

By Representative Fasano

1                                   A bill to be entitled  
2           An act relating to health care; providing  
3           legislative findings and intent relating to  
4           health flex plans; providing definitions;  
5           providing for a pilot program for health flex  
6           plans for certain uninsured persons; providing  
7           criteria for approval of health flex plans;  
8           delineating the responsibilities of the Agency  
9           for Health Care Administration and the  
10          Department of Insurance; exempting approved  
11          health flex plans from certain regulatory  
12          requirements; providing criteria for  
13          eligibility to enroll in a health flex plan;  
14          requiring health flex plan entities to maintain  
15          certain records; providing requirements for  
16          denial, nonrenewal, or cancellation of  
17          coverage; specifying that coverage under an  
18          approved health flex plan is not an  
19          entitlement; requiring an evaluation and  
20          report; providing for future repeal;  
21          transferring to the Department of Health the  
22          powers, duties, functions, and assets that  
23          relate to the consumer complaint services,  
24          investigations, and prosecutorial services  
25          performed by the Agency for Health Care  
26          Administration under contract with the  
27          department; transferring full-time equivalent  
28          positions and the practitioner regulation  
29          component from the agency to the department;  
30          amending s. 20.43, F.S.; deleting the provision  
31          authorizing the department to enter into such

1 contract with the agency, to conform; updating  
2 a reference to provide the name of a regulatory  
3 board under the Division of Medical Quality  
4 Assurance; requiring the Office of Legislative  
5 Services to contract for an outsourcing  
6 feasibility study relating to the regulatory  
7 responsibilities of the Board of Dentistry;  
8 providing an appropriation; requiring a report  
9 to the Governor and Legislature; requiring the  
10 Department of Health to contract for the  
11 implementation of the electronic continuing  
12 education tracking system and requiring said  
13 system to be compatible and integrated with the  
14 department's licensure and renewal system;  
15 amending s. 456.057, F.S.; authorizing  
16 specified persons to release certain medical  
17 records to a custodian upon board order;  
18 exempting such persons from liability for the  
19 release of such records; amending s. 456.072,  
20 F.S.; revising grounds for disciplinary action  
21 to be imposed on certain health care  
22 practitioners relating to notice to patients  
23 concerning availability and access to medical  
24 records; amending s. 456.076, F.S.; providing  
25 additional conditions for impaired  
26 practitioners to enroll in a treatment program  
27 as an alternative to discipline; amending s.  
28 456.0375, F.S.; revising the definition of  
29 "clinic" to exempt public college and  
30 university clinics from medical clinic  
31 registration, to restrict the exemption for

1           message establishments, and to clarify when a  
2           health care practitioner may supervise another  
3           health care practitioner; prohibiting insurers  
4           from denying claims under specified  
5           circumstances; amending s. 456.072, F.S.;  
6           revising grounds for disciplinary action to be  
7           imposed on certain health care practitioners  
8           relating to performing health care services  
9           improperly and to leaving foreign bodies in  
10          patients; amending s. 631.57, F.S.; exempting  
11          medical malpractice insurance premiums from an  
12          assessment; amending s. 395.002, F.S.; defining  
13          "medically unnecessary procedure"; amending s.  
14          394.4787, F.S.; conforming a cross reference;  
15          amending s. 395.0161, F.S.; providing Agency  
16          for Health Care Administration rulemaking  
17          authority relating to inspections and  
18          investigations of facilities; amending s.  
19          395.0197, F.S.; revising requirements for  
20          health care facility internal risk management  
21          programs; amending s. 465.019, F.S.; revising  
22          the definition of "class II institutional  
23          pharmacies" to allow dispensing and consulting  
24          services to hospice patients under certain  
25          circumstances; amending s. 499.007, F.S.;  
26          deleting requirement for labeling of name and  
27          place of business of the manufacturer of a drug  
28          or device; providing legislative findings  
29          relating to responsiveness to emergencies and  
30          disasters; amending s. 381.0034, F.S.;  
31          providing a requirement for instruction of

1 certain health care licensees on conditions  
2 caused by nuclear, biological, and chemical  
3 terrorism as a condition of initial licensure  
4 and, in lieu of the requirement for instruction  
5 on HIV and AIDS, as a condition of relicensure;  
6 amending s. 381.0035, F.S.; providing a  
7 requirement for instruction of employees at  
8 certain health care facilities on conditions  
9 caused by nuclear, biological, and chemical  
10 terrorism upon initial employment and, in lieu  
11 of the requirement of instruction on HIV and  
12 AIDS, as biennial continuing education;  
13 providing an exception; creating s. 381.0421,  
14 F.S.; requiring postsecondary educational  
15 institutions to provide information on  
16 meningococcal meningitis and hepatitis B;  
17 requiring individuals residing in on-campus  
18 housing to document vaccinations against  
19 meningococcal meningitis and hepatitis B or  
20 sign a waiver; amending ss. 395.1027 and  
21 401.245, F.S.; correcting cross references;  
22 amending s. 401.23, F.S.; revising definitions  
23 of "advanced life support" and "basic life  
24 support" and defining "emergency medical  
25 condition"; amending s. 401.252, F.S.;  
26 authorizing physician assistants to conduct  
27 interfacility transfers in a permitted  
28 ambulance under certain circumstances; amending  
29 s. 401.27, F.S.; providing that the course on  
30 conditions caused by nuclear, biological, and  
31 chemical terrorism shall count toward the total

1 required hours for biennial recertification of  
2 emergency medical technicians and paramedics;  
3 amending s. 456.033, F.S.; providing a  
4 requirement for instruction of certain health  
5 care practitioners on conditions caused by  
6 nuclear, biological, and chemical terrorism as  
7 a condition of initial licensure and, in lieu  
8 of the requirement for instruction on HIV and  
9 AIDS, as part of biennial relicensure; amending  
10 s. 381.003, F.S; requiring the Department of  
11 Health to adopt certain federal health  
12 standards applicable to all public-sector  
13 employers; requiring the compilation and  
14 maintenance of certain information by the  
15 department for use by employers; creating s.  
16 456.0345, F.S.; providing continuing education  
17 credits to health care practitioners for  
18 certain life support training; amending s.  
19 456.072, F.S.; conforming provisions relating  
20 to grounds for disciplinary actions to changes  
21 in health care practitioners' course  
22 requirements; amending s. 456.38, F.S.;  
23 revising provisions relating to the health care  
24 practitioner registry for disasters and  
25 emergencies; prohibiting certain termination of  
26 or discrimination against a practitioner  
27 providing disaster medical assistance; amending  
28 ss. 458.319 and 459.008, F.S.; conforming  
29 provisions relating to exceptions to continuing  
30 education requirements for physicians and  
31 osteopathic physicians; amending ss. 401.2715,

1           633.35, and 943.135, F.S.; authorizing certain  
2           substitution of terrorism response training for  
3           other training required for recertification of  
4           emergency medical technicians and paramedics,  
5           certification of firefighters, and continued  
6           employment or appointment of law enforcement  
7           officers, correctional officers, and  
8           correctional probation officers; authorizing  
9           rulemaking; amending s. 456.073, F.S.; revising  
10          procedures and timeframes for formal hearings  
11          of health care practitioner disciplinary cases;  
12          requiring a joint audit by the Office of  
13          Program Policy Analysis and Government  
14          Accountability and the Auditor General of  
15          hearings conducted by the Division of  
16          Administrative Hearings and the charges  
17          therefor; requiring a report and  
18          recommendations to the Legislature; amending s.  
19          456.076, F.S.; requiring each impaired  
20          practitioner to pay a portion of the costs of  
21          the consultant and impaired practitioner  
22          program and the full cost of the required  
23          treatment program or plan; providing  
24          exceptions; repealing s. 456.047, F.S.,  
25          relating to the standardized credentialing  
26          program for health care practitioners;  
27          prohibiting the refund of moneys collected  
28          through the credentialing program; amending ss.  
29          456.039, 456.0391, 456.072, and 456.077, F.S.;  
30          revising references, to conform; amending s.  
31          458.309, F.S.; requiring accreditation of

1           physician offices in which surgery is  
2           performed; providing Board of Medicine  
3           rulemaking authority; amending s. 459.005,  
4           F.S.; requiring accreditation of osteopathic  
5           physician offices in which surgery is  
6           performed; providing Board of Medicine  
7           rulemaking authority; amending s. 456.004,  
8           F.S., relating to powers and duties of the  
9           Department of Health; requiring performance  
10          measures for certain entities; providing  
11          procedures for considering board requests to  
12          privatize regulatory functions; amending s.  
13          456.009, F.S.; requiring performance measures  
14          for certain legal and investigative services  
15          and annual review of such services to determine  
16          whether such performance measures are being  
17          met; amending s. 456.011, F.S.; requiring  
18          regulatory board committee meetings, including  
19          probable cause panels, to be held  
20          electronically unless certain conditions are  
21          met; providing for determination of location of  
22          in-person meetings; amending s. 456.026, F.S.;  
23          requiring inclusion of performance measures for  
24          certain entities in the department's annual  
25          report to the Legislature; creating s.  
26          458.3093, F.S.; requiring submission of  
27          credentials for initial physician licensure to  
28          a national licensure verification service;  
29          requiring verification of such credentials by  
30          that service or an equivalent program; creating  
31          s. 459.0053, F.S.; requiring submission of

1           credentials for initial osteopathic physician  
2           licensure to a national licensure verification  
3           service; requiring verification of such  
4           credentials by that service, a specified  
5           association, or an equivalent program; amending  
6           ss. 458.331, 459.015, and 627.912, F.S.;  
7           increasing certain repeated malpractice claims  
8           payment amounts constituting grounds for  
9           disciplinary action or denial of a license;  
10          revising certain malpractice claims reporting  
11          requirements; amending s. 456.073, F.S.;  
12          requiring health care practitioner licensees to  
13          pay certain costs of investigation and  
14          prosecution under certain circumstances;  
15          requiring cases in which no probable cause has  
16          been found to be closed within a specified  
17          period of time; requiring the Office of Program  
18          Policy Analysis and Government Accountability  
19          to conduct a study of the field office  
20          structure and organization of the Agency for  
21          Health Care Administration and to report to the  
22          Legislature; amending s. 456.025, F.S.;  
23          eliminating certain restrictions on the setting  
24          of licensure renewal fees for health care  
25          practitioners; creating s. 456.0165, F.S.;  
26          restricting the costs that may be charged by  
27          educational institutions hosting health care  
28          practitioner licensure examinations; amending  
29          s. 468.302, F.S.; authorizing certified nuclear  
30          medicine technologists to administer X  
31          radiation from certain devices under certain



1           circumstances; exempting certain persons from  
2           radiologic technologist certification and  
3           providing certain training requirements for  
4           such exemption; amending s. 468.352, F.S.;  
5           revising and providing definitions applicable  
6           to the regulation of respiratory therapy;  
7           amending s. 468.355, F.S.; revising provisions  
8           relating to respiratory therapy licensure and  
9           testing requirements; amending s. 468.368,  
10          F.S.; revising exemptions from respiratory  
11          therapy licensure requirements; repealing s.  
12          468.356, F.S., relating to the approval of  
13          educational programs; repealing s. 468.357,  
14          F.S., relating to licensure by examination;  
15          amending s. 468.80, F.S.; expanding the  
16          definition of "orthosis"; requiring  
17          applications for health care practitioner  
18          licensure and licensure renewal to be submitted  
19          electronically beginning July 1, 2003, with  
20          certain exceptions; providing for transition to  
21          such electronic licensure; annually adjusting  
22          by 2.5 percent the statutory fee caps  
23          applicable to regulation of health care  
24          practitioners; renumbering ss. 381.0602,  
25          381.6021, 381.6022, 381.6023, 381.6024, and  
26          381.6026, F.S., and renumbering and amending  
27          ss. 381.60225 and 381.6025, F.S., to transfer  
28          provisions relating to organ and tissue  
29          procurement, donation, and transplantation to  
30          pt. V of ch. 765, F.S., relating to anatomical  
31          gifts; revising cross references, to conform;

1 amending ss. 395.2050, 409.815, 765.5216, and  
2 765.522, F.S.; revising cross references, to  
3 conform; amending s. 400.925, F.S.; eliminating  
4 the regulation of certain home medical  
5 equipment by the Agency for Health Care  
6 Administration; amending s. 765.104, F.S.;  
7 authorizing a patient whose legal disability is  
8 removed to amend or revoke the recognition of a  
9 medical proxy and any uncompleted decision made  
10 by that proxy; specifying when the amendment or  
11 revocation takes effect; amending s. 765.401,  
12 F.S.; providing for health care decisions for  
13 persons having a developmental disability;  
14 amending s. 457.1085, F.S.; removing obsolete  
15 dates relating to adoption of rules relating to  
16 infection control; amending s. 457.109, F.S.;  
17 prohibiting the use of certain titles relating  
18 to the practice of acupuncture unless properly  
19 licensed and certified; providing penalties;  
20 amending s. 457.116, F.S.; increasing the  
21 penalties applicable to prohibited acts  
22 relating to the practice of acupuncture;  
23 amending s. 395.002, F.S.; defining "surgical  
24 first assistant"; amending s. 395.0197, F.S.;  
25 allowing an operating surgeon to choose the  
26 surgical first assistant under certain  
27 conditions; amending s. 381.0066, F.S.;  
28 authorizing the continuation of permit fees for  
29 system construction permits for onsite sewage  
30 treatment and disposal systems; amending s.  
31 627.638, F.S.; requiring direct payment of

1 benefits for hospital or medical services under  
2 certain circumstances; amending s. 766.101,  
3 F.S.; expanding the definition of "medical  
4 review committee" for purposes of immunity from  
5 liability; amending s. 627.357, F.S., relating  
6 to medical malpractice insurance; providing  
7 requirements to apply to form a self-insurance  
8 fund; amending s. 631.54, F.S.; revising the  
9 definition of "member insurer" to include  
10 certain medical malpractice self-insurance  
11 funds; designating a service district of the  
12 Department of Children and Family Services to  
13 inspect certain residential child-caring  
14 agencies within Hardee County; requiring the  
15 Agency for Health Care Administration to  
16 conduct a study of health care services  
17 provided to children who are medically fragile  
18 or dependent on medical technology; requiring  
19 the Agency for Health Care Administration to  
20 conduct a pilot program for a subacute  
21 pediatric transitional care center; requiring  
22 background screening of center personnel;  
23 requiring the agency to amend the Medicaid  
24 state plan and seek federal waivers as  
25 necessary; requiring the center to have an  
26 advisory board; providing for membership on the  
27 advisory board; providing requirements for the  
28 admission, transfer, and discharge of a child  
29 to the center; requiring the agency to submit  
30 certain reports to the Legislature; amending s.  
31 393.064, F.S.; transferring certain contract

1 authority from the Department of Children and  
2 Family Services to the Department of Health;  
3 creating a commission within the Board of  
4 Medicine to conduct a study of anesthesiologist  
5 assistants; providing for membership; providing  
6 responsibilities of the commission; providing  
7 for reimbursement of certain expenses;  
8 requiring a report; authorizing the board to  
9 file proposed rules concerning the licensure of  
10 anesthesiologist assistants; providing for  
11 future repeal; providing effective dates.

12  
13 WHEREAS, residents and visitors to Florida need access  
14 to quality and affordable health care, and

15 WHEREAS, the delivery of and payment for health care  
16 services provided to patients by health care practitioners in  
17 health care facilities is integrated in such a manner that a  
18 change to one facet of health care almost always impacts  
19 another facet, and

20 WHEREAS, three state agencies play a role in overseeing  
21 health care providers, health care services, and health care  
22 payors in Florida, and

23 WHEREAS, it is the role of the Department of Health to  
24 protect and improve the health of Florida's patients by  
25 regulating most health care practitioners and some health care  
26 facilities and establishments, by preventing the occurrence  
27 and progression of communicable diseases, and by regulating  
28 certain environmental health issues, among other duties, and

29 WHEREAS, it is the role of the Agency for Health Care  
30 Administration to ensure access to quality, affordable health  
31 care by regulating most health care facilities, some health

1 care providers, and certain health care payors such as managed  
2 care plans, and

3 WHEREAS, it is the role of the Department of Insurance  
4 to regulate certain health insurers who pay for health care  
5 for Floridians, and

6 WHEREAS, the regulation of health care practitioners  
7 relies on peer review by fellow health care practitioners and  
8 requires the costs of such regulation to be paid solely by  
9 practitioners through fines and licensure fees, and

10 WHEREAS, the current level of practitioner fees is not  
11 sufficient to cover the full costs of regulation, and

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

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

18 WHEREAS, certain health care profession accounts within  
19 the Medical Quality Assurance Trust Fund are already in a  
20 deficit, and

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

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

25 WHEREAS, certain functions provided by state agencies  
26 could be performed at a lower cost or with more efficiency in  
27 the private sector in certain instances while still being  
28 accountable to the Legislature, and

29 WHEREAS, the Legislature finds that oversight of the  
30 health care delivery and payment system in Florida is an  
31 important state interest, NOW, THEREFORE,

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Health flex plans.--

4 (1) INTENT.--The Legislature finds that a significant  
5 proportion of state residents is not able to obtain affordable  
6 health insurance coverage. Therefore, it is the intent of the  
7 Legislature to expand the availability of health care options  
8 for lower-income uninsured state residents by encouraging  
9 health insurers, health maintenance organizations, health care  
10 provider-sponsored organizations, local governments, health  
11 care districts, or other public or private community-based  
12 organizations to develop alternative approaches to traditional  
13 health insurance that emphasize coverage for basic and  
14 preventive health care services. To the maximum extent  
15 possible, these options should be coordinated with existing  
16 governmental or community-based health services programs in a  
17 manner that is consistent with the objectives and requirements  
18 of such programs.

19 (2) DEFINITIONS.--As used in this section, the term:

20 (a) "Agency" means the Agency for Health Care  
21 Administration.

22 (b) "Department" means the Department of Insurance.

23 (c) "Enrollee" means an individual who has been  
24 determined to be eligible for and is receiving health care  
25 coverage under a health flex plan approved under this section.

26 (d) "Health care coverage" or "health flex plan  
27 coverage" means health care services covered as benefits under  
28 an approved health flex plan or that are otherwise provided,  
29 either directly or through arrangements with other persons,  
30 via health flex plan health care services on a prepaid per  
31 capita basis or on a prepaid aggregate fixed-sum basis.

1           (e) "Health flex plan" means a health plan approved  
2 under subsection (3) that guarantees payment for specified  
3 health care coverage provided to the enrollee.

4           (f) "Health flex plan entity" means a health insurer,  
5 health maintenance organization, health care  
6 provider-sponsored organization, local government, health care  
7 district, or other public or private community-based  
8 organization that develops and implements an approved health  
9 flex plan and is responsible for administering the health flex  
10 plan and paying all claims for health flex plan coverage by  
11 enrollees of the health flex plan.

12           (3) PILOT PROGRAM.--The agency and the department  
13 shall each approve or disapprove health flex plans that  
14 provide health care coverage for eligible participants  
15 residing in the three service areas of the state with the  
16 highest number of uninsured residents as identified in the  
17 Florida Health Insurance Study conducted by the agency. A  
18 health flex plan may limit or exclude benefits otherwise  
19 required by law for insurers offering coverage in this state,  
20 cap the total amount of claims paid per year per enrollee,  
21 limit the number of enrollees, or any combination of the  
22 foregoing.

23           (a) The agency shall develop guidelines for the review  
24 of health flex plan applications and shall not approve or  
25 shall withdraw approval of plans that do not or no longer meet  
26 minimum standards for quality of care and access to care.

27           (b) The department shall develop guidelines for the  
28 review of health flex plan applications and shall not approve  
29 or shall withdraw approval of plans that:

30           1. Contain any ambiguous, inconsistent, or misleading  
31 provisions or any exceptions or conditions that deceptively

1 affect or limit the benefits purported to be assumed in the  
2 general coverage provided by the health flex plan;

3 2. Provide benefits that are unreasonable in relation  
4 to the premium charged, contain provisions that are unfair or  
5 inequitable or contrary to the public policy of this state,  
6 encourage misrepresentation, or result in unfair  
7 discrimination in sales practices; or

8 3. Cannot demonstrate that the health flex plan is  
9 financially sound and that the applicant has the ability to  
10 underwrite or finance the health care coverage provided.

11 (c) The agency and the department are each authorized  
12 to adopt rules as needed to implement this section.

13 (4) LICENSE NOT REQUIRED.--A health flex plan approved  
14 under this section shall not be subject to the licensing  
15 requirements of the Florida Insurance Code or chapter 641,  
16 Florida Statutes, relating to health maintenance  
17 organizations, unless expressly made applicable. However, for  
18 the purposes of prohibiting unfair trade practices, health  
19 flex plans shall be considered insurance subject to the  
20 applicable provisions of part IX of chapter 626, Florida  
21 Statutes, except as otherwise provided in this section.

22 (5) ELIGIBILITY.--Eligibility to enroll in an approved  
23 health flex plan is limited to state residents who:

24 (a) Are 64 years of age or younger;

25 (b) Have a family income equal to or less than 200  
26 percent of the federal poverty level;

27 (c) Are not covered by a private insurance policy and  
28 are not eligible for coverage through a public health  
29 insurance program such as Medicare or Medicaid, or another  
30 public health care program such as KidCare, and have not been  
31 so covered at any time during the past 6 months; and



1       (d) Have applied for health care coverage through an  
2 approved health flex plan and agree to make any payments  
3 required for participation, including periodic payments or  
4 payments due at the time health care services are provided.

5       (6) RECORDS.--Every health flex plan shall maintain  
6 enrollment data and reasonable records of its loss, expense,  
7 and claims experience and shall make such data and records  
8 reasonably available to enable the department to monitor and  
9 determine the financial viability of the health flex plan, as  
10 necessary. Provider networks and total enrollment by area  
11 shall be reported to the agency biannually to enable the  
12 agency to monitor access to care.

13       (7) NOTICE.--Denial of coverage by a health flex plan,  
14 or nonrenewal or cancellation of coverage, must be accompanied  
15 by the specific reasons for the denial, nonrenewal, or  
16 cancellation. Notice of nonrenewal or cancellation must be  
17 provided at least 45 days before such nonrenewal or  
18 cancellation, except that 10 days' written notice shall be  
19 given for cancellation due to nonpayment of premiums. If the  
20 health flex plan fails to give the required notice, the health  
21 flex plan coverage shall remain in effect until notice is  
22 appropriately given.

23       (8) NONENTITLEMENT.--Coverage under an approved health  
24 flex plan is not an entitlement, and no cause of action shall  
25 arise against the state, a local government entity or other  
26 political subdivision of the state, or the agency for failure  
27 to make coverage available to eligible persons under this  
28 section.

29       (9) PROGRAM EVALUATION.--The agency and the department  
30 shall evaluate the pilot program and its impact on the  
31 entities that seek approval as health flex plans, the number

1 of enrollees, and the scope of health care coverage offered  
2 under a health flex plan and shall assess the health flex  
3 plans and their potential applicability in other settings and  
4 jointly submit a report to the Governor, the President of the  
5 Senate, and the Speaker of the House of Representatives no  
6 later than January 1, 2004.

7 (10) REPEAL.--Unless specifically reenacted by the  
8 Legislature, this section is repealed effective July 1, 2004.

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

21 (2)(a) Effective July 1, 2002, 279 full-time  
22 equivalent positions are eliminated from the Agency for Health  
23 Care Administration's total number of authorized positions.  
24 Effective July 1, 2002, 279 full-time equivalent positions are  
25 authorized for the Department of Health, to be added to the  
26 department's total number of authorized positions. However,  
27 should the General Appropriations Act for fiscal year  
28 2002-2003 reduce the number of positions from the practitioner  
29 regulation component at the Agency for Health Care  
30 Administration, that provision shall be construed to eliminate  
31 the full-time equivalent positions from the practitioner

1 regulation component which is hereby transferred to the  
2 Department of Health, thereby resulting in no more than 279  
3 positions being eliminated from the agency and no more than  
4 279 positions being authorized to the department.

5 (b) All records, personnel, and funds of the consumer  
6 complaint and investigative services units of the agency are  
7 transferred and assigned to the Division of Medical Quality  
8 Assurance of the Department of Health.

9 (c) All records, personnel, and funds of the health  
10 care practitioner prosecutorial unit of the agency are  
11 transferred and assigned to the Office of the General Counsel  
12 of the Department of Health.

13 (3) The Department of Health is deemed the successor  
14 in interest in all legal proceedings and contracts currently  
15 involving the Agency for Health Care Administration and  
16 relating to health care practitioner regulation. Except as  
17 provided herein, no legal proceeding shall be dismissed, nor  
18 any contract terminated, on the basis of this type two  
19 transfer. The interagency agreement between the Department of  
20 Health and the Agency for Health Care Administration shall  
21 terminate on June 30, 2002.

22 Section 3. Paragraph (g) of subsection (3) of section  
23 20.43, Florida Statutes, is amended to read:

24 20.43 Department of Health.--There is created a  
25 Department of Health.

26 (3) The following divisions of the Department of  
27 Health are established:

28 (g) Division of Medical Quality Assurance, which is  
29 responsible for the following boards and professions  
30 established within the division:  
31

- 1           1. The Board of Acupuncture, created under chapter
- 2 457.
- 3           2. The Board of Medicine, created under chapter 458.
- 4           3. The Board of Osteopathic Medicine, created under
- 5 chapter 459.
- 6           4. The Board of Chiropractic Medicine, created under
- 7 chapter 460.
- 8           5. The Board of Podiatric Medicine, created under
- 9 chapter 461.
- 10          6. Naturopathy, as provided under chapter 462.
- 11          7. The Board of Optometry, created under chapter 463.
- 12          8. The Board of Nursing, created under part I of
- 13 chapter 464.
- 14          9. Nursing assistants, as provided under part II of
- 15 chapter 464.
- 16          10. The Board of Pharmacy, created under chapter 465.
- 17          11. The Board of Dentistry, created under chapter 466.
- 18          12. Midwifery, as provided under chapter 467.
- 19          13. The Board of Speech-Language Pathology and
- 20 Audiology, created under part I of chapter 468.
- 21          14. The Board of Nursing Home Administrators, created
- 22 under part II of chapter 468.
- 23          15. The Board of Occupational Therapy, created under
- 24 part III of chapter 468.
- 25          16. The Board of Respiratory Care ~~therapy~~, as created
- 26 ~~provided~~ under part V of chapter 468.
- 27          17. Dietetics and nutrition practice, as provided
- 28 under part X of chapter 468.
- 29          18. The Board of Athletic Training, created under part
- 30 XIII of chapter 468.
- 31

- 1           19. The Board of Orthotists and Prosthetists, created  
2 under part XIV of chapter 468.
- 3           20. Electrolysis, as provided under chapter 478.
- 4           21. The Board of Massage Therapy, created under  
5 chapter 480.
- 6           22. The Board of Clinical Laboratory Personnel,  
7 created under part III of chapter 483.
- 8           23. Medical physicists, as provided under part IV of  
9 chapter 483.
- 10          24. The Board of Opticianry, created under part I of  
11 chapter 484.
- 12          25. The Board of Hearing Aid Specialists, created  
13 under part II of chapter 484.
- 14          26. The Board of Physical Therapy Practice, created  
15 under chapter 486.
- 16          27. The Board of Psychology, created under chapter  
17 490.
- 18          28. School psychologists, as provided under chapter  
19 490.
- 20          29. The Board of Clinical Social Work, Marriage and  
21 Family Therapy, and Mental Health Counseling, created under  
22 chapter 491.
- 23
- 24 ~~The department may contract with the Agency for Health Care~~  
25 ~~Administration who shall provide consumer complaint,~~  
26 ~~investigative, and prosecutorial services required by the~~  
27 ~~Division of Medical Quality Assurance, councils, or boards, as~~  
28 ~~appropriate.~~
- 29          Section 4. The Office of Legislative Services shall  
30 contract for a business case study of the feasibility of  
31 outsourcing the administrative, investigative, legal, and

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

17       Section 5. (1) On or before January 1, 2003, the  
18 Department of Health shall contract with one or more private  
19 entities to implement the electronic continuing education  
20 tracking system required under s. 456.025(7), Florida  
21 Statutes. The electronic continuing education tracking system  
22 or systems must be compatible with the Department of Health's  
23 licensure and renewal system no later than March 1, 2003. On  
24 or before July 1, 2003, the Department of Health shall  
25 integrate such system or systems into the Department of  
26 Health's licensure and renewal system.

27       (2) The electronic continuing education tracking  
28 system shall provide access for a licensee to review the  
29 licensee's continuing education credits or courses that have  
30 been reported by providers of continuing education and shall  
31 provide a mechanism for a licensee to self-report courses or

1 credits that have not yet been reported by a provider of  
2 continuing education.

3 (3) The private entities under contract with the  
4 Department of Health may fund the development and operation of  
5 the electronic continuing education tracking system through  
6 private grants or funds or through funds paid by a provider of  
7 continuing education courses. The Department of Health is  
8 authorized to use continuing education provider fees and  
9 licensure renewal fees to fund the operation of the electronic  
10 continuing education tracking system, subject to legislative  
11 appropriation.

12 (4) The Department of Health may enter into more than  
13 one contract if the department determines that it would be  
14 more efficient, practicable, or cost-effective to use one  
15 vendor for professions that use board-approved providers and  
16 one vendor for professions that allow licensees to take  
17 courses approved by other entities.

18 Section 6. Subsection (19) of section 456.057, Florida  
19 Statutes, is amended to read:

20 456.057 Ownership and control of patient records;  
21 report or copies of records to be furnished.--

22 (19) The board, or department when there is no board,  
23 may temporarily or permanently appoint a person or entity as a  
24 custodian of medical records in the event of the death of a  
25 practitioner, the mental or physical incapacitation of the  
26 practitioner, or the abandonment of medical records by a  
27 practitioner. The custodian appointed shall comply with all  
28 provisions of this section, including the release of patient  
29 records. Any person or entity having possession or physical  
30 control of the medical records may release them to the  
31 custodian upon presentment of an order signed by the board

1 giving the custodian access to the records. A person or  
2 entity is not liable in tort or contract for providing the  
3 records to a validly appointed custodian.

4 Section 7. Subsection (7) is added to section 456.072,  
5 Florida Statutes, to read:

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

8 (7) In addition to any other discipline imposed  
9 through final order or citation entered on or after July 1,  
10 2002, pursuant to this section or for a violation of any  
11 practice act, the board, or the department when there is no  
12 board, shall require, in appropriate cases, any licensee who  
13 is a records owner, as defined in s. 456.057, to notify his or  
14 her patients of the requirements imposed by s. 456.057(11).

15 Section 8. Paragraph (a) of subsection (3) of section  
16 456.076, Florida Statutes, is amended to read:

17 456.076 Treatment programs for impaired  
18 practitioners.--

19 (3)(a) Whenever the department receives a written or  
20 oral legally sufficient complaint alleging that a licensee  
21 under the jurisdiction of the Division of Medical Quality  
22 Assurance within the department is impaired as a result of the  
23 misuse or abuse of alcohol or drugs, or both, or due to a  
24 mental or physical condition which could affect the licensee's  
25 ability to practice with skill and safety, and no complaint  
26 against the licensee other than impairment exists, the  
27 reporting of such information shall not constitute grounds for  
28 discipline pursuant to s. 456.072 or the corresponding grounds  
29 for discipline within the applicable practice act if the  
30 probable cause panel of the appropriate board, or the  
31 department when there is no board, finds:



1           1. The licensee has acknowledged the impairment  
2 problem.

3           2. The licensee has voluntarily enrolled in an  
4 appropriate, approved treatment program.

5           3. The licensee has voluntarily withdrawn from  
6 practice or limited the scope of practice as required by the  
7 consultant, in each case, until such time as the panel, or the  
8 department when there is no board, is satisfied the licensee  
9 has successfully completed an approved treatment program.

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

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

22           Section 9. Paragraph (b) of subsection (1) and  
23 paragraph (a) of subsection (4) of section 456.0375, Florida  
24 Statutes, are amended to read:

25           456.0375 Registration of certain clinics;  
26 requirements; discipline; exemptions.--

27           (1)

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

31

1           1. Entities licensed or registered by the state  
2 pursuant to chapter 390, chapter 394, chapter 395, chapter  
3 397, chapter 400, chapter 463, chapter 465, chapter 466,  
4 chapter 478, ~~chapter 480~~, or chapter 484.

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

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

26           4. Massage establishments licensed pursuant to s.  
27 480.043 so long as the massage establishment is only providing  
28 massage as defined in s. 480.033(3) and no other medical or  
29 health care service.

30           (4)(a) All charges or reimbursement claims made by or  
31 on behalf of a clinic that is required to be registered under

1 this section, but that is not so registered, are unlawful  
2 charges and therefore are noncompensable and unenforceable.  
3 However, an insurer shall not deny a claim submitted by a  
4 provider on the basis that the provider is not registered  
5 pursuant to s. 456.0375 unless at the time of denial the  
6 insurer has reasonable proof from a source other than the  
7 provider that the provider is an entity, sole proprietorship,  
8 group practice, partnership, or corporation that is required  
9 to register pursuant to this section.

10 Section 10. Paragraphs (aa) and (bb) of subsection (1)  
11 of section 456.072, Florida Statutes, are amended to read:

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

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

17 (aa) Performing ~~or attempting to perform~~ health care  
18 services on the wrong patient, a wrong-site procedure, a wrong  
19 procedure, or an unauthorized procedure or a procedure that is  
20 medically unnecessary or otherwise unrelated to the patient's  
21 diagnosis or medical condition. For the purposes of this  
22 paragraph, performing ~~or attempting to perform~~ health care  
23 services includes the preparation of the patient.

24 (bb) Leaving a foreign body in a patient, such as a  
25 sponge, clamp, forceps, surgical needle, or other  
26 paraphernalia commonly used in surgical, examination, or other  
27 diagnostic procedures, unless leaving the foreign body is  
28 medically indicated and documented in the patient record. For  
29 the purposes of this paragraph, it shall be legally presumed  
30 that retention of a foreign body is not in the best interest  
31 of the patient and is not within the standard of care of the

1 profession, unless medically indicated and documented in the  
2 patient record ~~regardless of the intent of the professional.~~

3 Section 11. Subsection (7) is added to section 631.57,  
4 Florida Statutes, to read:

5 631.57 Powers and duties of the association.--

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

11 Section 12. Subsections (22) through (33) of section  
12 395.002, Florida Statutes, are renumbered as subsections (23)  
13 through (34), respectively, and a new subsection (22) is added  
14 to said section to read:

15 395.002 Definitions.--As used in this chapter:

16 (22) "Medically unnecessary procedure" means a  
17 surgical or other invasive procedure that a reasonable  
18 physician, in light of the patient's history and available  
19 diagnostic information, would not deem to be indicated in  
20 order to treat, cure, or palliate the patient's condition or  
21 disease.

22 Section 13. Subsection (7) of section 394.4787,  
23 Florida Statutes, is amended to read:

24 394.4787 Definitions; ss. 394.4786, 394.4787,  
25 394.4788, and 394.4789.--As used in this section and ss.  
26 394.4786, 394.4788, and 394.4789:

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

30 Section 14. Subsection (5) is added to section  
31 395.0161, Florida Statutes, to read:

1           395.0161 Licensure inspection.--  
2           (5)(a) The agency shall adopt rules governing the  
3 conduct of inspections or investigations it initiates in  
4 response to:  
5           1. Reports filed pursuant to s. 395.0197.  
6           2. Complaints alleging violations of state or federal  
7 emergency access laws.  
8           3. Complaints made by the public alleging violations  
9 of law by licensed facilities or personnel.  
10          (b) Such rules shall set forth the procedures to be  
11 used in such investigations or inspections in order to protect  
12 the due process rights of licensed facilities and personnel  
13 and to minimize, to the greatest reasonable extent possible,  
14 the disruption of facility operations and the cost to  
15 facilities resulting from such investigations.  
16          Section 15. Subsections (2), (14), and (16) of section  
17 395.0197, Florida Statutes, are amended to read:  
18          395.0197 Internal risk management program.--  
19          (2) The internal risk management program is the  
20 responsibility of the governing board of the health care  
21 facility. Each licensed facility shall utilize the services of  
22 hire a risk manager, licensed under s. 395.10974, who is  
23 responsible for implementation and oversight of such  
24 facility's internal risk management program as required by  
25 this section. ~~A risk manager must not be made responsible for~~  
26 ~~more than four internal risk management programs in separate~~  
27 ~~licensed facilities, unless the facilities are under one~~  
28 ~~corporate ownership or the risk management programs are in~~  
29 ~~rural hospitals.~~  
30          (14) The agency shall have access, as set forth in  
31 rules adopted pursuant to s. 395.0161(5),to all licensed

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

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

1 with a minimum of three licensed risk managers in each  
2 district to conduct inspections pursuant to this section.

3 Section 16. Paragraph (b) of subsection (2) of section  
4 465.019, Florida Statutes, is amended to read:

5 465.019 Institutional pharmacies; permits.--

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

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

30 Section 17. Paragraph (a) of subsection (2) of section  
31 499.007, Florida Statutes, is amended to read:

1           499.007 Misbranded drug or device.--A drug or device  
2 is misbranded:

3           (2) Unless, if in package form, it bears a label  
4 containing:

5           (a) The name and place of business of the manufacturer  
6 or distributor; ~~in addition, for a medicinal drug, as defined~~  
7 ~~in s. 499.003, the label must contain the name and place of~~  
8 ~~business of the manufacturer~~ of the finished dosage form of  
9 the drug. For the purpose of this paragraph, the finished  
10 dosage form of a medicinal drug is that form of the drug which  
11 is, or is intended to be, dispensed or administered to the  
12 patient and requires no further manufacturing or processing  
13 other than packaging, reconstitution, and labeling; and

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

30           Section 19. Section 381.0034, Florida Statutes, is  
31 amended to read:



1           381.0034 Requirement for instruction on conditions  
2 caused by nuclear, biological, and chemical terrorism and on  
3 human immunodeficiency virus and acquired immune deficiency  
4 syndrome.--

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

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

31

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

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

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

21           Section 20. Section 381.0035, Florida Statutes, is  
22 amended to read:

23           381.0035 Educational courses ~~course~~ on human  
24 immunodeficiency virus and acquired immune deficiency syndrome  
25 and on conditions caused by nuclear, biological, and chemical  
26 terrorism; employees and clients of certain health care  
27 facilities.--

28           (1)(a) The Department of Health shall require all  
29 ~~employees and~~ clients of facilities licensed under chapters  
30 393, 394, and 397 ~~and employees of facilities licensed under~~  
31 ~~chapter 395 and parts II, III, IV, and VI of chapter 400 to~~

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

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

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

1 conditions caused by nuclear, biological, and chemical  
2 terrorism, with instruction to include information on  
3 reporting suspected cases to the appropriate health and law  
4 enforcement authorities.

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

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

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

22 Section 21. Section 381.0421, Florida Statutes, is  
23 created to read:

24 381.0421 Vaccination against meningococcal meningitis  
25 and hepatitis B.--

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

1 student's parent or guardian if the student is a minor, who  
2 has been accepted for admission.

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

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

15 Section 22. Subsection (4) of section 395.1027,  
16 Florida Statutes, is amended to read:

17 395.1027 Regional poison control centers.--

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

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

3 Section 23. Section 401.23, Florida Statutes, is  
4 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (11) "Emergency medical condition" means:

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

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

22 2. Serious impairment to bodily functions.

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

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

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

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



1           2. Serious jeopardy to the health of others.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Section 24. Paragraph (b) of subsection (2) of section  
19 401.245, Florida Statutes, is amended to read:

20 401.245 Emergency Medical Services Advisory Council.--

21 (2)

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

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

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

13 401.252 Interfacility transfer.--

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

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

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

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

30 Section 26. Subsection (6) of section 401.27, Florida  
31 Statutes, is amended to read:

1           401.27 Personnel; standards and certification.--

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

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

21           Section 27. Section 456.033, Florida Statutes, is  
22 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

6           Section 28. Subsection (3) is added to section  
7 381.003, Florida Statutes, to read:

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

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

25          Section 29. Section 456.0345, Florida Statutes, is  
26 created to read:

27          456.0345 Life support training.--Health care  
28 practitioners who obtain training in advanced cardiac life  
29 support, cardiopulmonary resuscitation, or emergency first aid  
30 shall receive an equivalent number of continuing education  
31

1 course credits which may be applied toward licensure renewal  
2 requirements.

3 Section 30. Paragraph (e) of subsection (1) of section  
4 456.072, Florida Statutes, is amended to read:

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

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

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

14 Section 31. Section 456.38, Florida Statutes, is  
15 amended to read:

16 456.38 Practitioner registry for disasters and  
17 emergencies.--The Department of Health shall ~~may~~ include on  
18 its application and renewal forms for the licensure or  
19 certification of health care practitioners licensed pursuant  
20 to chapter 458, chapter 459, chapter 464, or part V of chapter  
21 468, as defined in s. 456.001,who could assist the department  
22 in the event of a disaster a question asking if the  
23 practitioner would be available to provide health care  
24 services in special needs shelters or to help staff disaster  
25 medical assistance teams during times of emergency or major  
26 disaster. The names of practitioners who answer affirmatively  
27 shall be maintained by the department as a health care  
28 practitioner registry for disasters and emergencies. A health  
29 care practitioner who volunteers his or her services in a  
30 special needs shelter or as part of a disaster medical  
31 assistance team during a time of emergency or disaster shall



1 not be terminated or discriminated against by his or her  
2 employer for such volunteer work, provided that the health  
3 care practitioner returns to his or her regular employment  
4 within 2 weeks or within a longer period that has been  
5 previously approved by the employer in writing.

6 Section 32. Subsection (4) of section 458.319, Florida  
7 Statutes, is amended to read:

8 458.319 Renewal of license.--

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

17 Section 33. Subsection (5) of section 459.008, Florida  
18 Statutes, is amended to read:

19 459.008 Renewal of licenses and certificates.--

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

28 Section 34. Subsection (4) is added to section  
29 401.2715, Florida Statutes, to read:

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

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

8           Section 35. Subsection (1) of section 633.35, Florida  
9 Statutes, is amended to read:

10           633.35 Firefighter training and certification.--

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

22           Section 36. Subsection (1) of section 943.135, Florida  
23 Statutes, is amended to read:

24           943.135 Requirements for continued employment.--

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

1 No officer shall be denied a reasonable opportunity by the  
2 employing agency to comply with this section. The employing  
3 agency must document that the continuing training or education  
4 is job-related and consistent with the needs of the employing  
5 agency. The employing agency must maintain and submit, or  
6 electronically transmit, the documentation to the commission,  
7 in a format approved by the commission. The rule shall also  
8 provide:

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

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

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

21 Section 37. Subsection (5) of section 456.073, Florida  
22 Statutes, is amended to read:

23 456.073 Disciplinary proceedings.--Disciplinary  
24 proceedings for each board shall be within the jurisdiction of  
25 the department.

26 (5)(a) A formal hearing before an administrative law  
27 judge from the Division of Administrative Hearings shall be  
28 held pursuant to chapter 120 if there are any disputed issues  
29 of material fact raised within 60 days after service of the  
30 administrative complaint. The administrative law judge shall  
31 issue a recommended order pursuant to chapter 120. ~~If any~~

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

4 (b) Notwithstanding s. 120.569(2), the department  
5 shall notify the division within 45 days after receipt of a  
6 petition or request for a hearing that the department has  
7 determined requires a formal hearing before an administrative  
8 law judge.

9 Section 38. The Office of Program Policy Analysis and  
10 Government Accountability and the Auditor General shall  
11 conduct a joint audit of all hearings and billings therefor  
12 conducted by the Division of Administrative Hearings for all  
13 state agencies and nonstate agencies and shall present a  
14 report to the President of the Senate and the Speaker of the  
15 House of Representatives on or before January 1, 2003, that  
16 contains findings and recommendations regarding the manner in  
17 which the division charges for its services. The report shall  
18 recommend alternative billing formulas.

19 Section 39. Subsection (7) is added to section  
20 456.076, Florida Statutes, to read:

21 456.076 Treatment programs for impaired  
22 practitioners.--

23 (7) Each licensee participating in an impaired  
24 practitioner program pursuant to this section shall pay a  
25 portion of the costs of the consultant and impaired  
26 practitioner program, as determined by rule of the department,  
27 incurred as a result of that licensee, unless the consultant  
28 finds the licensee to be financially unable to pay in  
29 accordance with rules set forth by the department. Payment of  
30 these costs shall be a condition of the contract between the  
31 impaired practitioner program and the impaired practitioner.

1 Failure to pay the required costs shall be a violation of the  
2 contract, unless prior arrangements have been made with the  
3 impaired practitioner program. If the licensee has entered  
4 the impaired practitioner program as a result of a  
5 disciplinary investigation, such payment shall be included in  
6 the final order imposing discipline. The remaining costs  
7 shall be paid out of the Medical Quality Assurance Trust Fund  
8 or other federal, state, or private program funds. Each  
9 licensee shall pay the full cost of the approved treatment  
10 program or other treatment plan required by the impaired  
11 practitioner program, unless private funds are available to  
12 assist with such payment.

13 Section 40. Section 456.047, Florida Statutes, is  
14 repealed.

15 Section 41. All revenues associated with s. 456.047,  
16 Florida Statutes, and collected by the Department of Health on  
17 or before July 1, 2002, shall remain in the Medical Quality  
18 Assurance Trust Fund, and no refunds shall be given.

19 Section 42. Paragraph (d) of subsection (4) of section  
20 456.039, Florida Statutes, is amended to read:

21 456.039 Designated health care professionals;  
22 information required for licensure.--

23 (4)

24 (d) Any applicant for initial licensure or renewal of  
25 licensure as a health care practitioner who submits to the  
26 Department of Health a set of fingerprints or information  
27 required for the criminal history check required under this  
28 section shall not be required to provide a subsequent set of  
29 fingerprints or other duplicate information required for a  
30 criminal history check to the Agency for Health Care  
31 Administration, the Department of Juvenile Justice, or the

1 Department of Children and Family Services for employment or  
2 licensure with such agency or department if the applicant has  
3 undergone a criminal history check as a condition of initial  
4 licensure or licensure renewal as a health care practitioner  
5 with the Department of Health or any of its regulatory boards,  
6 notwithstanding any other provision of law to the contrary. In  
7 lieu of such duplicate submission, the Agency for Health Care  
8 Administration, the Department of Juvenile Justice, and the  
9 Department of Children and Family Services shall obtain  
10 criminal history information for employment or licensure of  
11 health care practitioners by such agency and departments from  
12 the Department of Health ~~Health's health care practitioner~~  
13 ~~credentialing system.~~

14 Section 43. Paragraph (d) of subsection (4) of section  
15 456.0391, Florida Statutes, is amended to read:

16 456.0391 Advanced registered nurse practitioners;  
17 information required for certification.--

18 (4)

19 (d) Any applicant for initial certification or renewal  
20 of certification as an advanced registered nurse practitioner  
21 who submits to the Department of Health a set of fingerprints  
22 and information required for the criminal history check  
23 required under this section shall not be required to provide a  
24 subsequent set of fingerprints or other duplicate information  
25 required for a criminal history check to the Agency for Health  
26 Care Administration, the Department of Juvenile Justice, or  
27 the Department of Children and Family Services for employment  
28 or licensure with such agency or department, if the applicant  
29 has undergone a criminal history check as a condition of  
30 initial certification or renewal of certification as an  
31 advanced registered nurse practitioner with the Department of

1 Health, notwithstanding any other provision of law to the  
2 contrary. In lieu of such duplicate submission, the Agency for  
3 Health Care Administration, the Department of Juvenile  
4 Justice, and the Department of Children and Family Services  
5 shall obtain criminal history information for employment or  
6 licensure of persons certified under s. 464.012 by such agency  
7 or department from the Department of Health ~~Health's health~~  
8 ~~care practitioner credentialing system.~~

9 Section 44. Paragraph (v) of subsection (1) of section  
10 456.072, Florida Statutes, is amended to read:

11 456.072 Grounds for discipline; penalties;  
12 enforcement.--

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

16 (v) Failing to comply with the requirements for  
17 ~~profiling and credentialing~~, including, but not limited to,  
18 failing to provide initial information, failing to timely  
19 provide updated information, or making misleading, untrue,  
20 deceptive, or fraudulent representations on a profile;  
21 ~~credentialing~~, or initial or renewal licensure application.

22 Section 45. Subsection (2) of section 456.077, Florida  
23 Statutes, is amended to read:

24 456.077 Authority to issue citations.--

25 (2) The board, or the department if there is no board,  
26 shall adopt rules designating violations for which a citation  
27 may be issued. Such rules shall designate as citation  
28 violations those violations for which there is no substantial  
29 threat to the public health, safety, and welfare. Violations  
30 for which a citation may be issued shall include violations of  
31 continuing education requirements; failure to timely pay

1 required fees and fines; failure to comply with the  
2 requirements of ss. 381.026 and 381.0261 regarding the  
3 dissemination of information regarding patient rights; failure  
4 to comply with advertising requirements; failure to timely  
5 update practitioner profile ~~and credentialing~~ files; failure  
6 to display signs, licenses, and permits; failure to have  
7 required reference books available; and all other violations  
8 that do not pose a direct and serious threat to the health and  
9 safety of the patient.

10 Section 46. Subsection (3) of section 458.309, Florida  
11 Statutes, is amended to read:

12 458.309 Authority to make rules.--

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



1 office surgery is performed. The board may adopt rules  
2 pursuant to ss. 120.536(1) and 120.54 to implement this  
3 subsection.

4 Section 47. Subsection (2) of section 459.005, Florida  
5 Statutes, is amended to read:

6 459.005 Rulemaking authority.--

7 (2) All osteopathic physicians who perform level 2  
8 procedures lasting more than 5 minutes and all level 3  
9 surgical procedures in an office setting must register the  
10 office with the department unless that office is licensed as a  
11 facility pursuant to chapter 395. Each office that is  
12 required under this subsection to be registered must be ~~The~~  
13 ~~department shall inspect the physician's office annually~~  
14 ~~unless the office is~~ accredited by a nationally recognized  
15 accrediting agency approved by the Board of Medicine or the  
16 Board of Osteopathic Medicine by rule or an accrediting  
17 organization ~~subsequently~~ approved by the Board of Medicine or  
18 the Board of Osteopathic Medicine by rule. Each office  
19 registered but not accredited as required by this subsection  
20 must achieve full and unconditional accreditation no later  
21 than July 1, 2003, and must maintain unconditional  
22 accreditation as long as procedures described in this  
23 subsection that require the office to be registered and  
24 accredited are performed. Accreditation reports shall be  
25 submitted to the department. The actual costs for  
26 registration ~~and inspection~~ or accreditation shall be paid by  
27 the person seeking to register and operate the office setting  
28 in which office surgery is performed. The Board of  
29 Osteopathic Medicine may adopt rules pursuant to ss.  
30 120.536(1) and 120.54 to implement this subsection.

31

1           Section 48. Subsections (11) and (12) are added to  
2 section 456.004, Florida Statutes, to read:

3           456.004 Department; powers and duties.--The  
4 department, for the professions under its jurisdiction, shall:

5           (11) Require objective performance measures for all  
6 bureaus, units, boards, contracted entities, and board  
7 executive directors that reflect the expected quality and  
8 quantity of services.

9           (12) Consider all board requests to use private  
10 vendors for particular regulatory functions. In considering a  
11 board request, the department shall conduct an analysis to  
12 determine if the function could be appropriately and  
13 successfully performed by a private entity at a lower cost or  
14 with improved efficiency. If after reviewing the department's  
15 analysis the board desires to contract with a vendor for a  
16 particular regulatory function and the board has a positive  
17 cash balance, the department shall enter into a contract for  
18 the service. The contract shall include objective performance  
19 measures that reflect the expected quality and quantity of the  
20 service and shall include a provision that terminates the  
21 contract if the service falls below expected levels. For  
22 purposes of this subsection, a "regulatory function" shall be  
23 defined to include licensure, licensure renewal, examination,  
24 complaint analysis, investigation, or prosecution.

25           Section 49. Subsection (1) of section 456.009, Florida  
26 Statutes, is amended to read:

27           456.009 Legal and investigative services.--

28           (1) The department shall provide board counsel for  
29 boards within the department by contracting with the  
30 Department of Legal Affairs, by retaining private counsel  
31 pursuant to s. 287.059, or by providing department staff

1 counsel. The primary responsibility of board counsel shall be  
2 to represent the interests of the citizens of the state. A  
3 board shall provide for the periodic review and evaluation of  
4 the services provided by its board counsel. Fees and costs of  
5 such counsel shall be paid from a trust fund used by the  
6 department to implement this chapter, subject to the  
7 provisions of s. 456.025. All contracts for independent  
8 counsel shall provide for periodic review and evaluation by  
9 the board and the department of services provided. All legal  
10 and investigative services shall be reviewed by the department  
11 annually to determine if such services are meeting the  
12 performance measures specified in law and in the contract. All  
13 contracts for legal and investigative services must include  
14 objective performance measures that reflect the expected  
15 quality and quantity of the contracted services.

16 Section 50. Subsection (6) is added to section  
17 456.011, Florida Statutes, to read:

18 456.011 Boards; organization; meetings; compensation  
19 and travel expenses.--

20 (6) Meetings of board committees, including probable  
21 cause panels, shall be conducted electronically unless held  
22 concurrently with, or on the day immediately before or after,  
23 a regularly scheduled in-person board meeting. However, if a  
24 particular committee meeting is expected to last more than 5  
25 hours and cannot be held before or after the in-person board  
26 meeting, the chair of the committee may request special  
27 permission from the director of the Division of Medical  
28 Quality Assurance to hold an in-person committee meeting. The  
29 meeting shall be held in Tallahassee unless the chair of the  
30 committee determines that another location is necessary due to

31

1 the subject matter to be discussed at the meeting and the  
2 director authorizes the additional costs, if any.

3 Section 51. Subsection (11) is added to section  
4 456.026, Florida Statutes, to read:

5 456.026 Annual report concerning finances,  
6 administrative complaints, disciplinary actions, and  
7 recommendations.--The department is directed to prepare and  
8 submit a report to the President of the Senate and the Speaker  
9 of the House of Representatives by November 1 of each year. In  
10 addition to finances and any other information the Legislature  
11 may require, the report shall include statistics and relevant  
12 information, profession by profession, detailing:

13 (11) The performance measures for all bureaus, units,  
14 boards, and contracted entities required by the department to  
15 reflect the expected quality and quantity of services, and a  
16 description of any effort to improve the performance of such  
17 services.

18 Section 52. Section 458.3093, Florida Statutes, is  
19 created to read:

20 458.3093 Licensure credentials verification.--All  
21 applicants for initial physician licensure pursuant to this  
22 chapter must submit their credentials to the Federation of  
23 State Medical Boards. Effective January 1, 2003, the board  
24 and the department shall only consider applications for  
25 initial physician licensure pursuant to this chapter that have  
26 been verified by the Federation of State Medical Boards  
27 Credentials Verification Service or an equivalent program  
28 approved by the board.

29 Section 53. Section 459.0053, Florida Statutes, is  
30 created to read:

31

1           459.0053 Licensure credentials verification.--All  
2 applicants for initial osteopathic physician licensure  
3 pursuant to this chapter must submit their credentials to the  
4 Federation of State Medical Boards. Effective January 1,  
5 2003, the board and the department shall only consider  
6 applications for initial osteopathic physician licensure  
7 pursuant to this chapter that have been verified by the  
8 Federation of State Medical Boards Credentials Verification  
9 Service, the American Osteopathic Association, or an  
10 equivalent program approved by the board.

11           Section 54. Paragraph (t) of subsection (1) of section  
12 458.331, Florida Statutes, is amended to read:

13           458.331 Grounds for disciplinary action; action by the  
14 board and department.--

15           (1) The following acts constitute grounds for denial  
16 of a license or disciplinary action, as specified in s.  
17 456.072(2):

18           (t) Gross or repeated malpractice or the failure to  
19 practice medicine with that level of care, skill, and  
20 treatment which is recognized by a reasonably prudent similar  
21 physician as being acceptable under similar conditions and  
22 circumstances. The board shall give great weight to the  
23 provisions of s. 766.102 when enforcing this paragraph. As  
24 used in this paragraph, "repeated malpractice" includes, but  
25 is not limited to, three or more claims for medical  
26 malpractice within the previous 5-year period resulting in  
27 indemnities being paid in excess of ~~\$50,000~~\$25,000 each to  
28 the claimant in a judgment or settlement and which incidents  
29 involved negligent conduct by the physician. As used in this  
30 paragraph, "gross malpractice" or "the failure to practice  
31 medicine with that level of care, skill, and treatment which

1 is recognized by a reasonably prudent similar physician as  
2 being acceptable under similar conditions and circumstances,"  
3 shall not be construed so as to require more than one  
4 instance, event, or act. Nothing in this paragraph shall be  
5 construed to require that a physician be incompetent to  
6 practice medicine in order to be disciplined pursuant to this  
7 paragraph.

8 Section 55. Paragraph (x) of subsection (1) of section  
9 459.015, Florida Statutes, is amended to read:

10 459.015 Grounds for disciplinary action; action by the  
11 board and department.--

12 (1) The following acts constitute grounds for denial  
13 of a license or disciplinary action, as specified in s.  
14 456.072(2):

15 (x) Gross or repeated malpractice or the failure to  
16 practice osteopathic medicine with that level of care, skill,  
17 and treatment which is recognized by a reasonably prudent  
18 similar osteopathic physician as being acceptable under  
19 similar conditions and circumstances. The board shall give  
20 great weight to the provisions of s. 766.102 when enforcing  
21 this paragraph. As used in this paragraph, "repeated  
22 malpractice" includes, but is not limited to, three or more  
23 claims for medical malpractice within the previous 5-year  
24 period resulting in indemnities being paid in excess of  
25 \$50,000~~\$25,000~~ each to the claimant in a judgment or  
26 settlement and which incidents involved negligent conduct by  
27 the osteopathic physician. As used in this paragraph, "gross  
28 malpractice" or "the failure to practice osteopathic medicine  
29 with that level of care, skill, and treatment which is  
30 recognized by a reasonably prudent similar osteopathic  
31 physician as being acceptable under similar conditions and

1 circumstances" shall not be construed so as to require more  
2 than one instance, event, or act. Nothing in this paragraph  
3 shall be construed to require that an osteopathic physician be  
4 incompetent to practice osteopathic medicine in order to be  
5 disciplined pursuant to this paragraph. A recommended order  
6 by an administrative law judge or a final order of the board  
7 finding a violation under this paragraph shall specify whether  
8 the licensee was found to have committed "gross malpractice,"  
9 "repeated malpractice," or "failure to practice osteopathic  
10 medicine with that level of care, skill, and treatment which  
11 is recognized as being acceptable under similar conditions and  
12 circumstances," or any combination thereof, and any  
13 publication by the board shall so specify.

14 Section 56. Subsection (1) of section 627.912, Florida  
15 Statutes, is amended to read:

16 627.912 Professional liability claims and actions;  
17 reports by insurers.--

18 (1) Each self-insurer authorized under s. 627.357 and  
19 each insurer or joint underwriting association providing  
20 professional liability insurance to a practitioner of medicine  
21 licensed under chapter 458, to a practitioner of osteopathic  
22 medicine licensed under chapter 459, to a podiatric physician  
23 licensed under chapter 461, to a dentist licensed under  
24 chapter 466, to a hospital licensed under chapter 395, to a  
25 crisis stabilization unit licensed under part IV of chapter  
26 394, to a health maintenance organization certificated under  
27 part I of chapter 641, to clinics included in chapter 390, to  
28 an ambulatory surgical center as defined in s. 395.002, or to  
29 a member of The Florida Bar shall report in duplicate to the  
30 Department of Insurance any claim or action for damages for  
31 personal injuries claimed to have been caused by error,

1 omission, or negligence in the performance of such insured's  
2 professional services or based on a claimed performance of  
3 professional services without consent, if the claim resulted  
4 in:

5 (a) A final judgment in any amount.

6 (b) A settlement in any amount.

7  
8 Reports shall be filed with the Department of Insurance ~~and,~~  
9 If the insured party is licensed under chapter 458, chapter  
10 459, or chapter 461 and the final judgment or settlement was  
11 in an amount exceeding \$50,000, the report shall also be filed  
12 with the Department of Health. If the insured is licensed  
13 under chapter 466 and the final judgment or settlement was in  
14 an amount exceeding \$25,000, the report shall also be filed  
15 with the Department of Health. Reports must be filed, or  
16 ~~chapter 466, with the Department of Health,~~ no later than 30  
17 days following the occurrence of any event listed in this  
18 subsection paragraph (a) or paragraph (b). The Department of  
19 Health shall review each report and determine whether any of  
20 the incidents that resulted in the claim potentially involved  
21 conduct by the licensee that is subject to disciplinary  
22 action, in which case the provisions of s. 456.073 shall  
23 apply. The Department of Health, as part of the annual report  
24 required by s. 456.026, shall publish annual statistics,  
25 without identifying licensees, on the reports it receives,  
26 including final action taken on such reports by the Department  
27 of Health or the appropriate regulatory board.

28 Section 57. Subsections (14) and (15) are added to  
29 section 456.073, Florida Statutes, to read:



1           456.073 Disciplinary proceedings.--Disciplinary  
2 proceedings for each board shall be within the jurisdiction of  
3 the department.

4           (14) When the probable cause panel determines that  
5 probable cause exists that a violation of law occurred but  
6 decides to issue a letter of guidance in lieu of finding  
7 probable cause as a result of mitigating circumstances, the  
8 probable cause panel may require the subject to pay up to \$300  
9 of the costs of the investigation and prosecution of the case  
10 within a time certain but not less than 30 days after the  
11 execution of the closing order. If the subject fails to pay  
12 the costs within the time set by the probable cause panel,  
13 the case may be reopened and the department may file an  
14 administrative complaint against the subject based on the  
15 underlying case. No additional charges may be added as a  
16 result of the subject's failure to pay the costs. The  
17 issuance of a letter of guidance and the assessment of costs  
18 under this subsection shall not be considered discipline, nor  
19 shall it be considered a final order of discipline.

20           (15) All cases in which no probable cause is found  
21 shall be closed within 14 days following the probable cause  
22 panel meeting at which such determination was made. The  
23 department shall mail a copy of the closing order to the  
24 subject within 14 days after such probable cause panel  
25 meeting.

26           Section 58. The Office of Program Policy Analysis and  
27 Governmental Accountability shall review the investigative  
28 field office structure and organization of the Agency for  
29 Health Care Administration to determine the feasibility of  
30 eliminating all or some field offices, the feasibility of  
31 combining field offices, and the feasibility of requiring

1 field inspectors and investigators to telecommute from home in  
2 lieu of paying for office space. The review shall include all  
3 agency programs that have field offices, including health  
4 practitioner regulation even if health practitioner regulation  
5 is transferred to the Department of Health. The review shall  
6 be completed and a report issued to the President of the  
7 Senate and the Speaker of the House of Representatives no  
8 later than January 1, 2003.

9 Section 59. Subsection (1) of section 456.025, Florida  
10 Statutes, is amended to read:

11 456.025 Fees; receipts; disposition.--

12 (1) It is the intent of the Legislature that all costs  
13 of regulating health care professions and practitioners shall  
14 be borne solely by licensees and licensure applicants. It is  
15 also the intent of the Legislature that fees should be  
16 reasonable and not serve as a barrier to licensure. Moreover,  
17 it is the intent of the Legislature that the department  
18 operate as efficiently as possible and regularly report to the  
19 Legislature additional methods to streamline operational  
20 costs. Therefore, the boards in consultation with the  
21 department, or the department if there is no board, shall, by  
22 rule, set renewal fees which:

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

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

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

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

1           (e) Shall be similar to fees imposed on similar  
2 licensure types; and

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

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

8           (f)(h) Shall be subject to challenge pursuant to  
9 chapter 120.

10           Section 60. Section 456.0165, Florida Statutes, is  
11 created to read:

12           456.0165 Examination location.--A college, university,  
13 or vocational school in this state may serve as the host  
14 school for a health care practitioner licensure examination.  
15 However, the college, university, or vocational school may not  
16 charge the department for rent, space, reusable equipment,  
17 utilities, or janitorial services. The college, university,  
18 or vocational school may only charge the department the actual  
19 cost of nonreusable supplies provided by the school at the  
20 request of the department.

21           Section 61. Paragraph (g) of subsection (3) and  
22 paragraph (c) of subsection (6) of section 468.302, Florida  
23 Statutes, are amended to read:

24           468.302 Use of radiation; identification of certified  
25 persons; limitations; exceptions.--

26           (3)

27           (g) A person holding a certificate as a nuclear  
28 medicine technologist may only:

29           1. Conduct in vivo and in vitro measurements of  
30 radioactivity and administer radiopharmaceuticals to human  
31 beings for diagnostic and therapeutic purposes.

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

7  
8 However, the authority of a nuclear medicine technologist  
9 under this paragraph excludes radioimmunoassay and other  
10 clinical laboratory testing regulated pursuant to chapter 483.

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

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

29           1. Principles of X-ray production and equipment  
30 operation.

31           2. Biological effects of radiation.

- 1           3. Radiation exposure and monitoring.  
2           4. Radiation safety and protection.  
3           5. Evaluation of radiographic equipment and  
4 accessories.  
5           6. Radiographic exposure and technique factors.  
6           7. Film processing.  
7           8. Image quality assurance.  
8           9. Patient positioning.  
9           10. Administration and complications of contrast  
10 media.  
11          11. Specific fluoroscopic and digital X-ray imaging  
12 procedures related to invasive cardiovascular technology.  
13          Section 62. Section 468.352, Florida Statutes, is  
14 amended to read:  
15          (Substantial rewording of section. See  
16          s. 468.352, F.S., for present text.)  
17          468.352 Definitions.--As used in this part, the term:  
18          (1) "Board" means the Board of Respiratory Care.  
19          (2) "Certified respiratory therapist" means any person  
20 licensed pursuant to this part who is certified by the  
21 National Board for Respiratory Care or its successor, who is  
22 employed to deliver respiratory care services, under the order  
23 of a physician licensed pursuant to 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          (3) "Critical care" means care given to a patient in  
29 any setting involving a life-threatening emergency.  
30          (4) "Department" means the Department of Health.  
31

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

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

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

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

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

6           (10) "Respiratory care services" includes:

7           (a) Evaluation and disease management.

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

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

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

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

23           (f) Cardiopulmonary rehabilitation.

24           (g) Cardiopulmonary resuscitation, advanced cardiac  
25 life support, neonatal resuscitation, and pediatric advanced  
26 life support, or equivalent functions.

27           (h) Insertion and maintenance of artificial airways  
28 and intravascular catheters.

29           (i) Performance of sleep-disorder studies.

30           (j) Education of patients, families, the public, or  
31 other health care providers, including disease process and

1 management programs and smoking prevention and cessation  
2 programs.  
3 (k) Initiation and management of hyperbaric oxygen.  
4 Section 63. Section 468.355, Florida Statutes, is  
5 amended to read:  
6 (Substantial rewording of section. See  
7 s. 468.355, F.S., for present text.)  
8 468.355 Licensure requirements.--To be eligible for  
9 licensure by the board, an applicant must be certified as a  
10 "Certified Respiratory Therapist" or be registered as a  
11 "Registered Respiratory Therapist" by the National Board for  
12 Respiratory Care or its successor.  
13 Section 64. Section 468.368, Florida Statutes, is  
14 amended to read:  
15 (Substantial rewording of section. See  
16 s. 468.368, F.S., for present text.)  
17 468.368 Exemptions.--This part may not be construed to  
18 prevent or restrict the practice, service, or activities of:  
19 (1) Any person licensed in this state by any other law  
20 from engaging in the profession or occupation for which he or  
21 she is licensed.  
22 (2) Any legally qualified person in the state or  
23 another state or territory who is employed by the United  
24 States Government or any agency thereof while such person is  
25 discharging his or her official duties.  
26 (3) A friend or family member who is providing  
27 respiratory care services to an ill person and who does not  
28 represent himself or herself to be a respiratory care  
29 practitioner or respiratory therapist.  
30  
31



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

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

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

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

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

21       (9) A surrogate family member who delivers incidental  
22 respiratory care to a noninstitutionalized person and who does  
23 not represent himself or herself as a registered or certified  
24 respiratory care therapist.

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

30       Section 65. Sections 468.356 and 468.357, Florida  
31 Statutes, are repealed.

1           Section 66. Subsection (4) of section 468.80, Florida  
2 Statutes, is amended to read:

3           468.80 Definitions.--As used in this act, the term:

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

28           Section 67. Beginning July 1, 2003, application forms  
29 for initial licensure and licensure renewal for the  
30 professions regulated by the Department of Health, Division of  
31 Medical Quality Assurance, shall be submitted electronically

1 through the World Wide Web unless the applicant states on the  
2 application form that he or she does not have access to the  
3 World Wide Web, in which case a paper application may be  
4 submitted. The department shall issue the license or renew a  
5 license only if the licensee provides satisfactory evidence  
6 that all conditions and requirements of licensure or renewal  
7 have been met, including, but not limited to, the payment of  
8 required fees, the completion of required continuing education  
9 coursework, and, if applicable, the maintenance of financial  
10 responsibility. This section shall not be construed to reduce  
11 or eliminate any requirement set forth in chapter 456, Florida  
12 Statutes, or the applicable practice act.

13       Section 68. In order to maximize the state's return on  
14 investment, to increase the efficiency and timeliness of the  
15 conversion to electronic licensure, and to promote fiscal  
16 responsibility during the transition to electronic licensure,  
17 the Department of Health may convert its practitioner  
18 credentialing technology into an electronic licensure and  
19 licensure renewal system. This section shall take effect upon  
20 this act becoming a law.

21       Section 69. (1) Effective July 1, 2004, and each July  
22 1 thereafter, the fee caps established in the following  
23 sections are increased by 2.5 percent: ss. 456.025, 457.105,  
24 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,  
25 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,  
26 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,  
27 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,  
28 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,  
29 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,  
30 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,  
31 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,

1 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,  
2 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,  
3 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,  
4 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,  
5 491.0085, and 491.0145, Florida Statutes.

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

10 Section 70. Sections 381.0602, 381.6021, 381.6022,  
11 381.6023, 381.6024, and 381.6026, Florida Statutes, are  
12 renumbered as sections 765.53, 765.541, 765.542, 765.544,  
13 765.545, and 765.547, Florida Statutes, respectively.

14 Section 71. Section 381.60225, Florida Statutes, is  
15 renumbered as section 765.543, Florida Statutes, and  
16 subsection (2) of said section is amended to read:

17 765.543 ~~381.60225~~ Background screening.--

18 (2) An organ procurement organization, tissue bank, or  
19 eye bank certified by the Agency for Health Care  
20 Administration in accordance with ss. 381.6021 and 765.542  
21 ~~381.6022~~ is not subject to the requirements of this section if  
22 the entity has no direct patient care responsibilities and  
23 does not bill patients or insurers directly for services under  
24 the Medicare or Medicaid programs, or for privately insured  
25 services.

26 Section 72. Section 381.6025, Florida Statutes, is  
27 renumbered as section 765.546, Florida Statutes, and amended  
28 to read:

29 765.546 ~~381.6025~~ Physician supervision of cadaveric  
30 organ and tissue procurement coordinators.--Organ procurement  
31 organizations, tissue banks, and eye banks may employ

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

26 Section 73. Subsection (2) of section 395.2050,  
27 Florida Statutes, is amended to read:

28 395.2050 Routine inquiry for organ and tissue  
29 donation; certification for procurement activities.--

30 (2) Every hospital licensed under this chapter that is  
31 engaged in the procurement of organs, tissues, or eyes shall

1 comply with the certification requirements of ss.  
2 765.541-765.547 ~~381.6021-381.6026~~.

3 Section 74. Paragraph (e) of subsection (2) of section  
4 409.815, Florida Statutes, is amended to read:

5 409.815 Health benefits coverage; limitations.--

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

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

19 Section 75. Subsection (2) of section 765.5216,  
20 Florida Statutes, is amended to read:

21 765.5216 Organ and tissue donor education panel.--

22 (2) There is created within the Agency for Health Care  
23 Administration a statewide organ and tissue donor education  
24 panel, consisting of 12 members, to represent the interests of  
25 the public with regard to increasing the number of organ and  
26 tissue donors within the state. The panel and the Organ and  
27 Tissue Procurement and Transplantation Advisory Board  
28 established in s. 765.544 ~~381.6023~~ shall jointly develop,  
29 subject to the approval of the Agency for Health Care  
30 Administration, education initiatives pursuant to s. 732.9215,  
31 which the agency shall implement. The membership must be

1 balanced with respect to gender, ethnicity, and other  
2 demographic characteristics so that the appointees reflect the  
3 diversity of the population of this state. The panel members  
4 must include:

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

7 (b) A representative from a Florida licensed organ  
8 procurement organization.

9 (c) A representative from a Florida licensed tissue  
10 bank.

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

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

13 (f) A representative from the Division of Driver  
14 Licenses of the Department of Highway Safety and Motor  
15 Vehicles, who possesses experience and knowledge in dealing  
16 with the public.

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

19 (h) A representative who has been the recipient of a  
20 transplanted organ, tissue, or eye, or is a family member of a  
21 recipient.

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

24 (j) A representative from a professional association  
25 or public relations or advertising organization.

26 (k) A representative from a community service club or  
27 organization.

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

29 Section 76. Subsection (5) of section 765.522, Florida  
30 Statutes, is amended to read:

31

1           765.522 Duty of certain hospital administrators;  
2 liability of hospital administrators, organ procurement  
3 organizations, eye banks, and tissue banks.--

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

13           Section 77. Subsection (8) of section 400.925, Florida  
14 Statutes, is amended to read:

15           400.925 Definitions.--As used in this part, the term:

16           (8) "Home medical equipment" includes any product as  
17 defined by the Federal Drug Administration's Drugs, Devices  
18 and Cosmetics Act, any products reimbursed under the Medicare  
19 Part B Durable Medical Equipment benefits, or any products  
20 reimbursed under the Florida Medicaid durable medical  
21 equipment program. Home medical equipment includes, but is not  
22 limited to, oxygen and related respiratory equipment, and  
23 manual, motorized, or ~~Home medical equipment includes~~  
24 customized wheelchairs and related seating and positioning,  
25 but does not include prosthetics or orthotics or any splints,  
26 braces, or aids custom fabricated by a licensed health care  
27 practitioner. ~~Home medical equipment includes assistive~~  
28 ~~technology devices, including: manual wheelchairs, motorized~~  
29 ~~wheelchairs, motorized scooters, voice-synthesized computer~~  
30 ~~modules, optical scanners, talking software, braille printers,~~  
31 ~~environmental control devices for use by person with~~



1 ~~quadriplegia, motor vehicle adaptive transportation aids,~~  
2 ~~devices that enable persons with severe speech disabilities to~~  
3 ~~in effect speak, personal transfer systems and specialty beds,~~  
4 ~~including demonstrator, for use by a person with a medical~~  
5 ~~need.~~

6 Section 78. Subsection (4) is added to section  
7 765.104, Florida Statutes, to read:

8 765.104 Amendment or revocation.--

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

18 Section 79. Subsections (1) and (3) of section  
19 765.401, Florida Statutes, are amended to read:

20 765.401 The proxy.--

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

29 (a) The judicially appointed guardian of the patient  
30 or the guardian advocate of the person having a developmental  
31 disability as defined in s. 393.063, who has been authorized

1 to consent to medical treatment, if such guardian has  
2 previously been appointed; however, this paragraph shall not  
3 be construed to require such appointment before a treatment  
4 decision can be made under this subsection;

5 (b) The patient's spouse;

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

9 (d) A parent of the patient;

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

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

18 (g) A close friend of the patient.

19 (3) Before exercising the incapacitated patient's  
20 rights to select or decline health care, the proxy must comply  
21 with the provisions of ss. 765.205 and 765.305, except that a  
22 proxy's decision to withhold or withdraw life-prolonging  
23 procedures must be supported by clear and convincing evidence  
24 that the decision would have been the one the patient would  
25 have chosen had the patient been competent or, if there is no  
26 indication of what the patient would have chosen, that the  
27 decision is in the patient's best interest. Before exercising  
28 the rights of a person who has a developmental disability as  
29 defined under s. 393.063(12) to withhold or withdraw  
30 life-prolonging procedures, a proxy must comply with s.  
31 393.12.

1           Section 80. Section 457.1085, Florida Statutes, is  
2 amended to read:

3           457.1085 Infection control.--~~Prior to November 1,~~  
4 ~~1986,~~The board shall adopt rules relating to the prevention  
5 of infection, the safe disposal of any potentially infectious  
6 materials, and other requirements to protect the health,  
7 safety, and welfare of the public. ~~Beginning October 1, 1997,~~  
8 All acupuncture needles that are to be used on a patient must  
9 be sterile and disposable, and each needle may be used only  
10 once.

11           Section 81. Paragraph (y) is added to subsection (1)  
12 of section 457.109, Florida Statutes, to read:

13           457.109 Disciplinary actions; grounds; action by the  
14 board.--

15           (1) The following acts constitute grounds for denial  
16 of a license or disciplinary action, as specified in s.  
17 456.072(2):

18           (y) Using the specialty titles of "Diplomate in  
19 Acupuncture" or "National Board-Certified Diplomate in  
20 Acupuncture" or "Board-Certified Diplomate in Acupuncture" in  
21 conjunction with one's name, place of business, or acupuncture  
22 practice unless the licensee holds an active license under  
23 this chapter and is also an active holder of such board  
24 certification from the National Certification Commission for  
25 Acupuncture and Oriental Medicine (NCCAOM).

26           Section 82. Section 457.116, Florida Statutes, is  
27 amended to read:

28           457.116 Prohibited acts; penalty.--

29           (1) A person may not:

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

1 (b) Use, in connection with his or her name or place  
2 of business, any title or description of services which  
3 incorporates the words "acupuncture," "acupuncturist,"  
4 "certified acupuncturist," "licensed acupuncturist," "oriental  
5 medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.,"  
6 or "D.O.M."; or any other words, letters, abbreviations, or  
7 insignia indicating or implying that he or she practices  
8 acupuncture unless he or she is a holder of a valid license  
9 issued pursuant to ss. 457.101-457.118;

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

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

13 (e) Use or attempt to use a license that has been  
14 suspended, revoked, or placed on inactive or delinquent  
15 status;

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

19 (g) Conceal information relating to any violation of  
20 ss. 457.101-457.118.

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

24 Section 83. Subsections (31), (32), and (33) of  
25 section 395.002, Florida Statutes, are renumbered as  
26 subsections (32), (33), and (34), respectively, and a new  
27 subsection (31) is added to said section, to read:

28 395.002 Definitions.--As used in this chapter:

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

1           Section 84. Paragraph (b) of subsection (1) of section  
2 395.0197, Florida Statutes, is amended to read:

3           395.0197 Internal risk management program.--

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

8           (b) The development of appropriate measures to  
9 minimize the risk of adverse incidents to patients, including,  
10 but not limited to:

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

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

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

21           2. A prohibition, except when emergency circumstances  
22 require otherwise, against a staff member of the licensed  
23 facility attending a patient in the recovery room, unless the  
24 staff member is authorized to attend the patient in the  
25 recovery room and is in the company of at least one other  
26 person. However, a licensed facility is exempt from the  
27 two-person requirement if it has:

28           a. Live visual observation;

29           b. Electronic observation; or

30           c. Any other reasonable measure taken to ensure  
31 patient protection and privacy.

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

11           4. Development, implementation, and ongoing evaluation  
12 of procedures, protocols, and systems to accurately identify  
13 patients, planned procedures, and the correct site of the  
14 planned procedure so as to minimize the performance of a  
15 surgical procedure on the wrong patient, a wrong surgical  
16 procedure, a wrong-site surgical procedure, or a surgical  
17 procedure otherwise unrelated to the patient's diagnosis or  
18 medical condition.

19           Section 85. Paragraph (k) of subsection (2) of section  
20 381.0066, Florida Statutes, is amended to read:

21           381.0066 Onsite sewage treatment and disposal systems;  
22 fees.--

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

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

1 section shall be used for funding the hands-on training  
2 centers described in s. 381.0065(3)(j).

3

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

8 Section 86. Subsection (3) is added to section  
9 627.638, Florida Statutes, to read:

10 627.638 Direct payment for hospital, medical  
11 services.--

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

25 Section 87. Subsection (1) of section 766.101, Florida  
26 Statutes, is amended to read:

27 766.101 Medical review committee, immunity from  
28 liability.--

29 (1) As used in this section:

30 (a) The term "medical review committee" or "committee"  
31 means:

- 1           1.a. A committee of a hospital or ambulatory surgical  
2 center licensed under chapter 395 or a health maintenance  
3 organization certificated under part I of chapter 641,  
4           b. A committee of a physician-hospital organization, a  
5 provider-sponsored organization, or an integrated delivery  
6 system,  
7           c. A committee of a state or local professional  
8 society of health care providers,  
9           d. A committee of a medical staff of a licensed  
10 hospital or nursing home, provided the medical staff operates  
11 pursuant to written bylaws that have been approved by the  
12 governing board of the hospital or nursing home,  
13           e. A committee of the Department of Corrections or the  
14 Correctional Medical Authority as created under s. 945.602, or  
15 employees, agents, or consultants of either the department or  
16 the authority or both,  
17           f. A committee of a professional service corporation  
18 formed under chapter 621 or a corporation organized under  
19 chapter 607 or chapter 617, which is formed and operated for  
20 the practice of medicine as defined in s. 458.305(3), and  
21 which has at least 25 health care providers who routinely  
22 provide health care services directly to patients,  
23           g. A committee of a mental health treatment facility  
24 licensed under chapter 394 or a community mental health center  
25 as defined in s. 394.907, provided the quality assurance  
26 program operates pursuant to the guidelines which have been  
27 approved by the governing board of the agency,  
28           h. A committee of a substance abuse treatment and  
29 education prevention program licensed under chapter 397  
30 provided the quality assurance program operates pursuant to  
31



1 the guidelines which have been approved by the governing board  
2 of the agency,  
3 i. A peer review or utilization review committee  
4 organized under chapter 440,  
5 j. A committee of the Department of Health, a county  
6 health department, healthy start coalition, or certified rural  
7 health network, when reviewing quality of care, or employees  
8 of these entities when reviewing mortality records, ~~or~~  
9 k. A continuous quality improvement committee of a  
10 pharmacy licensed pursuant to chapter 465,  
11 l. A committee established by a university board of  
12 trustees, or  
13 m. A committee comprised of faculty, residents,  
14 students, and administrators of an accredited college of  
15 medicine, nursing, or other health care discipline,  
16  
17 which committee is formed to evaluate and improve the quality  
18 of health care rendered by providers of health service or to  
19 determine that health services rendered were professionally  
20 indicated or were performed in compliance with the applicable  
21 standard of care or that the cost of health care rendered was  
22 considered reasonable by the providers of professional health  
23 services in the area; or  
24 2. A committee of an insurer, self-insurer, or joint  
25 underwriting association of medical malpractice insurance, or  
26 other persons conducting review under s. 766.106.  
27 (b) The term "health care providers" means physicians  
28 licensed under chapter 458, osteopathic physicians licensed  
29 under chapter 459, podiatric physicians licensed under chapter  
30 461, optometrists licensed under chapter 463, dentists  
31 licensed under chapter 466, chiropractic physicians licensed

1 under chapter 460, pharmacists licensed under chapter 465, or  
2 hospitals or ambulatory surgical centers licensed under  
3 chapter 395.

4 Section 88. Effective upon this act becoming a law,  
5 subsection (10) of section 627.357, Florida Statutes, is  
6 amended to read:

7 627.357 Medical malpractice self-insurance.--

8 (10)(a) An application to form a self-insurance fund  
9 under this section must be filed with the department before  
10 October 1, 2002. All self-insurance funds authorized under  
11 this paragraph must apply for a certificate of authority to  
12 become an authorized insurer by October 1, 2006. Any such fund  
13 failing to obtain a certificate of authority as an authorized  
14 insurer within 1 year after the date of application therefor  
15 shall wind down its affair and shall not issue coverage after  
16 the expiration of the 1-year period.

17 (b) Any self-insurance fund established pursuant to  
18 this section after April 1, 2002, shall also comply with ss.  
19 624.460-624.489, notwithstanding s. 624.462(2)(a). In the  
20 event of a conflict between the provisions of this section and  
21 ss. 624.460-624.489, the latter sections shall govern. With  
22 respect to those sections, provisions solely applicable to  
23 workers' compensation and employers liability insurance shall  
24 not apply to medical malpractice funds.~~A self insurance may~~  
25 ~~not be formed under this section after October 1, 1992.~~

26 Section 89. Subsection (7) of section 631.54, Florida  
27 Statutes, is amended to read:

28 631.54 Definitions.--As used in this part:

29 (7) "Member insurer" means any person who writes any  
30 kind of insurance to which this part applies under s. 631.52,  
31 including the exchange of reciprocal or interinsurance

1 contracts and any medical malpractice self-insurance fund  
2 authorized after April 1, 2002, under s. 627.357, and is  
3 licensed to transact insurance in this state.

4 Section 90. A residential child-caring agency licensed  
5 under s. 409.175, Florida Statutes, that is also licensed  
6 under s. 400.805, Florida Statutes, and located within Hardee  
7 County shall be inspected by the service district specified in  
8 s. 20.19(5)(a)7., Florida Statutes, and not by any other  
9 district specified in s. 20.19(5)(a), Florida Statutes.

10 Section 91. (1) The Agency for Health Care  
11 Administration shall conduct a study of health care services  
12 provided to children in the state who are medically fragile or  
13 dependent on medical technology and conduct a pilot program in  
14 Miami-Dade County to provide subacute pediatric transitional  
15 care to a maximum of 30 children at any one time. The purpose  
16 of the study and the pilot program are to determine ways to  
17 permit children who are medically fragile or dependent on  
18 medical technology to successfully make a transition from  
19 acute care in a health care institution to living with their  
20 families when possible, and to provide cost-effective,  
21 subacute transitional care services.

22 (2) The agency, in cooperation with the Children's  
23 Medical Services Program in the Department of Health, shall  
24 conduct a study to identify the total number of children who  
25 are medically fragile or dependent on medical technology, from  
26 birth through age 21, in the state. By January 1, 2003, the  
27 agency must report to the Legislature regarding the children's  
28 ages, the locations where the children are served, the types  
29 of services received, itemized costs of the services, and the  
30 sources of funding that pay for the services, including the  
31 proportional share when more than one funding source pays for

1 a service. The study must include information regarding  
2 children who are medically fragile or dependent on medical  
3 technology who reside in hospitals, nursing homes, and medical  
4 foster care, and those who reside with their parents. The  
5 study must describe children served in prescribed pediatric  
6 extended care centers, including their ages and the services  
7 they receive. The report must identify the total services  
8 provided for each child and the method for paying for those  
9 services. The report must also identify the number of such  
10 children who could, if appropriate transitional services were  
11 available, return home or move to a less institutional  
12 setting.

13 (3) Within 30 days after the effective date of this  
14 act, the agency shall establish minimum staffing standards and  
15 quality requirements for a subacute pediatric transitional  
16 care center to be operated as a 2-year pilot program in  
17 Miami-Dade County. The pilot program must operate under the  
18 license of a hospital licensed under chapter 395, Florida  
19 Statutes, or a nursing home licensed under chapter 400,  
20 Florida Statutes, and shall use existing beds in the hospital  
21 or nursing home. A child's placement in the subacute pediatric  
22 transitional care center may not exceed 90 days. The center  
23 shall arrange for an alternative placement at the end of a  
24 child's stay and a transitional plan for children expected to  
25 remain in the facility for the maximum allowed stay.

26 (4) Within 60 days after the effective date of this  
27 act, the agency must amend the state Medicaid plan and request  
28 any federal waivers necessary to implement and fund the pilot  
29 program.

30 (5) The subacute pediatric transitional care center  
31 must require level 1 background screening as provided in

1 chapter 435, Florida Statutes, for all employees or  
2 prospective employees of the center who are expected to, or  
3 whose responsibilities may require them to, provide personal  
4 care or services to children, have access to children's living  
5 areas, or have access to children's funds or personal  
6 property.

7 (6) The subacute pediatric transitional care center  
8 must have an advisory board. Membership on the advisory board  
9 must include, but need not be limited to:

10 (a) A physician and an advanced registered nurse  
11 practitioner who is familiar with services for children who  
12 are medically fragile or dependent on medical technology.

13 (b) A registered nurse who has experience in the care  
14 of children who are medically fragile or dependent on medical  
15 technology.

16 (c) A child development specialist who has experience  
17 in the care of children who are medically fragile or dependent  
18 on medical technology, and their families.

19 (d) A social worker who has experience in the care of  
20 children who are medically fragile or dependent on medical  
21 technology, and their families.

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

24 (7) The advisory board shall:

25 (a) Review the policy and procedure components of the  
26 center to assure conformance with applicable standards  
27 developed by the agency.

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

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31

1       (8) The subacute pediatric transitional care center  
2 must have written policies and procedures governing the  
3 admission, transfer, and discharge of children.

4       (9) The admission of each child to the center must be  
5 under the supervision of the center nursing administrator or  
6 his or her designee and must be in accordance with the  
7 center's policies and procedures. Each Medicaid admission must  
8 be approved by the Department of Health, Children's Medical  
9 Services Multidisciplinary Assessment Team, in conjunction  
10 with the agency, as appropriate for placement in the facility.

11       (10) Each child admitted to the center shall be  
12 admitted upon prescription of the medical director of the  
13 center, licensed pursuant to chapter 458 or chapter 459, and  
14 the child shall remain under the care of the medical director  
15 and advanced registered nurse practitioner for the duration of  
16 his or her stay in the center.

17       (11) Each child admitted to the center must meet at  
18 least the following criteria:

19       (a) The child must be medically fragile or dependent  
20 on medical technology.

21       (b) The child must not, prior to admission, present  
22 significant risk of infection to other children or personnel.  
23 The medical and nursing directors shall review, on a  
24 case-by-case basis, the condition of any child who is  
25 suspected of having an infectious disease to determine whether  
26 admission is appropriate.

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

29       (12) If the child meets the criteria specified in  
30 paragraphs (11)(a), (b), and (c), the medical director or  
31 nursing director of the center shall implement a preadmission

1 plan that delineates services to be provided and appropriate  
2 sources for such services.

3 (a) If the child is hospitalized at the time of  
4 referral, preadmission planning must include the participation  
5 of the child's parent or guardian and relevant medical,  
6 nursing, social services, and developmental staff to assure  
7 that the hospital's discharge plans will be implemented  
8 following the child's placement in the center.

9 (b) A consent form outlining the purpose of the  
10 center, family responsibilities, authorized treatment,  
11 appropriate release of liability, and emergency disposition  
12 plans must be signed by the parent or guardian and witnessed  
13 before the child is admitted to the center. The parent or  
14 guardian shall be provided a copy of the consent form.

15 (13) The provisions of this pilot program relating to  
16 subacute pediatric transitional care shall be implemented to  
17 the extent available appropriations contained in the annual  
18 General Appropriations Act are specifically designated for the  
19 purposes contained within the pilot program.

20 (14) By January 1, 2003, the agency shall report to  
21 the Legislature concerning the progress of the pilot program  
22 relating to subacute pediatric care for children who are  
23 medically fragile or dependent on medical technology. By  
24 January 1, 2004, the agency shall submit to the Legislature a  
25 report on the success of the pilot program.

26 Section 92. Subsection (5) of section 393.064, Florida  
27 Statutes, is amended to read:

28 393.064 Prevention.--

29 (5) The Department of Health ~~Children and Family~~  
30 ~~Services~~ shall have the authority, within available resources,  
31 to contract for the supervision and management of the Raymond

1 C. Philips Research and Education Unit, and such contract  
2 shall include specific program objectives.

3 Section 93. A commission is hereby created within the  
4 Board of Medicine to conduct a study of anesthesiologist  
5 assistants.

6 (1) The commission shall be made up of five members as  
7 follows: the dean of a college of medicine in Florida or his  
8 or her designee; one person designated by the Florida Board of  
9 Medicine; one person designated by the Florida Physicians'  
10 Assistants Association; one person designated by the American  
11 Academy of Anesthesiologist Assistants who is an  
12 anesthesiologist assistant; and the Secretary of Health or his  
13 or her designee, who shall chair the commission. The Board of  
14 Medicine shall provide meeting facilities and staff support  
15 for the commission.

16 (2) The commission shall review all available  
17 information on anesthesiologist assistants, including, but not  
18 limited to, the following topics:

19 (a) The current laws and rules governing the practice  
20 of anesthesiologist assistants in Florida and in other states  
21 that provide licensure of anesthesiologist assistants.

22 (b) Background education and training for  
23 anesthesiologist assistants as compared to other anesthesia  
24 providers.

25 (c) Scientific studies concerning the safety,  
26 outcomes, and quality of anesthesia care provided by  
27 anesthesiologist assistants as compared to other anesthesia  
28 providers.

29 (d) Whether, based on the current and projected future  
30 demand for anesthesia providers in Florida over the next 10  
31



1 years, there is or will be an unmet need for anesthesia  
2 providers in Florida.

3 (e) Whether licensure of anesthesiologist assistants  
4 in Florida will affect the access to or quality of anesthesia  
5 care provided to patients in Florida.

6 (3) The commission shall meet in person at least  
7 twice.

8 (4) Members of the commission shall not receive  
9 compensation for their services but shall be entitled to  
10 reimbursement for expenses in accordance with s. 112.061,  
11 Florida Statutes.

12 (5) The commission shall submit a report to the Board  
13 of Medicine concerning its findings, including proposed rules  
14 if appropriate, by February 15, 2003. After reviewing the  
15 report of the commission, the Board of Medicine is authorized  
16 to file proposed rules concerning the licensure of  
17 anesthesiologist assistants who have been practicing as  
18 anesthesiologist assistants in another state for a minimum of  
19 2 years with no disciplinary action taken against their  
20 license, or individuals who have an allied health degree from  
21 a program accredited by the Commission on Accreditation of  
22 Allied Health Educational Programs, and including proposed  
23 rules for licensure by endorsement of anesthesiologist  
24 assistants licensed in other states or licensure as  
25 anesthesiologist assistants of other licensed health care  
26 professionals in Florida with comparable background and  
27 training.

28 (6) This section is repealed effective February 15,  
29 2003.

30 Section 94. If any law amended by this act was also  
31 amended by a law enacted during the 2002 Regular Session of

1 the Legislature, such laws shall be construed to have been  
2 enacted during the same session of the Legislature and full  
3 effect shall be given to each if possible.

4           Section 95. Except as otherwise provided herein, this  
5 act shall take effect July 1, 2002.

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8           HOUSE SUMMARY

9  
10          Establishes or revises various provisions relating to  
11          health care services and the education and regulation of  
12          health care providers in the state. See bill for details.

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