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1 A bill to be entitled

2 An act relating to patient safety; creating s. 381.0271,
3 F.S.; providing definitions; creating the Florida Patient
4 Safety Corporation; authorizing the corporation to create
5 not-for-profit corporate subsidiaries; specifying that the
6 corporation and certain subsidiaries are not government
7 agencies; requiring the corporation and certain
8 subsidiaries to be subject to public meetings and records
9 requirements; exempting the corporation and certain
10 subsidiaries from certain provisions relating to
11 procurement of personal property and services; providing a
12 purpose for the corporation; establishing the membership
13 of the board of directors of the corporation; requiring
14 certain advisory committees for the corporation; requiring
15 the Agency for Health Care Administration to provide
16 assistance in establishing the corporation; specifying the
17 powers and duties of the corporation; requiring annual
18 reports; requiring the corporation to seek private-sector
19 funding and apply for grants for certain purposes;
20 requiring the Office of Program Policy Analysis and
21 Government Accountability, the Agency for Health Care
22 Administration, and the Department of Health to develop
23 performance measures for the corporation; requiring a
24 performance audit; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 381.0271, Florida Statutes, is created
29 to read:

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30 381.0271 Florida Patient Safety Corporation.--

31 (1) DEFINITIONS.--As used in this section, the term:

32 (a) "Adverse incident" has the meanings given to the term
 33 in ss. 395.0197, 458.351, and 459.026.

34 (b) "Corporation" means the Florida Patient Safety
 35 Corporation created in this section.

36 (c) "Patient safety data" has the meaning given to the
 37 term in s. 766.1016.

38 (2) CREATION.--

39 (a) There is created a not-for-profit corporation, to be
 40 known as the Florida Patient Safety Corporation, which shall be
 41 registered, incorporated, organized, and operated in compliance
 42 with chapter 617. The corporation is authorized to create not-
 43 for-profit corporate subsidiaries that are organized under the
 44 provisions of chapter 617, upon the prior approval of the board
 45 of directors, as necessary, to fulfill its mission.

46 (b) Neither the corporation nor any authorized and
 47 approved subsidiary is an agency as defined in s. 20.03(11).

48 (c) The corporation and any authorized and approved
 49 subsidiary are subject to the public meetings and records
 50 requirements of s. 24, Art. I of the State Constitution, chapter
 51 119, and s. 286.011.

52 (d) The corporation and any authorized and approved
 53 subsidiary are not subject to the provisions of chapter 287.

54 (e) The corporation is a patient safety organization as
 55 defined in s. 766.1016.

56 (3) PURPOSE.--

57 (a) The purpose of the Florida Patient Safety Corporation
 58 is to serve as a learning organization dedicated to assisting

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59 health care providers in the state to improve the quality and
 60 safety of health care rendered and to reduce harm to patients.
 61 The corporation shall promote the development of a culture of
 62 patient safety in the health care system in the state. The
 63 corporation shall not regulate health care providers in the
 64 state.

65 (b) In the fulfillment of its purpose, the corporation
 66 shall work with a consortium of patient safety centers within
 67 the universities of the state and other patient safety centers
 68 and programs.

69 (4) BOARD OF DIRECTORS; MEMBERSHIP.--The corporation shall
 70 be governed by a board of directors. The board of directors
 71 shall consist of:

72 (a) The chair of the Florida Council of Medical School
 73 Deans.

74 (b) The person responsible for patient safety issues for
 75 the authorized health insurer with the largest market share as
 76 measured by premiums written in the state for the most recent
 77 calendar year, appointed by such insurer.

78 (c) A representative of an authorized medical malpractice
 79 insurer appointed by the insurers.

80 (d) The president of the Florida Health Care Coalition.

81 (e) A representative of a hospital in the state that is
 82 implementing innovative patient safety initiatives, appointed by
 83 the Florida Hospital Association.

84 (f) A physician with expertise in patient safety,
 85 appointed by the Florida Medical Association.

86 (g) An osteopathic physician with expertise in patient
 87 safety, appointed by the Florida Osteopathic Medical

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88 Association.

89 (h) A podiatric physician with expertise in patient
 90 safety, appointed by the Florida Podiatric Medical Association.

91 (i) A chiropractic physician with expertise in patient
 92 safety, appointed by the Florida Chiropractic Association.

93 (j) A dentist with expertise in patient safety, appointed
 94 by the Florida Dental Association.

95 (k) A nurse with expertise in patient safety, appointed by
 96 the Florida Nurses Association.

97 (l) An institutional pharmacist, appointed by the Florida
 98 Society of Health-System Pharmacists.

99 (m) A representative of Florida AARP, appointed by the
 100 state director of Florida AARP.

101 (n) An independent consultant on health care information
 102 systems, appointed jointly by the Central Florida Chapter and
 103 the South Florida Chapter of the Healthcare Information and
 104 Management Systems Society.

105 (5) ADVISORY COMMITTEES.--In addition to any committees
 106 that the corporation may establish, the corporation shall
 107 establish the following advisory committees:

108 (a) A scientific research advisory committee that
 109 includes, at a minimum, a representative from each patient
 110 safety center or other patient safety program in the
 111 universities of the state. The duties of the scientific research
 112 advisory committee shall include, but not be limited to, the
 113 analysis of existing data and research to improve patient safety
 114 and encourage evidence-based medicine.

115 (b) A technology advisory committee that includes, at a
 116 minimum, a representative of a hospital that has implemented a

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117 computerized physician order entry system and a health care
 118 provider that has implemented an electronic medical records
 119 system. The duties of the technology advisory committee shall
 120 include, but not be limited to, implementation of new
 121 technologies, including electronic medical records.

122 (c) A health care provider advisory committee that
 123 includes, at a minimum, representatives of hospitals, ambulatory
 124 surgical centers, physicians, nurses, and pharmacists licensed
 125 in the state and a representative of the Veterans Integrated
 126 Service Network 8. The duties of the health care provider
 127 advisory committee shall include, but not be limited to,
 128 promotion of a culture of patient safety that reduces errors.

129 (d) A health care consumer advisory committee that
 130 includes, at a minimum, representatives of businesses that
 131 provide health insurance coverage to their employees, consumer
 132 advocacy groups, and representatives of patient safety
 133 organizations. The duties of the health care consumer advisory
 134 committee shall include, but not be limited to, identification
 135 of incentives to encourage patient safety and the efficiency and
 136 quality of care.

137 (e) A litigation alternatives advisory committee that
 138 includes, at a minimum, representatives of medical malpractice
 139 plaintiff's and defendant's attorneys and a representative of
 140 each law school in the state. The duties of the litigation
 141 alternatives advisory committee shall include, but not be
 142 limited to, identification of alternative systems to compensate
 143 for injuries.

144 (f) An education advisory committee that includes, at a
 145 minimum, the associate dean for education, or the equivalent

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146 position, as a representative from each school of medicine and
 147 nursing to provide advice on the development, implementation,
 148 and measurement of core competencies for patient safety to be
 149 considered for incorporation in the educational programs of the
 150 universities and colleges of the state.

151 (6) ORGANIZATION; MEETINGS.--

152 (a) The Agency for Health Care Administration shall assist
 153 the corporation in its organizational activities required under
 154 chapter 617, including, but not limited to:

155 1. Eliciting appointments for the initial board of
 156 directors.

157 2. Convening the first meeting of the board of directors
 158 and assisting with other meetings of the board of directors,
 159 upon request of the board of directors, during the first year of
 160 operation of the corporation.

161 3. Drafting articles of incorporation for the board of
 162 directors and, upon request of the board of directors,
 163 delivering articles of incorporation to the Department of State
 164 for filing.

165 4. Drafting proposed bylaws for the corporation.

166 5. Paying fees related to incorporation.

167 6. Providing office space and administrative support, at
 168 the request of the board of directors, but not beyond July 1,
 169 2005.

170 (b) The board of directors must conduct its first meeting
 171 no later than August 1, 2004, and shall meet thereafter as
 172 frequently as necessary to carry out the duties of the
 173 corporation.

174 (7) POWERS AND DUTIES.--In addition to the powers and

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175 duties prescribed in chapter 617, and the articles and bylaws
 176 adopted under that chapter, the corporation shall, either
 177 directly or through contract:

178 (a) Secure staff necessary to properly administer the
 179 corporation.

180 (b) Collect, analyze, and evaluate patient safety data,
 181 quality and patient safety indicators, medical malpractice
 182 closed claims, and adverse incidents reported to the Agency for
 183 Health Care Administration and the Department of Health for the
 184 purpose of recommending changes in practices and procedures that
 185 may be implemented by health care practitioners and health care
 186 facilities to improve health care quality and to prevent future
 187 adverse incidents. Notwithstanding any other law, the Agency for
 188 Health Care Administration and the Department of Health shall
 189 make available to the corporation any adverse incident report
 190 submitted under ss. 395.0197, 458.351, and 459.026. To the
 191 extent that adverse incident reports submitted under s. 395.0197
 192 are confidential and exempt, the confidential and exempt status
 193 of such reports must be maintained by the corporation.

194 (c) Establish a 3-year pilot project of a near-miss
 195 patient safety reporting system. The purpose of this system is
 196 to identify potential systemic problems that could lead to
 197 adverse incidents, enable publication of system-wide alerts of
 198 potential harm, and facilitate development of both facility-
 199 specific and statewide options to avoid adverse incidents and
 200 improve patient safety. The reporting system shall record near-
 201 misses submitted by hospitals, birthing centers, ambulatory
 202 surgical facilities, and other providers. For the purpose of the
 203 reporting system:

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204 1. The term "near miss" means any potentially harmful
205 event that could have had an adverse result, but, through chance
206 or intervention, harm was prevented.

207 2. The near-miss reporting system shall be voluntary,
208 anonymous, and independent of mandatory reporting systems used
209 for regulatory purposes.

210 3. Data submitted to the corporation shall be de-
211 identified and shall not be discoverable or admissible in any
212 civil or administrative action.

213 4. Reports of near-miss data shall be published on a
214 regular basis and special alerts shall be published as needed
215 regarding newly identified, significant risks.

216 5. Aggregated near-miss data shall be made publicly
217 available.

218 6. The corporation shall report the performance and
219 results of the reporting system pilot project in its annual
220 report.

221 (d) Foster the development of a statewide electronic
222 infrastructure, including implementation of statewide electronic
223 medical records systems, that may be implemented in phases over
224 a multiyear period and that is designed to improve patient care
225 and the delivery and quality of health care services by health
226 care facilities and health care practitioners. Support for
227 implementation of electronic medical records systems shall
228 include:

229 1. A report to the Governor, the President of the Senate,
230 the Speaker of the House of Representatives, and the Agency for
231 Health Care Administration by January 1, 2005, identifying:

232 a. Public and private-sector initiatives relating to

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233 electronic medical records and the communication systems used to
 234 share clinical information among caregivers.

235 b. Regulatory barriers that interfere with the sharing of
 236 clinical information among caregivers.

237 c. Investment incentives that might be used to promote the
 238 use of recommended technologies by health care providers.

239 d. Educational strategies that may be implemented to
 240 educate health care providers about the recommended technologies
 241 for sharing clinical information.

242 2. An implementation plan reported to the Governor, the
 243 President of the Senate, the Speaker of the House of
 244 Representatives, and the Agency for Health Care Administration
 245 by September 1, 2005, that must include, but need not be limited
 246 to, the capital investment required to begin implementing the
 247 system, the costs of operating the system, the financial
 248 incentives recommended to increase capital investment, data
 249 concerning the providers initially committed to participating in
 250 the system by region, the standards for systemic functionality
 251 and features, any marketing plan to increase participation, and
 252 implementation schedules for key components.

253 (e) Provide for access to an active library of evidence-
 254 based medicine and patient safety practices, including the
 255 emerging evidence supporting their retention or modification,
 256 and make this information available to health care
 257 practitioners, health care facilities, and the public. Support
 258 for implementation of evidence-based medicine shall include:

259 1. A report to the Governor, the President of the Senate,
 260 the Speaker of the House of Representatives, and the Agency for
 261 Health Care Administration by January 1, 2005, identifying:

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262 a. The ability to join or support efforts for the use of
263 evidence-based medicine already underway, such as those of the
264 Leapfrog Group, the international group Bandolier, and the
265 Healthy Florida Foundation.

266 b. The means by which to promote research using Medicaid
267 and other data collected by the Agency for Health Care
268 Administration to identify and quantify the most cost-effective
269 treatment and interventions, including disease management and
270 prevention programs.

271 c. The means by which to encourage development of systems
272 to measure and reward providers who implement evidence-based
273 medical practices.

274 d. The review of other state and private initiatives and
275 published literature for promising approaches and the
276 dissemination of information about such initiatives and
277 literature to providers.

278 e. The encouragement of the state health care boards under
279 the Department of Health to regularly publish findings related
280 to the cost-effectiveness of disease-specific evidence-based
281 standards.

282 f. Public and private-sector initiatives related to
283 evidence-based medicine and communication systems for the
284 sharing of clinical information among caregivers.

285 g. Regulatory barriers that interfere with the sharing of
286 clinical information among caregivers.

287 2. An implementation plan reported to the Governor, the
288 President of the Senate, the Speaker of the House of
289 Representatives, and the Agency for Health Care Administration
290 by September 1, 2005, that must include, but need not be limited

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291 to, estimated costs and savings, capital investment
 292 requirements, recommended investment incentives, initial
 293 committed provider participation by region, standards of
 294 functionality and features, a marketing plan, and implementation
 295 schedules for key components.

296 (f) Develop and recommend core competencies in patient
 297 safety that can be incorporated into the curriculums in schools
 298 of medicine, nursing, and allied health in the state.

299 (g) Develop programs to educate the public about the role
 300 of health care consumers in promoting patient safety.

301 (h) Provide recommendations for interagency coordination
 302 of patient safety efforts in the state.

303 (8) ADDITIONAL POWERS.--In carrying out its powers and
 304 duties, the corporation may also:

305 (a) Assess the patient safety culture at volunteering
 306 hospitals and recommend methods to improve the working
 307 environment related to patient safety at these hospitals.

308 (b) Inventory the information technology capabilities
 309 related to patient safety of health care facilities and health
 310 care practitioners and recommend a plan for expediting the
 311 implementation of patient safety technologies statewide.

312 (c) Recommend continuing medical education regarding
 313 patient safety to practicing health care practitioners.

314 (d) Study and facilitate the testing of litigation
 315 alternative systems, including risk management, best practices,
 316 and systems of compensating injured patients, as a means of
 317 reducing and preventing medical errors and promoting patient
 318 safety.

319 (9) ANNUAL REPORT.--By December 1, 2004, the corporation

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320 shall prepare a report on the startup activities of the
321 corporation and any proposals for legislative action that are
322 needed for the corporation to fulfill its purposes under this
323 section. By December 1 of each year thereafter, the corporation
324 shall prepare a report for the preceding fiscal year. The
325 report, at a minimum, must include:

326 (a) A description of the activities of the corporation
327 under this section.

328 (b) Progress made in improving patient safety and reducing
329 medical errors.

330 (c) Policies and programs that have been implemented and
331 their outcomes.

332 (d) A compliance and financial audit of the accounts and
333 records of the corporation at the end of the preceding fiscal
334 year conducted by an independent certified public accountant.

335 (e) Recommendations for legislative action needed to
336 improve patient safety in the state.

337

338 The corporation shall submit the report to the Governor, the
339 President of the Senate, and the Speaker of the House of
340 Representatives.

341 (10) PRIVATE-SECTOR FUNDING AND GRANTS.--The corporation
342 is required to seek private-sector funding and apply for grants
343 to accomplish its goals and duties.

344 (11) PERFORMANCE EXPECTATIONS.--The Office of Program
345 Policy Analysis and Government Accountability, the Agency for
346 Health Care Administration, and the Department of Health shall
347 develop performance standards by which to measure the success of
348 the corporation in fulfilling the purposes established in this

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349 section. Using the performance standards, the Office of Program
350 Policy Analysis and Government Accountability shall conduct a
351 performance audit of the corporation during 2006 and shall
352 submit a report to the Governor, the President of the Senate,
353 and the Speaker of the House of Representatives by January 1,
354 2007.

355 Section 2. This act shall take effect July 1, 2004.