

By the Committee on Health, Aging, and Long-Term Care; and
Senator Saunders

317-1872B-03

1 A bill to be entitled
2 An act relating to medical malpractice;
3 amending s. 120.57, F.S.; providing procedures
4 for hearings related to disputed issues of fact
5 in cases involving the standard of care of
6 certain health care professions; amending s.
7 120.80, F.S.; allowing a board within the
8 Department of Health to appoint an
9 administrative law judge who has certain
10 expertise to hear a case involving standard of
11 care; creating s. 381.0409, F.S.; creating the
12 Florida Center for Excellence in Health Care;
13 providing goals and duties of the center;
14 providing definitions; requiring certain
15 facilities to report adverse incident reports;
16 providing limitations on the center's liability
17 for any lawful actions taken; requiring the
18 center to issue patient safety recommendations;
19 requiring the development of a statewide
20 electronic infrastructure to improve patient
21 care and the delivery and quality of health
22 care services; providing requirements for
23 development of a core electronic medical
24 record; authorizing access to the electronic
25 medical records and other data maintained by
26 the center; providing for the use of
27 computerized physician medication ordering
28 systems; providing for the establishment of a
29 simulation center for high technology
30 intervention surgery and intensive care;
31 providing for the immunity of specified

1 information in adverse incident reports from
2 discovery or admissibility in civil or
3 administrative actions; providing limitations
4 on liability of specified health care
5 practitioners and facilities under specified
6 conditions; providing requirements for the
7 appointment and compensation of a board of
8 directors for the center; establishing a
9 mechanism for financing the center through the
10 assessment of specified fees; requiring the
11 Florida Center for Excellence in Health Care to
12 develop a business and financing plan;
13 authorizing state agencies to contract with the
14 center for specified projects; authorizing the
15 use of center funds and the use of state
16 purchasing and travel contracts for the center;
17 requiring the center to submit an annual report
18 and providing requirements for the annual
19 report; providing for the center's books,
20 records, and audits to be open to the public;
21 requiring the center to annually furnish an
22 audited report to the Governor and Legislature;
23 amending s. 395.0197, F.S.; requiring copies of
24 reports of adverse incidents submitted to the
25 Agency for Health Care Administration to be
26 forwarded to the Center for Health Care
27 Excellence; creating s. 395.1012, F.S.;
28 requiring facilities to adopt a patient safety
29 plan; providing requirements for a patient
30 safety plan; requiring facilities to appoint a
31 patient safety officer and a patient safety

1 committee and providing duties for the patient
2 safety officer and committee; creating s.
3 408.832, F.S.; requiring certain facilities to
4 notify patients about care under specified
5 conditions; requiring the Agency for Health
6 Care Administration to conduct or contract for
7 a study to provide information to assist the
8 public in making better health care decisions;
9 requiring the report to be submitted to the
10 Governor and the presiding officers of the
11 Legislature; amending s. 456.039, F.S.;
12 amending the information required to be
13 furnished to the Department of Health for
14 licensure purposes; amending s. 456.057, F.S.;
15 allowing the department to obtain patient
16 records by subpoena without the patient's
17 written authorization, in specified
18 circumstances; amending s. 456.063, F.S.;
19 providing for adopting rules to implement
20 requirements for reporting allegations of
21 sexual misconduct; amending s. 456.072, F.S.;
22 providing for determining the amount of any
23 costs to be assessed in a disciplinary
24 proceeding; prescribing the standard of proof
25 in certain disciplinary proceedings; amending
26 s. 456.073, F.S.; amending procedures for
27 certain disciplinary proceedings; providing a
28 deadline for raising issues of material fact;
29 providing a deadline relating to notice of
30 receipt of a request for a formal hearing;
31 amending s. 456.077, F.S.; providing a

1 presumption related to an undisputed citation;
2 amending s. 456.078, F.S.; revising standards
3 for determining which violations of the
4 applicable professional practice act are
5 appropriate for mediation; amending s. 458.331,
6 F.S., relating to grounds for disciplinary
7 action of a physician; redefining the term
8 "repeated malpractice"; revising the standards
9 for the burden of proof in an administrative
10 action against a physician; amending s.
11 459.015, F.S., relating to grounds for
12 disciplinary action against an osteopathic
13 physician; redefining the term "repeated
14 malpractice"; revising the standards for the
15 burden of proof in an administrative action
16 against an osteopathic physician; amending
17 conditions that necessitate a departmental
18 investigation of an osteopathic physician;
19 amending s. 460.413, F.S., relating to grounds
20 for disciplinary action against a chiropractic
21 physician; revising the standards for the
22 burden of proof in an administrative action
23 against a chiropractic physician; amending s.
24 461.013, F.S., relating to grounds for
25 disciplinary action against a podiatric
26 physician; redefining the term "repeated
27 malpractice"; amending the minimum amount of a
28 claim against such a physician which will
29 trigger a departmental investigation; amending
30 s. 466.028, F.S., relating to grounds for
31 disciplinary action against a dentist or a

1 dental hygienist; redefining the term "dental
2 malpractice"; amending s. 627.912, F.S.;
3 amending provisions prescribing conditions
4 under which insurers must file certain reports
5 with the Department of Insurance; requiring the
6 Office of Program Policy Analysis and
7 Government Accountability and the Office of the
8 Auditor General to conduct an audit, as
9 specified, and to report to the Legislature;
10 creating ss. 1004.08, 1005.07, F.S.; requiring
11 schools, colleges, and universities to include
12 material on patient safety in their curricula
13 if the institution awards specified degrees;
14 providing a contingent effective date.

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

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18 Section 1. Paragraph (1) of subsection (1) of section
19 120.57, Florida Statutes, is amended to read:

20 120.57 Additional procedures for particular cases.--

21 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS
22 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.--

23 (1)1. The agency may adopt the recommended order as
24 the final order of the agency. The agency in its final order
25 may reject or modify the conclusions of law over which it has
26 substantive jurisdiction and interpretation of administrative
27 rules over which it has substantive jurisdiction. When
28 rejecting or modifying such conclusion of law or
29 interpretation of administrative rule, the agency must state
30 with particularity its reasons for rejecting or modifying such
31 conclusion of law or interpretation of administrative rule and

1 must make a finding that its substituted conclusion of law or
2 interpretation of administrative rule is as or more reasonable
3 than that which was rejected or modified. Rejection or
4 modification of conclusions of law may not form the basis for
5 rejection or modification of findings of fact. The agency may
6 not reject or modify the findings of fact unless the agency
7 first determines from a review of the entire record, and
8 states with particularity in the order, that the findings of
9 fact were not based upon competent substantial evidence or
10 that the proceedings on which the findings were based did not
11 comply with essential requirements of law. The agency may
12 accept the recommended penalty in a recommended order, but may
13 not reduce or increase it without a review of the complete
14 record and without stating with particularity its reasons
15 therefor in the order, by citing to the record in justifying
16 the action.

17 2. Notwithstanding subparagraph 1., as a matter of
18 law, any decision involving the standard of care of a health
19 care profession regulated by any board within the Department
20 of Health is infused with overriding policy considerations
21 that are best left to the regulatory board that has
22 jurisdiction over that profession. When rejecting or modifying
23 a recommended finding of fact in standard-of-care cases, the
24 appropriate board within the Department of Health may reassess
25 and resolve conflicting evidence in a recommended order based
26 on the record in the case.

27 Section 2. Subsection (15) of section 120.80, Florida
28 Statutes, is amended to read:

29 120.80 Exceptions and special requirements;
30 agencies.--

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1 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.
2 120.57(1)(a), formal hearings may not be conducted by the
3 Secretary of Health, the Secretary of Health Care
4 Administration, or a board or member of a board within the
5 Department of Health or the Agency for Health Care
6 Administration for matters relating to the regulation of
7 professions, as defined by chapter 456, except that a board
8 within the Department of Health may appoint an administrative
9 law judge who has expertise in the profession regulated by the
10 board to conduct hearings involving standard-of-care cases.
11 Notwithstanding s. 120.57(1)(a), hearings conducted within the
12 Department of Health in execution of the Special Supplemental
13 Nutrition Program for Women, Infants, and Children; Child Care
14 Food Program; Children's Medical Services Program; the Brain
15 and Spinal Cord Injury Program; and the exemption from
16 disqualification reviews for certified nurse assistants
17 program need not be conducted by an administrative law judge
18 assigned by the division. The Department of Health may
19 contract with the Department of Children and Family Services
20 for a hearing officer in these matters.

21 Section 3. Section 381.0409, Florida Statutes, is
22 created to read:

23 381.0409 Florida Center for Excellence in Health
24 Care.--There is created the Florida Center for Excellence in
25 Health Care which shall be responsible for performing
26 activities and functions that are designed to improve the
27 quality of health care delivered by health care facilities and
28 health care practitioners. The principal goals of the center
29 are to improve health care quality and patient safety. The
30 long-term goal is to improve diagnostic and treatment
31 decisions, thus further improving quality.

- 1 (1) As used in this section, the term:
2 (a) "Center" means the Center for Excellence in Health
3 Care.
4 (b) "Health care practitioner" means any person as
5 defined under s. 456.001(4).
6 (c) "Health care facility" means any facility licensed
7 under chapter 395.
8 (d) "Health research entity" means any university or
9 academic health center engaged in research designed to
10 improve, prevent, diagnose, or treat diseases or medical
11 conditions or an entity that receives state or federal funds
12 for such research.
13 (e) "Patient safety data" means any data, reports,
14 records, memoranda, or analyses of patient safety events and
15 adverse incidents reported by a licensed facility pursuant to
16 s. 395.0197 which are submitted to the Florida Center for
17 Health Care Excellence or the corrective actions taken in
18 response to such patient safety events or adverse incidents.
19 (f) "Patient safety event" means an event over which
20 health care personnel could exercise control and which is
21 associated in whole or in part with medical intervention,
22 rather than the condition for which such intervention
23 occurred, and which could have resulted, but did not result in
24 serious patient injury or death.
25 (2) The center shall, either directly or by contract:
26 (a) Analyze patient safety data for the purpose of
27 recommending changes in practices and procedures which may be
28 implemented by health care practitioners and health care
29 facilities to prevent future adverse incidents.
30 (b) Collect, analyze, and evaluate patient safety data
31 submitted voluntarily by a health care practitioner or health

1 care facility. The center shall recommend to health care
2 practitioners and health care facilities changes in practices
3 and procedures that may be implemented for the purpose of
4 improving patient safety and preventing patient safety events.

5 (c) Foster the development of a statewide electronic
6 infrastructure, which may be implemented in phases over a
7 multiyear period, that is designed to improve patient care and
8 the delivery and quality of health care services by health
9 care facilities and practitioners. The electronic
10 infrastructure shall be a secure platform for communication
11 and the sharing of clinical and other data, such as business
12 data, among providers and between patients and providers. The
13 electronic infrastructure shall include a "core" electronic
14 medical record. Health care practitioners and health care
15 facilities shall have access to individual electronic medical
16 records subject to the consent of the individual. Health
17 insurers licensed under chapter 627 or chapter 641 shall have
18 access to the electronic medical records of their policy
19 holders and, subject to the provisions of s. 381.04091, to
20 other data if such access is for the sole purpose of
21 conducting research to identify diagnostic tests and
22 treatments that are medically effective. Health research
23 entities shall have access to the electronic medical records
24 of individuals subject to the consent of the individual and
25 subject to the provisions of s. 381.04091 and to other data if
26 such access is for the sole purpose of conducting research to
27 identify diagnostic tests and treatments that are medically
28 effective.

29 (d) Foster the use of computerized physician
30 medication ordering systems by hospitals which do not have
31 such systems and develop protocols for these systems.

1 (e) Establish a simulation center for high technology
2 intervention surgery and intensive care for use by all
3 hospitals.

4 (f) Identify best practices and share this information
5 with health care providers.

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7 Nothing in this section shall serve to limit the scope of
8 services provided by the center with regard to engaging in
9 other activities that improve health care quality, improve the
10 diagnosis and treatment of diseases and medical conditions,
11 increase the efficiency of the delivery of health care
12 services, increase administrative efficiency, and increase
13 access to quality health care services.

14 (3) Notwithstanding s. 381.04091, the center may
15 release information contained in patient safety data to any
16 health care practitioner or health care facility when
17 recommending changes in practices and procedures which may be
18 implemented by such practitioner or facility to prevent
19 patient safety events or adverse incidents.

20 (4) All information related to adverse incident
21 reports and all patient safety data submitted to or received
22 by the center shall not be subject to discovery or
23 introduction into evidence in any civil or administrative
24 action. Individuals in attendance at meetings held for the
25 purpose of discussing information related to adverse incidents
26 and patient safety data and meetings held to formulate
27 recommendations to prevent future adverse incidents or patient
28 safety events may not be permitted or required to testify in
29 any civil or administrative action related to such events.
30 There shall be no liability on the part of, and no cause of
31 action of any nature shall arise against, any employee or

1 agent of the center for any lawful action taken by such
2 individual in advising health practitioners or health care
3 facilities with regard to carrying out their duties under this
4 section. There shall be no liability on the part of, and no
5 cause of action of any nature shall arise against, a health
6 care practitioner or health care facility, its agents, or
7 employees, when it acts in reliance on any advice or
8 information provided by the center.

9 (5) The center shall be a nonprofit corporation
10 registered, incorporated, organized, and operated in
11 compliance with chapter 617, and shall have all powers
12 necessary to carry out the purposes of this section,
13 including, but not limited to, the power to receive and accept
14 from any source contributions of money, property, labor, or
15 any other thing of value, to be held, used, and applied for
16 the purpose of this section.

17 (6) The center shall:

18 1. Be designed and operated by an individual or entity
19 with demonstrated expertise in health care quality data and
20 systems analysis, health information management, systems
21 thinking and analysis, human factors analysis, and
22 identification of latent and active errors.

23 2. Include procedures for ensuring the confidentiality
24 of data which are consistent with state and federal law.

25 (7) The center shall be governed by a 10-member board
26 of directors appointed by the Governor.

27 (a) The Governor shall appoint two members
28 representing hospitals, one member representing physicians,
29 one member representing nurses, one member representing health
30 insurance indemnity plans, one member representing health
31 maintenance organizations, one member representing business,

1 and one member representing consumers. The Governor shall
2 appoint members for a 2-year term. Such members shall serve
3 until their successors are appointed. Members are eligible to
4 be reappointed for additional terms.

5 (b) The Secretary of Health or his or her designee
6 shall be a member of the board.

7 (c) The Secretary of Health Care Administration or his
8 or her designee shall be a member of the board.

9 (d) The members shall elect a chairperson.

10 (e) Board members shall serve without compensation but
11 may be reimbursed for travel expenses pursuant to s. 112.061.

12 (8) The center shall be financed as follows:

13 (a) Notwithstanding any law to the contrary, each
14 health insurer issued a certificate of authority under part
15 VI, part VII, or part VIII of chapter 627 shall, as a
16 condition of maintaining such certificate, make payment to the
17 center on April 1 of each year, in the amount of \$1 for each
18 individual included in every insurance policy issued during
19 the previous calendar year. Accompanying any payment shall be
20 a certification under oath by the chief executive officer that
21 states the number of individuals that such payment was based
22 on. The center may direct the insurer to provide an
23 independent audit of the certification that shall be furnished
24 within 90 days. If payment is not received by the center
25 within 30 days after April 1, interest at the annualized rate
26 of 18 percent shall begin to be charged on the amount due. If
27 payment has not been received within 60 days after interest is
28 charged, the center shall notify the Department of Financial
29 Services that payment has not been received pursuant to the
30 requirements of this paragraph. An insurer that refuses to

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1 comply with the requirements of this paragraph is subject to
2 the forfeiture of its certificate of authority.

3 (b) Notwithstanding any law to the contrary, each
4 health maintenance organization issued a certificate of
5 authority under part I of chapter 641 and each prepaid clinic
6 issued a certificate of authority under part II of chapter 641
7 shall, as a condition of maintaining such certificate, make
8 payment to the center on April 1 of each year, in the amount
9 of \$1 for each individual who is eligible to receive services
10 pursuant to a contract with the health maintenance
11 organization or the prepaid clinic during the previous
12 calendar year. Accompanying any payment shall be a
13 certification under oath by the chief executive officer that
14 states the number of individuals that such payment was based
15 on. The center may direct the health maintenance organization
16 or prepaid clinic to provide an independent audit of the
17 certification that shall be furnished within 90 days. If
18 payment is not received by the center within 30 days after
19 April 1, interest at the annualized rate of 18 percent shall
20 begin to be charged on the amount due. If payment has not been
21 received within 60 days after interest is charged, the center
22 shall notify the Department of Financial Services that payment
23 has not been received pursuant to the requirements of this
24 paragraph. A health maintenance organization or prepaid clinic
25 that refuses to comply with the requirements of this paragraph
26 is subject to the forfeiture of its certificate of authority.

27 (c) Notwithstanding any law to the contrary, each
28 hospital and ambulatory surgical center licensed under chapter
29 395 shall, as a condition of licensure, make payment to the
30 center on April 1 of each year, in the amount of \$1 for each
31 individual during the previous 12 months who was an inpatient

1 discharged by the hospital or who was a patient in the
2 ambulatory surgical center. Accompanying payment shall be a
3 certification under oath by the chief executive officer that
4 states the number of individuals that such payment was based
5 on. The center may direct the facility to provide an
6 independent audit of the certification that shall be furnished
7 within 90 days. If payment is not received by the center
8 within 30 days after April 1, interest at the annualized rate
9 of 18 percent shall begin to be charged on the amount due. If
10 payment has not been received within 60 days after interest is
11 charged, the center shall notify the Agency for Health Care
12 Administration that payment has not been received pursuant to
13 the requirements of this paragraph. An entity that refuses to
14 comply with the requirements of this paragraph is subject to
15 the forfeiture of its license.

16 (d) Notwithstanding any law to the contrary, each
17 nursing home licensed under part II of chapter 400, each
18 assisted living facility licensed under part III of chapter
19 400, each home health agency licensed under part IV of chapter
20 400, each hospice licensed under part VI of chapter 400, each
21 prescribed pediatric extended care center licensed under part
22 IX of chapter 400, and each health care services pool licensed
23 under part XII of chapter 400 shall, as a condition of
24 licensure, make payment to the center on April 1 of each year,
25 in the amount of \$1 for each individual served by each
26 aforementioned entity during the previous 12 months.
27 Accompanying payment shall be a certification under oath by
28 the chief executive officer that states the number of
29 individuals that such payment was based on. The center may
30 direct the entity to provide an independent audit of the
31 certification that shall be furnished within 90 days. If

1 payment is not received by the center within 30 days after
2 April 1, interest at the annualized rate of 18 percent shall
3 begin to be charged on the amount due. If payment has not been
4 received within 60 days after interest is charged, the center
5 shall notify the Agency for Health Care Administration that
6 payment has not been received pursuant to the requirements of
7 this paragraph. An entity that refuses to comply with the
8 requirements of this paragraph is subject to the forfeiture of
9 its license.

10 (e) Notwithstanding any law to the contrary, each
11 initial application and renewal fee for each license and each
12 fee for certification or recertification for each person
13 licensed or certified under chapter 401 or chapter 404, and
14 for each person licensed as a health care practitioner defined
15 in s. 456.001(4), shall be increased by the amount of \$1 for
16 each year for which the license or certification is issued.
17 The Department of Health shall make payment to the center on
18 April 1 of each year in the amount of the total received
19 pursuant to this paragraph during the preceding 12 months.

20 (f) The center shall develop a business and financing
21 plan to obtain funds through other means if funds beyond those
22 that are provided for in this subsection are needed to
23 accomplish the objectives of the center.

24 (9) The center may enter into affiliations with
25 universities for any purpose.

26 (10) Pursuant to s. 287.057(5)(f)6., state agencies
27 may contract with the center on a sole source basis for
28 projects to improve the quality of program administration,
29 such as, but not limited to, the implementation of an
30 electronic medical record for Medicaid program recipients.

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1 (11) All travel and per diem paid with center funds
2 shall be in accordance with s. 112.061.

3 (12) The center may use state purchasing and travel
4 contracts and the state communications system in accordance
5 with s. 282.105(3).

6 (13) The center may acquire, enjoy, use, and dispose
7 of patents, copyrights, trademarks and any licenses,
8 royalties, and other rights or interests thereunder or
9 therein.

10 (14) The center shall submit an annual report to the
11 Governor, the President of the Senate, and the Speaker of the
12 House of Representatives no later than October 1 of each year
13 which includes:

14 (a) The status report on the implementation of a
15 program to analyze data concerning adverse incidents and
16 patient safety events.

17 (b) The status report on the implementation of a
18 computerized physician medication ordering system.

19 (c) The status report on the implementation of an
20 electronic medical record.

21 (d) Other pertinent information relating to the
22 efforts of the center to improve health care quality and
23 efficiency.

24 (e) A financial statement and balance sheet.

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26 The initial report shall include any recommendations that the
27 center deems appropriate regarding revisions in the definition
28 of adverse incidents in s. 395.0197 and the reporting of such
29 adverse incidents by licensed facilities.

30 (15) The center may establish and manage an operating
31 fund for the purposes of addressing the center's cash-flow

1 needs and facilitating the fiscal management of the
2 corporation. Upon dissolution of the corporation, any
3 remaining cash balances of any state funds shall revert to the
4 General Revenue Fund, or such other state funds consistent
5 with appropriated funding, as provided by law.

6 (16) The center may carry over funds from year to
7 year.

8 (17) All books, records, and audits of the center
9 shall be open to the public unless exempted by law.

10 (18) The center shall furnish an annual audited report
11 to the Governor and Legislature by March 1 of each year.

12 (19) In carrying out this section, the center shall
13 consult with and develop partnerships, as appropriate, with
14 all segments of the health care industry, including, among
15 others, health practitioners, health care facilities, health
16 care consumers, professional organizations, agencies, health
17 care practitioner licensing boards, and educational
18 institutions.

19 Section 4. Subsection (8) of section 395.0197, Florida
20 Statutes, is amended to read:

21 395.0197 Internal risk management program.--

22 (8) Any of the following adverse incidents, whether
23 occurring in the licensed facility or arising from health care
24 prior to admission in the licensed facility, shall be reported
25 by the facility to the agency within 15 calendar days after
26 its occurrence:

27 (a) The death of a patient;

28 (b) Brain or spinal damage to a patient;

29 (c) The performance of a surgical procedure on the
30 wrong patient;

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1 (d) The performance of a wrong-site surgical
2 procedure;

3 (e) The performance of a wrong surgical procedure;

4 (f) The performance of a surgical procedure that is
5 medically unnecessary or otherwise unrelated to the patient's
6 diagnosis or medical condition;

7 (g) The surgical repair of damage resulting to a
8 patient from a planned surgical procedure, where the damage is
9 not a recognized specific risk, as disclosed to the patient
10 and documented through the informed-consent process; or

11 (h) The performance of procedures to remove unplanned
12 foreign objects remaining from a surgical procedure.

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14 The agency may grant extensions to this reporting requirement
15 for more than 15 days upon justification submitted in writing
16 by the facility administrator to the agency. The agency may
17 require an additional, final report. These reports shall not
18 be available to the public pursuant to s. 119.07(1) or any
19 other law providing access to public records, nor be
20 discoverable or admissible in any civil or administrative
21 action, except in disciplinary proceedings by the agency or
22 the appropriate regulatory board, nor shall they be available
23 to the public as part of the record of investigation for and
24 prosecution in disciplinary proceedings made available to the
25 public by the agency or the appropriate regulatory board.

26 However, the agency or the appropriate regulatory board shall
27 make available, upon written request by a health care
28 professional against whom probable cause has been found, any
29 such records which form the basis of the determination of
30 probable cause. The agency may investigate, as it deems
31 appropriate, any such incident and prescribe measures that

1 must or may be taken in response to the incident. The agency
2 shall review each incident and determine whether it
3 potentially involved conduct by the health care professional
4 who is subject to disciplinary action, in which case the
5 provisions of s. 456.073 shall apply. Copies of all reports of
6 adverse incidents submitted to the agency by hospitals and
7 ambulatory surgical centers shall be forwarded to the Center
8 for Health Care Excellence, as defined in s. 381.0409, for
9 analysis by experts who may make recommendations regarding the
10 prevention of such incidents. Such information shall remain
11 confidential as otherwise provided by law.

12 Section 5. Section 395.1012, Florida Statutes, is
13 created to read:

14 395.1012 Patient safety.--

15 (1) Each licensed facility must adopt a patient safety
16 plan. A plan adopted to implement the requirements of 42 CFR
17 482.21 shall be deemed to comply with this requirement.

18 (2) Each licensed facility shall appoint a patient
19 safety officer and a patient safety committee, which shall
20 include at least one person who is neither employed by nor
21 practicing in the facility, for the purpose of promoting the
22 health and safety of patients, reviewing and evaluating the
23 quality of patient safety measures used by the facility, and
24 for assisting in the implementation of the facility patient
25 safety plan.

26 Section 6. Section 408.832, Florida Statutes, is
27 created to read:

28 408.832 Duty to notify patients.--Each facility
29 licensed by the Agency for Health Care Administration and each
30 health care practitioner defined in s. 456.001(4) shall inform
31 each patient or the patient's representative about

1 unanticipated outcomes of care which result in serious harm to
2 the patient. Notification of outcomes of care which result in
3 serious harm to the patient under this section shall not
4 constitute an acknowledgement or admission of liability nor
5 can it be introduced as evidence in any civil lawsuit. Failure
6 to provide notification regarding outcomes of care which
7 result in harm to the patient constitutes grounds for
8 discipline against the license of a facility licensed by the
9 Agency for Health Care Administration pursuant to s.
10 395.003(8) or the license of a health care practitioner as
11 defined by chapter 456 pursuant to s. 456.072(1)(k).

12 Section 7. The Agency for Health Care Administration
13 shall conduct or contract for a study to determine if it is
14 feasible to provide information to the public that will help
15 them make better health care decisions regarding their choice
16 of a hospital, based on that facility's patient safety and
17 quality performance. This study shall be conducted in
18 cooperation with hospitals, physicians, other health care
19 providers, and the agency. The Agency for Health Care
20 Administration shall submit the final report to the Governor
21 and the presiding officers of the Legislature by July 1, 2004.

22 Section 8. Paragraph (a) of subsection (1) of section
23 456.039, Florida Statutes, is amended to read:

24 456.039 Designated health care professionals;
25 information required for licensure.--

26 (1) Each person who applies for initial licensure as a
27 physician under chapter 458, chapter 459, chapter 460, or
28 chapter 461, except a person applying for registration
29 pursuant to ss. 458.345 and 459.021, must, at the time of
30 application, and each physician who applies for license
31 renewal under chapter 458, chapter 459, chapter 460, or

1 chapter 461, except a person registered pursuant to ss.
2 458.345 and 459.021, must, in conjunction with the renewal of
3 such license and under procedures adopted by the Department of
4 Health, and in addition to any other information that may be
5 required from the applicant, furnish the following information
6 to the Department of Health:

7 (a)1. The name of each medical school that the
8 applicant has attended, with the dates of attendance and the
9 date of graduation, and a description of all graduate medical
10 education completed by the applicant, excluding any coursework
11 taken to satisfy medical licensure continuing education
12 requirements.

13 2. The name of each hospital at which the applicant
14 has privileges.

15 3. The address at which the applicant will primarily
16 conduct his or her practice.

17 4. Any certification that the applicant has received
18 from a specialty board that is recognized by the board to
19 which the applicant is applying.

20 5. The year that the applicant began practicing
21 medicine.

22 6. Any appointment to the faculty of a medical school
23 which the applicant currently holds and an indication as to
24 whether the applicant has had the responsibility for graduate
25 medical education within the most recent 10 years.

26 7. A description of any criminal offense of which the
27 applicant has been found guilty, regardless of whether
28 adjudication of guilt was withheld, or to which the applicant
29 has pled guilty or nolo contendere. A criminal offense
30 committed in another jurisdiction which would have been a
31 felony or misdemeanor if committed in this state must be

1 reported. If the applicant indicates that a criminal offense
2 is under appeal and submits a copy of the notice for appeal of
3 that criminal offense, the department must state that the
4 criminal offense is under appeal if the criminal offense is
5 reported in the applicant's profile. If the applicant
6 indicates to the department that a criminal offense is under
7 appeal, the applicant must, upon disposition of the appeal,
8 submit to the department a copy of the final written order of
9 disposition.

10 8. A description of any final disciplinary action
11 taken within the previous 10 years against the applicant by
12 the agency regulating the profession that the applicant is or
13 has been licensed to practice, whether in this state or in any
14 other jurisdiction, by a specialty board that is recognized by
15 the American Board of Medical Specialties, the American
16 Osteopathic Association, or a similar national organization,
17 or by a licensed hospital, health maintenance organization,
18 prepaid health clinic, ambulatory surgical center, or nursing
19 home. Disciplinary action includes resignation from or
20 nonrenewal of medical staff membership or the restriction of
21 privileges at a licensed hospital, health maintenance
22 organization, prepaid health clinic, ambulatory surgical
23 center, or nursing home taken in lieu of or in settlement of a
24 pending disciplinary case related to competence or character.
25 If the applicant indicates that the disciplinary action is
26 under appeal and submits a copy of the document initiating an
27 appeal of the disciplinary action, the department must state
28 that the disciplinary action is under appeal if the
29 disciplinary action is reported in the applicant's profile.

30 9. Relevant professional qualifications.

31

1 Section 9. Paragraph (a) of subsection (7) of section
2 456.057, Florida Statutes, is amended to read:

3 456.057 Ownership and control of patient records;
4 report or copies of records to be furnished.--

5 (7)(a)1. The department may obtain patient records
6 pursuant to a subpoena without written authorization from the
7 patient if the department and the probable cause panel of the
8 appropriate board, if any, find reasonable cause to believe
9 that a health care practitioner has excessively or
10 inappropriately prescribed any controlled substance specified
11 in chapter 893 in violation of this chapter or any
12 professional practice act or that a health care practitioner
13 has practiced his or her profession below that level of care,
14 skill, and treatment required as defined by this chapter or
15 any professional practice act and also find that appropriate,
16 reasonable attempts were made to obtain a patient release.

17 2. The department may obtain patient records and
18 insurance information pursuant to a subpoena without written
19 authorization from the patient if the department and the
20 probable cause panel of the appropriate board, if any, find
21 reasonable cause to believe that a health care practitioner
22 has provided inadequate medical care based on termination of
23 insurance and also find that appropriate, reasonable attempts
24 were made to obtain a patient release.

25 3. The department may obtain patient records, billing
26 records, insurance information, provider contracts, and all
27 attachments thereto pursuant to a subpoena without written
28 authorization from the patient if the department and probable
29 cause panel of the appropriate board, if any, find reasonable
30 cause to believe that a health care practitioner has submitted
31 a claim, statement, or bill using a billing code that would

1 result in payment greater in amount than would be paid using a
2 billing code that accurately describes the services performed,
3 requested payment for services that were not performed by that
4 health care practitioner, used information derived from a
5 written report of an automobile accident generated pursuant to
6 chapter 316 to solicit or obtain patients personally or
7 through an agent regardless of whether the information is
8 derived directly from the report or a summary of that report
9 or from another person, solicited patients fraudulently,
10 received a kickback as defined in s. 456.054, violated the
11 patient brokering provisions of s. 817.505, or presented or
12 caused to be presented a false or fraudulent insurance claim
13 within the meaning of s. 817.234(1)(a), and also find that,
14 within the meaning of s. 817.234(1)(a), patient authorization
15 cannot be obtained because the patient cannot be located or is
16 deceased, incapacitated, or suspected of being a participant
17 in the fraud or scheme, and if the subpoena is issued for
18 specific and relevant records. For purposes of this
19 subsection, if the patient refuses to cooperate, is
20 unavailable, or fails to execute a patient release, the
21 department may obtain patient records pursuant to a subpoena
22 without written authorization from the patient.

23 Section 10. Subsection (4) is added to section
24 456.063, Florida Statutes, to read:

25 456.063 Sexual misconduct; disqualification for
26 license, certificate, or registration.--

27 (4) Each board, or the department if there is no
28 board, may adopt rules to implement the requirements for
29 reporting allegations of sexual misconduct, including rules to
30 determine the sufficiency of the allegations.

31

1 Section 11. Each board within the Department of Health
2 which has jurisdiction over health care practitioners who are
3 authorized to prescribe drugs may adopt by rule standards of
4 practice for practitioners who are under that board's
5 jurisdiction for the safe and ethical prescription of drugs to
6 patients via the Internet.

7 Section 12. Subsection (4) of section 456.072, Florida
8 Statutes, is amended, and a new subsection (7) is added to
9 that section to read:

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

12 (4) In addition to any other discipline imposed
13 through final order, or citation, entered on or after July 1,
14 2001, pursuant to this section or discipline imposed through
15 final order, or citation, entered on or after July 1, 2001,
16 for a violation of any practice act, the board, or the
17 department when there is no board, shall assess costs related
18 to the investigation and prosecution of the case. The board,
19 or the department when there is no board, shall determine the
20 amount of costs to be assessed.In any case where the board or
21 the department imposes a fine or assessment and the fine or
22 assessment is not paid within a reasonable time, such
23 reasonable time to be prescribed in the rules of the board, or
24 the department when there is no board, or in the order
25 assessing such fines or costs, the department or the
26 Department of Legal Affairs may contract for the collection
27 of, or bring a civil action to recover, the fine or
28 assessment.

29 (7) In any formal administrative hearing conducted
30 under s. 120.57(1), the department shall establish grounds for
31

1 the discipline of a licensee by the greater weight of the
2 evidence.

3 Section 13. Subsection (5) of section 456.073, Florida
4 Statutes, is amended to read:

5 456.073 Disciplinary proceedings.--Disciplinary
6 proceedings for each board shall be within the jurisdiction of
7 the department.

8 (5) A formal hearing before an administrative law
9 judge from the Division of Administrative Hearings, or before
10 an administrative law judge appointed by the appropriate board
11 who has expertise in the profession regulated by the board in
12 cases involving violations of the standard of care in that
13 profession, shall be requested held pursuant to chapter 120 if
14 there are any disputed issues of material fact raised within
15 45 days after service of the administrative complaint. The
16 administrative law judge shall issue a recommended order
17 pursuant to chapter 120. Notwithstanding s. 120.569(2), the
18 department shall notify the division within 45 days after
19 receipt of a petition or request for a formal hearing. ~~If any~~
20 ~~party raises an issue of disputed fact during an informal~~
21 ~~hearing, the hearing shall be terminated and a formal hearing~~
22 ~~pursuant to chapter 120 shall be held.~~

23 Section 14. Subsection (1) of section 456.077, Florida
24 Statutes, is amended to read:

25 456.077 Authority to issue citations.--

26 (1) Notwithstanding s. 456.073, the board, or the
27 department if there is no board, shall adopt rules to permit
28 the issuance of citations. The citation shall be issued to the
29 subject and shall contain the subject's name and address, the
30 subject's license number if applicable, a brief factual
31 statement, the sections of the law allegedly violated, and the

1 penalty imposed. The citation must clearly state that the
2 subject may choose, in lieu of accepting the citation, to
3 follow the procedure under s. 456.073. If the subject disputes
4 the matter in the citation, the procedures set forth in s.
5 456.073 must be followed. However, if the subject does not
6 dispute the matter in the citation with the department within
7 30 days after the citation is served, the citation becomes a
8 final order and does not constitute ~~constitutes~~ discipline for
9 a first offense. The penalty shall be a fine or other
10 conditions as established by rule.

11 Section 15. Subsection (1) of section 456.078, Florida
12 Statutes, is amended to read:

13 456.078 Mediation.--

14 (1) Notwithstanding the provisions of s. 456.073, the
15 board, or the department when there is no board, shall adopt
16 rules to designate which violations of the applicable
17 professional practice act, including standard-of-care
18 violations, are appropriate for mediation. The board, or the
19 department when there is no board, must ~~may~~ designate as
20 mediation offenses those complaints where harm caused by the
21 licensee is economic in nature or can be remedied by the
22 licensee.

23 Section 16. Paragraph (t) of subsection (1) and
24 subsections (3) and (6) of section 458.331, Florida Statutes,
25 are amended to read:

26 458.331 Grounds for disciplinary action; action by the
27 board and department.--

28 (1) The following acts constitute grounds for denial
29 of a license or disciplinary action, as specified in s.
30 456.072(2):

31

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

22 (3) In any administrative action against a physician
23 ~~which does not involve revocation or suspension of license,~~
24 the division shall have the burden, by the greater weight of
25 the evidence, to establish the existence of grounds for
26 disciplinary action. ~~The division shall establish grounds for~~
27 ~~revocation or suspension of license by clear and convincing~~
28 ~~evidence.~~

29 (6) Upon the department's receipt from an insurer or
30 self-insurer of a report of a closed claim against a physician
31 pursuant to s. 627.912 or from a health care practitioner of a

1 report pursuant to s. 456.049, or upon the receipt from a
2 claimant of a presuit notice against a physician pursuant to
3 s. 766.106, the department shall review each report and
4 determine whether it potentially involved conduct by a
5 licensee that is subject to disciplinary action, in which case
6 the provisions of s. 456.073 shall apply. However, if it is
7 reported that a physician has had three or more claims with
8 indemnities exceeding \$50,000~~\$25,000~~ each within the previous
9 5-year period, the department shall investigate the
10 occurrences upon which the claims were based and determine if
11 action by the department against the physician is warranted.

12 Section 17. Paragraph (x) of subsection (1) and
13 subsections (3) and (6) of section 459.015, Florida Statutes,
14 are amended to read:

15 459.015 Grounds for disciplinary action; action by the
16 board and department.--

17 (1) The following acts constitute grounds for denial
18 of a license or disciplinary action, as specified in s.
19 456.072(2):

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

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

19 (3) In any administrative action against a physician
20 ~~which does not involve revocation or suspension of license,~~
21 the division shall have the burden, by the greater weight of
22 the evidence, to establish the existence of grounds for
23 disciplinary action. ~~The division shall establish grounds for~~
24 ~~revocation or suspension of license by clear and convincing~~
25 ~~evidence.~~

26 (6) Upon the department's receipt from an insurer or
27 self-insurer of a report of a closed claim against an
28 osteopathic physician pursuant to s. 627.912 or from a health
29 care practitioner of a report pursuant to s. 456.049, or upon
30 the receipt from a claimant of a presuit notice against an
31 osteopathic physician pursuant to s. 766.106, the department

1 shall review each report and determine whether it potentially
2 involved conduct by a licensee that is subject to disciplinary
3 action, in which case the provisions of s. 456.073 shall
4 apply. However, if it is reported that an osteopathic
5 physician has had three or more claims with indemnities
6 exceeding \$50,000~~\$25,000~~ each within the previous 5-year
7 period, the department shall investigate the occurrences upon
8 which the claims were based and determine if action by the
9 department against the osteopathic physician is warranted.

10 Section 18. Subsection (6) of section 460.413, Florida
11 Statutes, is amended to read:

12 460.413 Grounds for disciplinary action; action by
13 board or department.--

14 (6) In any administrative action against a
15 chiropractic physician ~~which does not involve revocation or~~
16 ~~suspension of license~~, the department shall have the burden,
17 by the greater weight of the evidence, to establish the
18 existence of grounds for disciplinary action. ~~The department~~
19 ~~shall establish grounds for revocation or suspension of~~
20 ~~license by clear and convincing evidence.~~

21 Section 19. Paragraph (s) of subsection (1) and
22 paragraph (a) of subsection (5) of section 461.013, Florida
23 Statutes, are amended to read:

24 461.013 Grounds for disciplinary action; action by the
25 board; investigations by department.--

26 (1) The following acts constitute grounds for denial
27 of a license or disciplinary action, as specified in s.
28 456.072(2):

29 (s) Gross or repeated malpractice or the failure to
30 practice podiatric medicine at a level of care, skill, and
31 treatment which is recognized by a reasonably prudent

1 | podiatric physician as being acceptable under similar
2 | conditions and circumstances. The board shall give great
3 | weight to the standards for malpractice in s. 766.102 in
4 | interpreting this section. As used in this paragraph,
5 | "repeated malpractice" includes, but is not limited to, three
6 | or more claims for medical malpractice within the previous
7 | 5-year period resulting in indemnities being paid in excess of
8 | \$50,000~~\$10,000~~ each to the claimant in a judgment or
9 | settlement and which incidents involved negligent conduct by
10 | the podiatric physicians. As used in this paragraph, "gross
11 | malpractice" or "the failure to practice podiatric medicine
12 | with the level of care, skill, and treatment which is
13 | recognized by a reasonably prudent similar podiatric physician
14 | as being acceptable under similar conditions and
15 | circumstances" shall not be construed so as to require more
16 | than one instance, event, or act.

17 | (5)(a) Upon the department's receipt from an insurer
18 | or self-insurer of a report of a closed claim against a
19 | podiatric physician pursuant to s. 627.912, or upon the
20 | receipt from a claimant of a presuit notice against a
21 | podiatric physician pursuant to s. 766.106, the department
22 | shall review each report and determine whether it potentially
23 | involved conduct by a licensee that is subject to disciplinary
24 | action, in which case the provisions of s. 456.073 shall
25 | apply. However, if it is reported that a podiatric physician
26 | has had three or more claims with indemnities exceeding
27 | \$50,000~~\$25,000~~ each within the previous 5-year period, the
28 | department shall investigate the occurrences upon which the
29 | claims were based and determine if action by the department
30 | against the podiatric physician is warranted.

31 |

1 Section 20. Paragraph (x) of subsection (1) of section
2 466.028, Florida Statutes, is amended to read:

3 466.028 Grounds for disciplinary action; action by the
4 board.--

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

8 (x) Being guilty of incompetence or negligence by
9 failing to meet the minimum standards of performance in
10 diagnosis and treatment when measured against generally
11 prevailing peer performance, including, but not limited to,
12 the undertaking of diagnosis and treatment for which the
13 dentist is not qualified by training or experience or being
14 guilty of dental malpractice. For purposes of this paragraph,
15 it shall be legally presumed that a dentist is not guilty of
16 incompetence or negligence by declining to treat an individual
17 if, in the dentist's professional judgment, the dentist or a
18 member of her or his clinical staff is not qualified by
19 training and experience, or the dentist's treatment facility
20 is not clinically satisfactory or properly equipped to treat
21 the unique characteristics and health status of the dental
22 patient, provided the dentist refers the patient to a
23 qualified dentist or facility for appropriate treatment. As
24 used in this paragraph, "dental malpractice" includes, but is
25 not limited to, three or more claims within the previous
26 5-year period which resulted in indemnity being paid, or any
27 single indemnity paid in excess of \$25,000~~\$5,000~~ in a
28 judgment or settlement, as a result of negligent conduct on
29 the part of the dentist.

30 Section 21. Subsection (1) of section 627.912, Florida
31 Statutes, is amended to read:

1 627.912 Professional liability claims and actions;
2 reports by insurers.--

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

21 (a) A final judgment in any amount.

22 (b) A settlement in any amount.

23
24 Reports shall be filed with the department ~~and~~, If the
25 insured party is licensed under chapter 458, chapter 459, or
26 chapter 461, and the final judgment or settlement amount was
27 \$50,000 or more, or if the insured party is licensed under
28 chapter 466 and the final judgment or settlement amount was
29 \$25,000 or more, the report shall be filed ~~or chapter 466,~~
30 with the Department of Health, no later than 30 days following
31 the occurrence of any event listed in paragraph (a) or

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

11 Section 22. The Office of Program Policy Analysis and
12 Government Accountability and the Office of the Auditor
13 General must jointly conduct an audit of the Department of
14 Health's health care practitioner disciplinary process and
15 closed claims that are filed with the department under section
16 627.912, Florida Statutes. The Office of Program Policy
17 Analysis and Government Accountability and the Office of the
18 Auditor General shall submit a report to the Legislature by
19 January 1, 2004.

20 Section 23. Section 1004.08, Florida Statutes, is
21 created to read:

22 1004.08 Patient safety instructional
23 requirements.--Each public school, college, and university
24 that offers degrees in medicine, nursing, or allied health
25 shall include in the curricula applicable to such degrees
26 material on patient safety, including patient safety
27 improvement. Materials shall include, but need not be limited
28 to, effective communication and teamwork; epidemiology of
29 patient injuries and medical errors; medical injuries;
30 vigilance, attention and fatigue; checklists and inspections;
31

1 automation, technological, and computer support; psychological
2 factors in human error; and reporting systems.

3 Section 24. Section 1005.07, Florida Statutes, is
4 created to read:

5 1005.07 Patient safety instructional
6 requirements.--Each private school, college, and university
7 that offers degrees in medicine, nursing, and allied health
8 shall include in the curricula applicable to such degrees
9 material on patient safety, including patient safety
10 improvement. Materials shall include, but need not be limited
11 to, effective communication and teamwork; epidemiology of
12 patient injuries and medical errors; medical injuries;
13 vigilance, attention and fatigue; checklists and inspections;
14 automation, technological, and computer support; psychological
15 factors in human error; and reporting systems.

16 Section 25. This act shall take effect upon becoming a
17 law if SB 560, SB 564, and SB 566 or similar legislation is
18 adopted in the same legislative session or an extension
19 thereof and becomes law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 562

4 The committee substitute:

5 Provides that, under the Administrative Procedure Act,
6 decisions involving the standard of care of a health care
7 profession are infused with overriding policy considerations
8 that are best left to the regulatory board that has
9 jurisdiction over the profession.

10 Revises the requirements for regulatory boards within the
11 Department of Health to reject or modify a recommended finding
12 of fact in standard-of-care cases and reassess and resolve
13 conflicting evidence in a recommended order based on the
14 record in disciplinary cases.

15 Authorizes a board within the Department of Health to appoint
16 an administrative law judge who has expertise in the
17 profession regulated by the board to conduct hearings
18 involving standard-of-care cases.

19 Creates the Florida Center for Excellence in Health Care to
20 improve health care quality and patient safety whose
21 responsibilities include the collection, analysis, and
22 evaluation of patient safety data and formulating
23 recommendations for changes to prevent future adverse
24 incidents and patient safety events. The center will also
25 foster the development of a statewide electronic
26 infrastructure that includes a "core" electronic medical
27 record, foster the use of computerized physician medication
28 ordering systems by hospitals, establish a simulation center
29 for high technology intervention surgery and intensive care,
30 and identify best practices to be shared with health care
31 providers. The bill provides for the release of information to
health researchers and insurers under specified conditions and
provides liability from suit for the center and entities when
acting on the center's recommendations. The bill specifies the
administrative structure for the center and requires the
center to issue reports to the Legislature. Funding for the
center will come from an assessment on health insurers, health
maintenance organizations and prepaid clinics, hospitals and
ambulatory surgical centers, nursing homes, assisted living
facilities, home health agencies, hospices, prescribed
pediatric extended care facilities, health care services
pools, and licensed health care professionals.

Requires hospitals and ambulatory surgical centers to forward
copies of adverse incident reports that are submitted to the
Agency for Health Care Administration (AHCA) to the Center for
Health Care Excellence. Hospitals, ambulatory surgical
centers, and mobile surgical facilities are required to adopt
a patient safety plan and appoint a patient safety officer and
committee. Licensed health care facilities and health care
practitioners must inform each patient or the patient's
representative about unanticipated outcomes which result in
serious harm to the patient. AHCA must conduct or contract for
a study to determine if it is feasible to provide information
to the public to help consumers make better health care

1 decisions regarding the choice of a facility based on that
2 facility's patient safety and quality performance.

3 Revises the information to be included in practitioner
4 profiles to include a professional's relevant qualifications;
5 authorizes the Department of Health to obtain patient records
6 without a written medical release under specified
7 circumstances; authorizes DOH and boards to adopt rules to
8 implement requirements for reporting allegations of sexual
9 misconduct, and to determine the sufficiency of the
10 allegations; authorizes DOH and boards to adopt rules for
11 standards of practice for safe and ethical prescription of
12 drugs to patients via the Internet; allows the boards or DOH
13 to determine the amount of costs to be assessed in
14 disciplinary actions; establishes grounds for discipline of
15 licensed health care practitioners by a greater weight of
16 evidence; requires licensed health care practitioners to elect
17 a formal administrative hearing within 45 days of service and
18 requires DOH to notify the Division of Administrative Hearings
19 within 45 days after receipt of a petition or request for a
20 formal hearing; provides that the issuance of a citation to a
21 licensed health care practitioner does not constitute
22 discipline for a first offense; and increases the financial
23 thresholds for the reporting and investigation of closed
24 claims involving physicians and dentists.

25 Requires the Office of Program Policy Analysis and Government
26 Accountability and the Office of the Auditor General to
27 jointly conduct an audit of DOH's practitioner disciplinary
28 process and closed claims filed with DOH and to report
29 findings to the Legislature by January 1, 2004.

30 Requires schools, colleges, and universities offering degrees
31 in medicine, nursing, or allied health are required to include
material within the curricula on patient safety.