

By Senator Jones

13-1285-04

See HB 913

1 A bill to be entitled
2 An act relating to public health care; amending
3 s. 381.0012, F.S.; expanding the environmental
4 health enforcement authority of the Department
5 of Health; authorizing the department to issue
6 citations or order payment of fines; providing
7 requirements and limitations; providing a
8 criminal penalty; providing for deposit and use
9 of fines; amending s. 381.004, F.S.; providing
10 additional criteria for release of HIV
11 preliminary test results; amending s. 381.006,
12 F.S.; establishing permitting procedures for
13 group care facilities; providing requirements
14 and limitations; providing for fees; providing
15 fee limitations; providing authority to the
16 department to take adverse action on permits
17 under certain circumstances; amending s.
18 381.0065, F.S.; modifying standards for
19 rulemaking applicable to regulation of onsite
20 sewage treatment and disposal systems; revising
21 research award qualifications; providing for an
22 extended right of entry; amending s. 381.0101,
23 F.S.; revising definitions; revising
24 environmental health professional certification
25 requirements; clarifying exemptions; creating
26 s. 381.104, F.S.; creating an employee health
27 and wellness program; providing requirements;
28 authorizing state agencies to undertake certain
29 activities relating to agency resources for
30 program purposes; requiring each participating
31 agency to make an annual report; providing

1 duties of the department; amending s. 384.25,
2 F.S.; revising reporting requirements for
3 sexually transmissible diseases; authorizing
4 the department to adopt rules; amending s.
5 384.31, F.S.; revising sexually transmissible
6 disease testing requirements for pregnant
7 women; providing notice requirements; creating
8 s. 385.104, F.S.; establishing the Health
9 Promotion and Health Education Statewide
10 Initiative for certain purposes; providing
11 requirements; authorizing the department to
12 award funding to county health departments for
13 certain purposes; providing funding
14 requirements; providing participation
15 requirements for county health departments;
16 creating s. 458.3215, F.S.; providing for
17 reactivation of licenses of certain physicians
18 for certain limited purposes; providing for a
19 reactivation fee; amending s. 945.601, F.S.;
20 revising a cross-reference, to conform;
21 creating s. 945.6038, F.S.; authorizing the
22 State of Florida Correctional Medical Authority
23 to enter into agreements with other state
24 agencies to provide additional medical
25 services; providing a limitation; providing an
26 effective date.

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

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30 Section 1. Subsections (6) and (7) are added to
31 section 381.0012, Florida Statutes, to read:

1 381.0012 Enforcement authority.--

2 (6) When a violation of s. 386.01, s. 386.041, or
3 environmental health rules adopted under this chapter occurs,
4 and such violation is enforceable by administrative or civil
5 remedy or is a second-degree misdemeanor, the department may
6 issue a citation that contains an order of correction, an
7 order to pay a fine, or both. A citation issued under this
8 subsection constitutes a notice of proposed agency action.

9 (a) Citations must be in writing and must describe the
10 particular nature of the violation, including specific
11 reference to the provision of statute or rule allegedly
12 violated.

13 (b) The fines imposed may not exceed \$500 for each
14 violation. Each day constitutes a separate violation for which
15 a citation may be issued.

16 (c) The citing official shall inform the recipient, by
17 written notice pursuant to ss. 120.569 and 120.57, of the
18 right to an administrative hearing. The citation must contain
19 a conspicuous statement that failure to pay the fine within
20 the allotted time, or failure to appear to contest the
21 citation after having requested a hearing, constitutes a
22 waiver of the right to contest the citation.

23 (d) The department may reduce or waive the fine
24 imposed by the citation after giving due consideration to such
25 factors as the gravity of the violation, the good faith of the
26 person who has allegedly committed the violation, and the
27 person's history of previous violations, including violations
28 for which enforcement actions were taken under this section or
29 other provisions of law.

30 (e) Any person who willfully refuses to sign and
31 accept a citation issued by the department commits a

1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083.

3 (f) The department shall deposit all fines collected
4 under the authority of this subsection in the County Health
5 Department Trust Fund for use in the environmental health
6 program under which the fine was issued and shall use such
7 fines to improve the respective programs or to provide
8 training to the regulated industry and department staff
9 working in such programs.

10 (g) The provisions of this subsection are an
11 alternative means of enforcing environmental health
12 requirements which does not prohibit the department from using
13 other means of enforcement. However, the department shall use
14 only one method of enforcement for a single violation.

15 (7) The department may use positive means of
16 enforcement to ensure compliance with environmental health
17 requirements specified in this chapter, ss. 386.01 and
18 386.041, or environmental health rules adopted under the
19 authority of this chapter. Such means of enforcement may
20 include requiring attendance at training courses applicable to
21 the violations committed and requiring the use of best
22 management practices currently used or recognized by the
23 appropriate regulated industry or governmental agency.

24 Section 2. Paragraph (d) of subsection (3) of section
25 381.004, Florida Statutes, is amended to read:

26 381.004 HIV testing.--

27 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
28 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

29 (d) No test result shall be determined as positive,
30 and no positive test result shall be revealed to any person,
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1 without corroborating or confirmatory tests being conducted
2 except in the following situations:

3 1. Preliminary test results may be released to
4 licensed physicians or the medical or nonmedical personnel
5 subject to the significant exposure for purposes of
6 subparagraphs (h)10., 11., and 12.

7 2. Preliminary test results may be released to health
8 care providers and to the person tested when decisions about
9 medical care or treatment of, or recommendation to, the person
10 tested and, in the case of an intrapartum or postpartum woman,
11 when care, treatment, or recommendations regarding her
12 newborn, cannot await the results of confirmatory testing.
13 Positive preliminary HIV test results shall not be
14 characterized to the patient as a diagnosis of HIV infection.
15 Justification for the use of preliminary test results must be
16 documented in the medical record by the health care provider
17 who ordered the test. ~~This subparagraph does not authorize the~~
18 ~~release of preliminary test results for the purpose of routine~~
19 ~~identification of HIV-infected individuals or when HIV testing~~
20 ~~is incidental to the preliminary diagnosis or care of a~~
21 ~~patient.~~Corroborating or confirmatory testing must be
22 conducted as followup to a positive preliminary test. Results
23 shall be communicated to the patient according to statute
24 regardless of the outcome. Except as provided in this section,
25 test results are confidential and exempt from the provisions
26 of s. 119.07(1).

27 3. Positive rapid test results are considered
28 preliminary and may be released in accordance with the
29 manufacturer's instructions as approved by the United States
30 Food and Drug Administration. Positive rapid test results
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1 require confirmatory testing for diagnosis and reporting of
2 HIV infection.

3 Section 3. Subsection (16) of section 381.006, Florida
4 Statutes, is amended to read:

5 381.006 Environmental health.--The department shall
6 conduct an environmental health program as part of fulfilling
7 the state's public health mission. The purpose of this program
8 is to detect and prevent disease caused by natural and manmade
9 factors in the environment. The environmental health program
10 shall include, but not be limited to:

11 (16) A group care facilities ~~group-care facilities~~
12 function, where a group care ~~group-care~~ facility means any
13 public or private school, housing, building or buildings,
14 section of a building, or distinct part of a building or other
15 place, whether operated for profit or not, which undertakes,
16 through its ownership or management, to provide one or more
17 personal services, care, protection, and supervision to
18 persons who require such services and who are not related to
19 the owner or administrator. The department may adopt rules
20 necessary to protect the health and safety of residents,
21 staff, and patrons of group care ~~group-care~~ facilities, such
22 as child care facilities, family day care ~~day-care~~ homes,
23 assisted living ~~assisted-living~~ facilities, adult day care
24 ~~day-care~~ centers, adult family-care homes, hospices,
25 residential treatment facilities, crisis stabilization
26 ~~crisis-stabilization~~ units, pediatric extended care
27 ~~extended-care~~ centers, intermediate care ~~intermediate-care~~
28 facilities for the developmentally disabled, group care
29 ~~group-care~~ homes, and, jointly with the Department of
30 Education, private and public schools. These rules may include
31 definitions of terms; provisions relating to operation and

1 maintenance of facilities, buildings, grounds, equipment,
2 furnishings, and occupant-space requirements; lighting;
3 heating, cooling, and ventilation; food service; water supply
4 and plumbing; sewage; sanitary facilities; insect and rodent
5 control; garbage; safety; personnel health, hygiene, and work
6 practices; permits and fees; and other matters the department
7 finds are appropriate or necessary to protect the safety and
8 health of the residents, staff, or patrons. The department may
9 not adopt rules that conflict with rules adopted by the
10 licensing or certifying agency. The department may enter and
11 inspect at reasonable hours to determine compliance with
12 applicable statutes or rules. In addition to any sanctions
13 that the department may impose for violations of rules adopted
14 under this section, the department shall also report such
15 violations to any agency responsible for licensing or
16 certifying the group care ~~group-care~~ facility. The licensing
17 or certifying agency may also impose any sanction based solely
18 on the findings of the department.

19 (a) Each group care facility regulated under this
20 section shall obtain a permit from the department annually.
21 Group care facility permits shall expire annually and shall
22 not be transferable from one place or individual to another.
23 An annual application for permit renewal shall not be
24 required. In new facilities, or when the ownership, control,
25 address, or name of a group care facility is changed, the
26 owner, or the owner's designee, shall apply to the department
27 for issuance of a permit in the manner prescribed by the
28 department.

29 (b) The department shall establish procedures for the
30 issuance and annual renewal of permits and shall establish
31 annual permit and renewal fees by rule in an amount necessary

1 to cover the expenses of administering this section. Effective
2 October 1, 2004, and until such fees are established by rule,
3 the annual permit fee shall be as follows:

4 1. Nonresidential facilities, including, but not
5 limited to, child care centers, public schools, and private
6 schools, shall pay an annual fee based on a rate of \$3.50 per
7 student for the maximum authorized capacity. The total permit
8 fee shall not be less than \$110 nor more than \$300.

9 2. Residential facilities, including, but not limited
10 to, assisted living facilities, group homes, residential
11 treatment facilities, and other residential facilities, shall
12 pay an annual fee based on a rate of \$15.50 per bed for the
13 maximum authorized capacity. The total permit fee shall not be
14 less than \$110 nor more than \$600, except for foster homes and
15 adult family care homes, which shall pay a flat fee of \$60.

16 (c) The annual permit and renewal fees established and
17 adopted by rule shall not be less than \$60 nor more than \$600
18 per group care facility.

19 (d) Permit fees shall be prorated quarterly to reflect
20 the actual number of quarters per calendar year the permit is
21 valid.

22 (e) The department may refuse to issue a permit to or
23 renew a permit for any facility that is not constructed or
24 maintained in accordance with the rules of the department. The
25 department may cancel, revoke, or suspend a permit to operate
26 a group care facility if the permittee:

- 27 1. Fails to pay any fee required by this section;
28 2. Obtains or attempts to obtain a permit by fraud; or
29 3. Violates a provision of this section.

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1 The department may adopt rules to carry out the provisions of
2 this section.

3 Section 4. Paragraphs (a) and (j) of subsection (3) of
4 section 381.0065, Florida Statutes, are amended, and paragraph
5 (c) is added to subsection (5) of that section, to read:

6 381.0065 Onsite sewage treatment and disposal systems;
7 regulation.--

8 (3) DUTIES AND POWERS OF THE DEPARTMENT OF
9 HEALTH.--The department shall:

10 (a) Adopt rules to administer ss. 381.0065-381.0067,
11 including definitions that are consistent with the definitions
12 in this section, decreases to setback requirements where no
13 health hazard exists, increases for the lot-flow allowance for
14 performance-based systems, requirements for separation from
15 water table elevation during the wettest season, requirements
16 for the design and construction of any component part of an
17 onsite sewage treatment and disposal system, application and
18 permit requirements for persons who maintain an onsite sewage
19 treatment and disposal system, requirements for maintenance
20 and service agreements for aerobic treatment units and
21 performance-based treatment systems, ~~and~~ recommended
22 standards, including disclosure requirements, for voluntary
23 system inspections to be performed by individuals who are
24 authorized by law to perform such inspections and who shall
25 inform a person having ownership, control, or use of an onsite
26 sewage treatment and disposal system of the inspection
27 standards and of that person's authority to request an
28 inspection based on all or part of the standards, and
29 requirements for implementation of the United States
30 Environmental Protection Agency's voluntary national
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1 guidelines for management of onsite and clustered or
2 decentralized wastewater treatment systems.

3 (j) Supervise research on, demonstration of, and
4 training on the performance, environmental impact, and public
5 health impact of onsite sewage treatment and disposal systems
6 within this state. Research fees collected under s.

7 381.0066(2)(k) must be used to develop and fund hands-on
8 training centers designed to provide practical information
9 about onsite sewage treatment and disposal systems to septic
10 tank contractors, master septic tank contractors, contractors,
11 inspectors, engineers, and the public and must also be used to
12 fund research projects which focus on improvements of onsite
13 sewage treatment and disposal systems, including use of
14 performance-based standards and reduction of environmental
15 impact. Research projects shall be initially approved by the
16 technical advisory panel and shall be applicable to and
17 reflect the soil conditions specific to Florida. Such projects
18 shall be awarded through competitive negotiation, using the
19 procedures provided in s. 287.055, to public or private
20 entities that have experience in onsite sewage treatment and
21 disposal systems in Florida and that are principally located
22 in Florida. ~~Research projects shall not be awarded to firms or~~
23 ~~entities that employ or are associated with persons who serve~~
24 ~~on either the technical advisory panel or the research review~~
25 ~~and advisory committee.~~

26 (5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.--

27 (c) Department personnel may enter the premises of
28 others when necessary to conduct site evaluations and
29 inspections relating to the permitting of onsite sewage
30 treatment and disposal systems. Such entry does not constitute
31 trespass, and department personnel making such entry are not

1 subject to arrest or to a civil action by reason of such
2 entry. This paragraph does not authorize a department employee
3 to destroy, injure, damage, or move anything on the premises
4 of another without the written permission of the landowner.

5 Section 5. Subsections (1), (2), (3), and (6) and
6 paragraph (a) of subsection (5) of section 381.0101, Florida
7 Statutes, are amended to read:

8 381.0101 Environmental health professionals.--

9 (1) LEGISLATIVE INTENT.--Persons responsible for
10 providing technical and scientific evaluations of
11 environmental health and sanitary conditions in business
12 establishments and communities throughout the state may create
13 a danger to the public health if they are not skilled or
14 competent to perform such evaluations. The public relies on
15 the judgment of environmental health professionals employed by
16 both government agencies and private industries to assure them
17 that environmental hazards are identified and removed before
18 they endanger the health or safety of the public. The purpose
19 of this section is to assure the public that persons
20 specifically responsible for performing environmental health
21 and sanitary evaluations have been certified by examination as
22 competent to perform such work.

23 (2) DEFINITIONS.--As used in this section:

24 (a) "Accredited" means recognized by the American
25 Council on Education as meeting acceptable levels of quality
26 and performance.

27 (b)~~(a)~~ "Board" means the Environmental Health
28 Professionals Advisory Board.

29 (c)~~(b)~~ "Department" means the Department of Health.

30 (d)~~(c)~~ "Environmental health" means that segment of
31 public health work which deals with the examination of those

1 factors in the human environment which may impact adversely on
2 the health status of an individual or the public.

3 (e)~~(d)~~ "Environmental health professional" means a
4 person who is employed or assigned the responsibility for
5 assessing the environmental health or sanitary conditions, as
6 defined by the department, within a building, on an
7 individual's property, or within the community at large, and
8 who has the knowledge, skills, and abilities to carry out
9 these tasks. Environmental health professionals may be either
10 field, supervisory, or administrative staff members.

11 (f)~~(e)~~ "Certified" means a person who has displayed
12 competency to perform evaluations of environmental or sanitary
13 conditions through examination.

14 (g)~~(f)~~ "Registered sanitarian," "R.S.," "Registered
15 Environmental Health Specialist," or "R.E.H.S." means a person
16 who has been certified by either the National Environmental
17 Health Association or the Florida Environmental Health
18 Association as knowledgeable in the environmental health
19 profession.

20 (h)~~(g)~~ "Primary environmental health program" means
21 those programs determined by the department to be essential
22 for providing basic environmental and sanitary protection to
23 the public. These programs shall be established by rule and,
24 at a minimum, ~~these programs~~ shall include food protection
25 program work and onsite sewage treatment and disposal systems
26 program work ~~system evaluations~~.

27 (3) CERTIFICATION REQUIRED.--No person shall perform
28 environmental health or sanitary evaluations in any primary
29 program area of environmental health without being certified
30 by the department as competent to perform such evaluations.
31 The requirements of this section shall not be mandatory for

1 persons performing inspections of public or retail food
2 service establishments licensed under chapter 500 or chapter
3 509.

4 (5) STANDARDS FOR CERTIFICATION.--The department shall
5 adopt rules that establish definitions of terms and minimum
6 standards of education, training, or experience for those
7 persons subject to this section. The rules must also address
8 the process for application, examination, issuance,
9 expiration, and renewal of certification and ethical standards
10 of practice for the profession.

11 (a) Persons employed as environmental health
12 professionals shall exhibit a knowledge of rules and
13 principles of environmental and public health law in Florida
14 through examination. A person may not conduct environmental
15 health evaluations in a primary program area unless he or she
16 is currently certified in that program area or works under the
17 direct supervision, during his or her initial probationary
18 period for that position, of a certified environmental health
19 professional.

20 1. All persons who begin employment in a primary
21 environmental health program on or after September 21, 1994,
22 must be certified in that program within the initial
23 probationary period for that position ~~6 months after~~
24 ~~employment~~.

25 2. Persons employed in the primary environmental
26 health programs ~~program~~ of a food protection ~~program~~ or an
27 onsite sewage treatment and disposal systems ~~system~~ prior to
28 September 21, 1994, shall be considered certified while
29 employed in that position and shall be required to adhere to
30 any professional standards established by the department
31 pursuant to paragraph (b), complete any continuing education

1 requirements imposed under paragraph (d), and pay the
2 certificate renewal fee imposed under subsection (7).

3 3. Persons employed in the primary environmental
4 health programs ~~program~~ of a food protection ~~program~~ or an
5 onsite sewage treatment and disposal systems ~~system~~ prior to
6 September 21, 1994, who change positions or program areas and
7 transfer into another primary environmental health program
8 area on or after September 21, 1994, must be certified by
9 examination in that program within 6 months after such
10 transfer, except that they will not be required to possess the
11 college degree required under paragraph (e).

12 4. Registered sanitarians shall be considered
13 certified and shall be required to adhere to any professional
14 standards established by the department pursuant to paragraph
15 (b).

16 (6) EXEMPTIONS.--A person who conducts primary
17 environmental evaluation activities and maintains a current
18 registration or certification from another state agency which
19 examined the person's knowledge of the primary program area
20 and requires comparable continuing education to maintain the
21 certificate shall not be required to be certified by this
22 section. ~~Examples of persons not subject to certification are~~
23 ~~physicians, registered dietitians, certified laboratory~~
24 ~~personnel, and nurses.~~

25 Section 6. Section 381.104, Florida Statutes, is
26 created to read:

27 381.104 Employee health and wellness program.--

28 (1) Each state agency may allocate, from existing
29 resources, the necessary funding and facilities for the
30 development and maintenance of an employee health and wellness
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1 program and may seek additional funding from other sources to
2 support the program for the benefit of the agency's employees.

3 (2) Each state agency may dedicate resources to
4 develop and coordinate an employee health and wellness program
5 or arrange to cooperate with other agencies within such
6 agency's geographic proximity for program coordination,
7 including providers of state employee benefits.

8 (3) Each state agency electing to participate shall
9 establish an employee health and wellness coordinator and
10 advisory committee to guide the development of an operational
11 plan, including the collection of data and development of
12 goals and objectives, and to oversee program evaluation and
13 use of any agency-allocated funds.

14 (4) Each state agency may conduct and dedicate
15 resources toward an employee needs assessment to ascertain the
16 health-and-wellness-related needs of its employees.

17 (5) Each state agency may establish policies that
18 allow employees no more than 30 minutes of work time three
19 times each week, as individual workload allows, to use for the
20 purpose of engaging in health and wellness activities which
21 may include physical activity, stress reduction, tobacco
22 cessation, personal training, nutrition counseling, or weight
23 reduction and control. Such 30-minute periods may be used to
24 modify the start or end of the workday or to extend the lunch
25 hour.

26 (6) Each state agency shall use an employee health and
27 wellness activity agreement form, developed by the Department
28 of Health, to be completed by the employee, signed by both the
29 employee and the employee's immediate supervisor, and kept in
30 the employee's personnel file prior to the employee's
31 participation in any activity. It is the responsibility of the

1 employee to complete the form and submit it to the personnel
2 office. Any change to the employee's activities requires
3 submission of a revised form. An employee found to be in
4 violation of the submitted agreement form is not allowed
5 further participation in the program.

6 (7) Each state agency may designate up to 1 hour each
7 month for the purpose of providing inservice health and
8 wellness training for its employees.

9 (8) Each state agency may use electronic mail and
10 other communication systems to promote the agency's employee
11 health and wellness activities.

12 (9) Each state agency may, and is encouraged to:

13 (a) Enter into an agreement or contract with other
14 public or private entities to collaborate or participate
15 jointly in health or wellness education or activity programs.

16 (b) Implement health education activities that focus
17 on skill development and lifestyle behavior change along with
18 information dissemination and awareness building, preferably
19 tailored to the employees' interests and needs.

20 (c) Review and offer recommendations to agency
21 leadership on environmental and social support policies that
22 pertain to improving the health of employees.

23 (d) Link the employee health and wellness program to
24 other programs such as the employee assistance program and
25 other related programs to help employees balance work and
26 family.

27 (e) Offer free, low-cost, or employee-fee-based
28 programs on site, including the designation of rooms for the
29 express purpose of physical activity, nutrition, stress
30 reduction, and weight control activities. Participating
31 agencies with established employee health and wellness

1 programs may purchase exercise equipment to be used in the
2 room designated for this purpose.

3 (10) Each state agency that develops and implements an
4 employee health and wellness program shall include and
5 document an evaluation and improvement process in an annual
6 report to help enhance the program's efficiency and
7 effectiveness. The annual report shall be submitted to the
8 Department of Health on July 1 of each year. Agencies shall
9 use an annual report template provided by the Department of
10 Health to ensure consistency in the presentation of data and
11 other evaluation results.

12 (11) The Department of Health shall provide employee
13 health and wellness model program guidelines and ongoing
14 technical assistance to other state agencies to assist in the
15 development of each agency's employee health and wellness
16 program.

17 Section 7. Section 384.25, Florida Statutes, is
18 amended to read:

19 384.25 Reporting required.--

20 (1) Each person who makes a diagnosis of or treats a
21 person with a sexually transmissible disease, including, but
22 not limited to, HIV and AIDS,and each laboratory that
23 performs a test for a sexually transmissible disease,
24 including, but not limited to, HIV,which concludes with a
25 positive result shall report such facts as may be required by
26 the department by rule, within a time period as specified by
27 rule of the department, but in no case to exceed 2 weeks.

28 (a)(2) The department shall adopt rules specifying the
29 information required in and a maximum ~~minimum~~ time period for
30 reporting a sexually transmissible disease, including, but not
31 limited to, HIV and AIDS. In adopting such rules, the

1 department shall consider the need for information,
2 protections for the privacy and confidentiality of the
3 patient, and the practical ability of persons and laboratories
4 to report in a reasonable fashion. To ensure the
5 confidentiality of persons infected with HIV ~~the human~~
6 ~~immunodeficiency virus (HIV)~~, reporting of HIV infection and
7 AIDS ~~acquired immune deficiency syndrome (AIDS)~~ must be
8 conducted using a system ~~the HIV/AIDS Reporting System (HARS)~~
9 developed by the Centers for Disease Control and Prevention of
10 the United States Public Health Service or an equivalent
11 system.

12 ~~(3) The department shall require reporting of~~
13 ~~physician diagnosed cases of AIDS based upon diagnostic~~
14 ~~criteria from the Centers for Disease Control and Prevention.~~

15 ~~(b)(4) The department may require physician and~~
16 ~~laboratory reporting of HIV infection. However, only reports~~
17 ~~of HIV infection identified on or after the effective date of~~
18 ~~the rule developed by the department pursuant to this~~
19 ~~subsection shall be accepted. The Reporting may not affect or~~
20 ~~relate to anonymous HIV testing programs conducted pursuant to~~
21 ~~s. 381.004(4) or to university-based medical research~~
22 ~~protocols as determined by the department.~~

23 ~~(2)(5) After notification of the test subject under~~
24 ~~subsection (4), the department may, with the consent of the~~
25 ~~test subject, notify school superintendents of students and~~
26 ~~school personnel whose HIV tests are positive.~~

27 (3) The department shall adopt rules requiring each
28 physician and laboratory to report any newborn or infant up to
29 18 months of age who has been exposed to HIV. The rules may
30 include the method and time period for reporting, information
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1 to be included in the report, requirements for enforcement,
2 and followup activities by the department.

3 ~~(4)(6)~~ The department shall by February 1 of each year
4 submit to the Legislature an annual report relating to all
5 information obtained pursuant to this section.

6 ~~(5)(7)~~ Each person who violates the provisions of this
7 section or the rules adopted hereunder may be fined by the
8 department up to \$500 for each offense. The department shall
9 report each violation of this section to the regulatory agency
10 responsible for licensing each health care professional and
11 each laboratory to which these provisions apply.

12 Section 8. Section 384.31, Florida Statutes, is
13 amended to read:

14 384.31 ~~Serological~~ Testing of pregnant women; duty of
15 the attendant.--

16 ~~(1)~~ Every person, including every physician licensed
17 under chapter 458 or chapter 459 or midwife licensed under
18 part I of chapter 464 or chapter 467, attending a pregnant
19 woman for conditions relating to pregnancy during the period
20 of gestation and delivery shall ~~take or cause the woman to be~~
21 tested for sexually transmissible diseases, including, but not
22 limited to, HIV, as required by rule of the department,
23 notwithstanding s. 381.004(3)(a),~~taken a sample of venous~~
24 ~~blood~~ at a time or times specified by the department. The
25 tests ~~Each sample of blood~~ shall be performed ~~tested~~ by a
26 laboratory approved for such purposes under part I of chapter
27 483 ~~for sexually transmissible diseases as required by rule of~~
28 ~~the department.~~ Pregnant women shall be notified of the tests
29 that will be conducted and of their right to refuse testing.
30 If a woman objects to testing, a written statement of

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1 objection, signed by the patient, shall be placed in the
2 patient's medical record and no testing shall occur.

3 ~~(2) At the time the venous blood sample is taken,~~
4 ~~testing for human immunodeficiency virus (HIV) infection shall~~
5 ~~be offered to each pregnant woman. The prevailing professional~~
6 ~~standard of care in this state requires each health care~~
7 ~~provider and midwife who attends a pregnant woman to counsel~~
8 ~~the woman to be tested for human immunodeficiency virus (HIV).~~
9 ~~Counseling shall include a discussion of the availability of~~
10 ~~treatment if the pregnant woman tests HIV positive. If a~~
11 ~~pregnant woman objects to HIV testing, reasonable steps shall~~
12 ~~be taken to obtain a written statement of such objection,~~
13 ~~signed by the patient, which shall be placed in the patient's~~
14 ~~medical record. Every person, including every physician~~
15 ~~licensed under chapter 458 or chapter 459 or midwife licensed~~
16 ~~under part I of chapter 464 or chapter 467, who attends a~~
17 ~~pregnant woman who has been offered and objects to HIV testing~~
18 ~~shall be immune from liability arising out of or related to~~
19 ~~the contracting of HIV infection or acquired immune deficiency~~
20 ~~syndrome (AIDS) by the child from the mother.~~

21 Section 9. Section 385.104, Florida Statutes, is
22 created to read:

23 385.104 Health Promotion and Health Education
24 Statewide Initiative.--

25 (1) The Department of Health shall establish the
26 Health Promotion and Health Education Statewide Initiative to
27 provide a comprehensive and community-based health promotion
28 and education program. The program is designed to provide
29 funding to counties in this state to improve individual and
30 community health, aimed specifically at preventing and

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1 reducing the impact of chronic diseases and promoting healthy
2 lifestyles.

3 (2) The program's targeted diseases include, but are
4 not limited to, diabetes, heart disease, stroke, asthma, and
5 cancer, with a focus on the preventable risk factors of
6 tobacco use, physical inactivity, and poor nutrition.

7 (3) The implementation of these activities shall be
8 coordinated with and linked to existing state plans and
9 national priorities, focusing on evidence-based programs and
10 population-based efforts that specifically address social and
11 environmental policy strategies.

12 (4) Subject to the availability of funds, the
13 Department of Health may award funding to county health
14 departments for purposes of improving individual and community
15 health by expanding and improving the health infrastructure
16 through environmental and policy changes aimed specifically at
17 preventing and reducing the impact of chronic diseases and
18 promoting healthy lifestyles.

19 (5) To be eligible to receive funding under this
20 section, a county health department shall submit an
21 application to the secretary of the Department of Health
22 containing information as required, including:

23 (a) A description of the proposed activities and how
24 they promote tobacco cessation, healthy eating, or physical
25 fitness and address the health and social consequences to
26 residents of this state that have chronic diseases.

27 (b) Information describing how health promotion and
28 education activities are to be coordinated at the local level
29 with other health activities conducted by other education,
30 health, and agricultural agencies.

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1 (c) Information describing how local health promotion
2 and education activities reflect state and national objectives
3 for health.

4 (d) A description of the collaborative process that
5 the county health department employed in the development of
6 the health promotion and education program, including
7 consultations with individuals and organizations with
8 expertise in promoting public health, nutrition, or physical
9 activity.

10 (e) A description of how the county health department
11 will evaluate the effectiveness of its program.

12 (6) Subject to the availability of funds, a county
13 health department receiving funds under this section shall,
14 pending successful implementation or evaluation as determined
15 by department headquarters staff, conduct the project for at
16 least a period of 3 consecutive years.

17 (7) A county health department that receives funds
18 under this section may use the funds to carry out one or more
19 of the following activities:

20 (a) Collect, analyze, and disseminate data related to
21 diabetes, heart disease, stroke, asthma, and cancer, with a
22 focus on the preventable risk factors of tobacco use, physical
23 inactivity, and poor nutrition.

24 (b) Develop and implement activities to create a
25 comprehensive, coordinated nutrition and physical fitness
26 awareness and chronic disease prevention program.

27 (c) Develop and implement programs in schools and
28 worksites to increase physical fitness and to enhance the
29 nutritional status of residents of this state.

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1 (d) Develop and implement policy and environmental
2 changes related to the cessation of tobacco, healthful
3 nutrition, and physical education.

4 (e) Collaborate with community-based organizations,
5 volunteer organizations, state medical associations, and
6 public health groups to develop and implement health education
7 and promotion activities.

8 (f) Collaborate with public and private organizations
9 that have a mission to increase public awareness of the
10 importance of a balanced diet and an active lifestyle.

11 Section 10. Section 458.3215, Florida Statutes, is
12 created to read:

13 458.3215 Reactivation of license for clinical research
14 purposes.--

15 (1) Any person who left the practice of medicine for
16 purposes of retirement and who, at the time of retirement, was
17 in good standing with the board may apply to have his or her
18 license reactivated, without examination, for purposes of
19 seeing patients solely in a clinical research setting. Such
20 person must not have been out of the practice of medicine for
21 more than 10 years at the time of application under this
22 section.

23 (2) The board shall by rule set the reactivation fee,
24 not to exceed \$300, and develop criteria for reactivation of a
25 license under this section, including appropriate continuing
26 education requirements, not to exceed those prescribed in s.
27 458.321 for reactivation of a license.

28 Section 11. Section 945.601, Florida Statutes, is
29 amended to read:

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1 945.601 Correctional Medical Authority; ss.
2 945.601-945.6038; ~~945.601-945.6035~~, definitions.--As used in
3 this act:
4 (1) "Authority" means the State of Florida
5 Correctional Medical Authority created in this act.
6 (2) "Health care provider" means:
7 (a) A regional research hospital or research center
8 which is authorized by law to provide hospital services in
9 accordance with chapter 395, which has a contractual or
10 operating arrangement with a regional school of medicine, and
11 which is located at that regional school of medicine;
12 (b) Any entity which has agreed to provide hospital
13 services to inmates in the Department of Corrections; or
14 (c) Any entity licensed to provide hospital services
15 in accordance with chapter 395.
16 (3) "Project" means any structure, facility,
17 machinery, equipment, or other property suitable for use by a
18 health facility in connection with its operations or proposed
19 operations, including, without limitation, real property
20 therefor; a clinic, computer facility, dining hall,
21 firefighting facility, fire prevention facility, long-term
22 care facility, hospital, interns' residence, laboratory,
23 laundry, maintenance facility, nurses' residence, office,
24 parking area, pharmacy, recreational facility, research
25 facility, storage facility, utility, or X-ray facility, or any
26 combination of the foregoing; and other structure or facility
27 related thereto or required or useful for health care
28 purposes, the conducting of research, or the operation of a
29 health facility, including a facility or structure essential
30 or convenient for the orderly conduct of the health facility
31 and other similar items necessary or convenient for the

1 operation of a particular facility or structure in the manner
2 for which its use is intended. "Project" does not include such
3 items as fuel, supplies, or other items which are customarily
4 deemed to result in a current operating charge.

5 (4) "Quality management program" means to monitor and
6 evaluate inmate health care and includes the following
7 objectives:

8 (a) Assuring that all inmates receive appropriate and
9 timely services in a safe environment.

10 (b) Assuring systematic monitoring of the treatment
11 environment.

12 (c) Assisting in the reduction of professional and
13 general liability risks.

14 (d) Enhancing efficient utilization of resources.

15 (e) Assisting in credential review and privilege
16 delineation.

17 (f) Enhancing the identification of continuing
18 educational needs.

19 (g) Facilitating the identification of strengths,
20 weaknesses, and opportunities for improvement.

21 (h) Facilitating the coordination and integration of
22 information systems.

23 (i) Assuring the resolution of identified problems.

24 (5) "Real property" includes all lands, including
25 buildings, structures, improvements, and fixtures thereon; any
26 property of any nature appurtenant thereto or used in
27 connection therewith; and every estate, interest, and right,
28 legal or equitable, therein, including any such interest for a
29 term of years.

30 Section 12. Section 945.6038, Florida Statutes, is
31 created to read:

1 945.6038 Additional services.--The authority is
2 authorized to enter into an agreement or may contract with the
3 Department of Children and Family Services, subject to the
4 availability of funding, to conduct surveys of medical
5 services and to provide medical quality assurance and
6 improvement assistance at secure confinement and treatment
7 facilities for persons confined under part V of chapter 394.
8 The authority may enter into similar agreements with other
9 state agencies, subject to the availability of funds. The
10 authority may not enter into any such agreement if doing so
11 would impair the authority's ability to fulfill its
12 obligations with regard to the Department of Corrections as
13 set forth in this chapter.

14 Section 13. This act shall take effect upon becoming a
15 law.

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