, is amended to read:

8 631.54 Definitions.--As used in this part:

9 (7) "Member insurer" means any person who writes any
10 kind of insurance to which this part applies under s. 631.52,
11 including the exchange of reciprocal or interinsurance
12 contracts and any medical malpractice self-insurance fund
13 authorized after April 1, 2002 under s. 627.357, and is
14 licensed to transact insurance in this state.

15 Section 103. A residential child-caring agency
16 licensed under section 409.175, Florida Statutes, which is
17 also licensed under section 400.805, Florida Statutes, and
18 located within Hardee County shall be inspected by the service
19 district specified in section 20.19(5)(a)7, Florida Statutes,
20 and not by any other district specified in section
21 20.19(5)(a), Florida Statutes.

22 Section 104. The Agency for Health Care Administration
23 shall conduct a study of health care services provided to the
24 medically fragile or medical-technology-dependent children in
25 the state and conduct a pilot program in Dade County to
26 provide subacute pediatric transitional care to a maximum of
27 30 children at any one time. The purpose of the study and the
28 pilot program are to determine ways to permit medically
29 fragile or medical-technology-dependent children to
30 successfully make a transition from acute care in a health
31 care institution to live with their families when possible,

1 and to provide cost-effective, subacute transitional care
2 services.

3 Section 105. The Agency for Health Care
4 Administration, in cooperation with the Children's Medical
5 Services Program in the Department of Health, shall conduct a
6 study to identify the total number of medically fragile or
7 medical-technology-dependent children, from birth through age
8 21, in the state. By January 1, 2003, the agency must report
9 to the Legislature regarding the children's ages, the
10 locations where the children are served, the types of services
11 received, itemized costs of the services, and the sources of
12 funding that pay for the services, including the proportional
13 share when more than one funding source pays for a service.
14 The study must include information regarding medically fragile
15 or medical-technology-dependent children residing in
16 hospitals, nursing homes, and medical foster care, and those
17 who live with their parents. The study must describe children
18 served in prescribed pediatric extended-care centers,
19 including their ages and the services they receive. The report
20 must identify the total services provided for each child and
21 the method for paying for those services. The report must also
22 identify the number of such children who could, if appropriate
23 transitional services were available, return home or move to a
24 less-institutional setting.

25 Section 106. (1) Within 30 days after the effective
26 date of this act, the agency shall establish minimum staffing
27 standards and quality requirements for a subacute pediatric
28 transitional care center to be operated as a 2-year pilot
29 program in Dade County. The pilot program must operate under
30 the license of a hospital licensed under chapter 395, Florida
31 Statutes, or a nursing home licensed under chapter 400,

1 Florida Statutes, and shall use existing beds in the hospital
2 or nursing home. A child's placement in the subacute pediatric
3 transitional care center may not exceed 90 days. The center
4 shall arrange for an alternative placement at the end of a
5 child's stay and a transitional plan for children expected to
6 remain in the facility for the maximum allowed stay.

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

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

19 Section 107. (1) The subacute pediatric transitional
20 care center must have an advisory board. Membership on the
21 advisory board must include, but need not be limited to:

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

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

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

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

6 (2) The advisory board shall:

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

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

12 Section 108. (1) The subacute pediatric transitional
13 care center must have written policies and procedures
14 governing the admission, transfer, and discharge of children.

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

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

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

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1 (a) The child must be medically fragile or
2 medical-technology-dependent.

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

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

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

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

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

28 Section 109. The provisions of this pilot program
29 relating to subacute pediatric transitional care shall be
30 implemented to the extent available appropriations contained
31 in the annual General Appropriations Act are specifically

1 designated for the purposes contained within the pilot
2 program.

3 Section 110. By January 1, 2003, the Agency for Health
4 Care Administration shall report to the Legislature concerning
5 the progress of the medically fragile or
6 medical-technology-dependent children pilot program. By
7 January 1, 2004, the agency shall submit to the Legislature a
8 report on the success of the pilot program.

9 Section 111. Subsection (5) of section 393.064,
10 Florida Statutes, is amended to read:

11 393.064 Prevention.--

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

17 Section 112. Except as otherwise provided herein, this
18 act shall take effect July 1, 2002.

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