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 HB 5305, Engrossed 1

2011 Legislature

1 A bill to be entitled
 2 An act relating to the Correctional Medical Authority;
 3 repealing ss. 945.601, 945.602, 945.603, 945.6031,
 4 945.6035, and 945.6036, F.S., relating to the Correctional
 5 Medical Authority definitions, creation, powers and
 6 duties, reports and surveys, dispute resolution, and
 7 enforcement, respectively; amending ss. 381.90, 766.101,
 8 944.8041, 945.35, 945.6032, 945.6034, and 951.27, F.S.;
 9 conforming provisions to changes made by the act;
 10 providing an effective date.

11

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

13

14 Section 1. Sections 945.601, 945.602, 945.603, 945.6031,
 15 945.6035, and 945.6036, Florida Statutes, are repealed.

16 Section 2. Subsection (3) of section 381.90, Florida
 17 Statutes, is amended to read:

18 381.90 Health Information Systems Council; legislative
 19 intent; creation, appointment, duties.—

20 (3) The council shall be composed of the following members
 21 or their senior executive-level designees:

22 (a) The State Surgeon General;

23 (b) The Executive Director of the Department of Veterans'
 24 Affairs;

25 (c) The Secretary of Children and Family Services;

26 (d) The Secretary of Health Care Administration;

27 (e) The Secretary of Corrections;

28 (f) The Attorney General;

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- 29 ~~(g) The Executive Director of the Correctional Medical~~
- 30 ~~Authority;~~
- 31 (g)~~(h)~~ Two members representing county health departments,
- 32 one from a small county and one from a large county, appointed
- 33 by the Governor;
- 34 (h)~~(i)~~ A representative from the Florida Association of
- 35 Counties;
- 36 (i)~~(j)~~ The Chief Financial Officer;
- 37 (j)~~(k)~~ A representative from the Florida Healthy Kids
- 38 Corporation;
- 39 (k)~~(l)~~ A representative from a school of public health
- 40 chosen by the Commissioner of Education;
- 41 (l)~~(m)~~ The Commissioner of Education;
- 42 (m)~~(n)~~ The Secretary of Elderly Affairs; and
- 43 (n)~~(o)~~ The Secretary of Juvenile Justice.

44
 45 Representatives of the Federal Government may serve without
 46 voting rights.

47 Section 3. Paragraph (a) of subsection (1) of section
 48 766.101, Florida Statutes, is amended to read:

49 766.101 Medical review committee, immunity from
 50 liability.—

- 51 (1) As used in this section:
- 52 (a) The term "medical review committee" or "committee"
- 53 means:
- 54 1.a. A committee of a hospital or ambulatory surgical
- 55 center licensed under chapter 395 or a health maintenance
- 56 organization certificated under part I of chapter 641;7

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57 | b. A committee of a physician-hospital organization, a
58 | provider-sponsored organization, or an integrated delivery
59 | system;;~~;~~

60 | c. A committee of a state or local professional society of
61 | health care providers;;~~;~~

62 | d. A committee of a medical staff of a licensed hospital
63 | or nursing home, provided the medical staff operates pursuant to
64 | written bylaws that have been approved by the governing board of
65 | the hospital or nursing home;;~~;~~

66 | e. A committee of the Department of Corrections ~~or the~~
67 | ~~Correctional Medical Authority as created under s. 945.602,~~ or
68 | employees, agents, or consultants of ~~either~~ the department;; ~~or~~
69 | ~~the authority or both,~~

70 | f. A committee of a professional service corporation
71 | formed under chapter 621 or a corporation organized under
72 | chapter 607 or chapter 617, which is formed and operated for the
73 | practice of medicine as defined in s. 458.305(3), and which has
74 | at least 25 health care providers who routinely provide health
75 | care services directly to patients;;~~;~~

76 | g. A committee of the Department of Children and Family
77 | Services which includes employees, agents, or consultants to the
78 | department as deemed necessary to provide peer review,
79 | utilization review, and mortality review of treatment services
80 | provided pursuant to chapters 394, 397, and 916;;~~;~~

81 | h. A committee of a mental health treatment facility
82 | licensed under chapter 394 or a community mental health center
83 | as defined in s. 394.907, provided the quality assurance program
84 | operates pursuant to the guidelines which have been approved by

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85 the governing board of the agency;~~;~~

86 i. A committee of a substance abuse treatment and
 87 education prevention program licensed under chapter 397 provided
 88 the quality assurance program operates pursuant to the
 89 guidelines which have been approved by the governing board of
 90 the agency;~~;~~

91 j. A peer review or utilization review committee organized
 92 under chapter 440;~~;~~

93 k. A committee of the Department of Health, a county
 94 health department, healthy start coalition, or certified rural
 95 health network, when reviewing quality of care, or employees of
 96 these entities when reviewing mortality records;~~;~~ or

97 1. A continuous quality improvement committee of a
 98 pharmacy licensed pursuant to chapter 465,

99
 100 which committee is formed to evaluate and improve the quality of
 101 health care rendered by providers of health service, to
 102 determine that health services rendered were professionally
 103 indicated or were performed in compliance with the applicable
 104 standard of care, or that the cost of health care rendered was
 105 considered reasonable by the providers of professional health
 106 services in the area; or

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

110 Section 4. Section 944.8041, Florida Statutes, is amended
 111 to read:

112 944.8041 Elderly offenders; annual review.—For the purpose

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113 of providing information to the Legislature on elderly offenders
 114 within the correctional system, the department ~~and the~~
 115 ~~Correctional Medical Authority~~ shall ~~each~~ submit annually a
 116 report on the status and treatment of elderly offenders in the
 117 state-administered and private state correctional systems and
 118 the department's geriatric facilities and dorms. ~~In order to~~
 119 ~~adequately prepare the reports, the department and the~~
 120 ~~Department of Management Services shall grant access to the~~
 121 ~~Correctional Medical Authority that includes access to the~~
 122 ~~facilities, offenders, and any information the agencies require~~
 123 ~~to complete their reports.~~ The report review shall ~~also~~ include
 124 an examination of promising geriatric policies, practices, and
 125 programs currently implemented in other correctional systems
 126 within the United States. The report reports, with specific
 127 findings and recommendations for implementation, shall be
 128 submitted to the President of the Senate and the Speaker of the
 129 House of Representatives on or before December 31 of each year.

130 Section 5. Subsections (3) and (9) of section 945.35,
 131 Florida Statutes, are amended to read:

132 945.35 Requirement for education on human immunodeficiency
 133 virus, acquired immune deficiency syndrome, and other
 134 communicable diseases.—

135 (3) When there is evidence that an inmate, while in the
 136 custody of the department, has engaged in behavior which places
 137 the inmate at a high risk of transmitting or contracting a human
 138 immunodeficiency disorder or other communicable disease, the
 139 department may begin a testing program which is consistent with
 140 guidelines of the Centers for Disease Control and Prevention ~~and~~

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141 ~~recommendations of the Correctional Medical Authority.~~ For
 142 purposes of this subsection, "high-risk behavior" includes:

- 143 (a) Sexual contact with any person.
- 144 (b) An altercation involving exposure to body fluids.
- 145 (c) The use of intravenous drugs.
- 146 (d) Tattooing.
- 147 (e) Any other activity medically known to transmit the
 148 virus.

149 (9) The department shall establish policies consistent
 150 with guidelines of the Centers for Disease Control and
 151 Prevention ~~and recommendations of the Correctional Medical~~
 152 ~~Authority~~ on the housing, physical contact, dining, recreation,
 153 and exercise hours or locations for inmates with
 154 immunodeficiency disorders as are medically indicated and
 155 consistent with the proper operation of its facilities.

156 Section 6. Section 945.6032, Florida Statutes, is amended
 157 to read:

158 945.6032 Medical review committee; records and meetings
 159 exemption ~~Quality management program requirements.-~~

160 ~~(1) The authority shall appoint a medical review committee~~
 161 ~~pursuant to s. 766.101 to provide oversight for the Department~~
 162 ~~of Corrections' inmate health care quality management program.~~
 163 ~~The authority shall also designate one of its members to serve~~
 164 ~~on the Department of Corrections' medical review committee in~~
 165 ~~order to ensure coordination between the department and the~~
 166 ~~authority with regard to issues of quality management and to~~
 167 ~~enhance the authority's oversight of the Department of~~
 168 ~~Corrections' quality management system.~~

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169 ~~(2) The authority's medical review committee shall review~~
 170 ~~amendments to the Department of Corrections' inmate health care~~
 171 ~~quality management program prior to implementation by the~~
 172 ~~department.~~

173 ~~(3)~~ The findings and recommendations of a medical review
 174 committee created by ~~the authority or~~ the department pursuant to
 175 s. 766.101 are confidential and exempt from ~~the provisions of~~ s.
 176 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 177 any proceedings of the committee are exempt from ~~the provisions~~
 178 ~~of~~ s. 286.011 and s. 24(b), Art. I of the State Constitution.

179 Section 7. Subsections (2) and (3) of section 945.6034,
 180 Florida Statutes, are amended to read:

181 945.6034 Minimum health care standards.—

182 ~~(2) The department shall submit all health care standards~~
 183 ~~to the authority for review prior to adoption. The authority~~
 184 ~~shall review all department health care standards to determine~~
 185 ~~whether they conform to the standard of care generally accepted~~
 186 ~~in the professional health community at large.~~

187 (2)~~(3)~~ The department shall comply with all adopted
 188 department health care standards. Failure of the department to
 189 comply with the standards ~~may result in a dispute resolution~~
 190 ~~proceeding brought by the authority pursuant to s. 945.6035, but~~
 191 shall not create a cause of action for any third parties,
 192 including inmates or former inmates.

193 Section 8. Subsection (1) of section 951.27, Florida
 194 Statutes, is amended to read:

195 951.27 Blood tests of inmates.—

196 (1) Each county and each municipal detention facility

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197 shall have a written procedure developed, in consultation with
198 the facility medical provider, establishing conditions under
199 which an inmate will be tested for infectious disease, including
200 human immunodeficiency virus pursuant to s. 775.0877, which
201 procedure is consistent with guidelines of the Centers for
202 Disease Control and Prevention ~~and recommendations of the~~
203 ~~Correctional Medical Authority~~. It is not unlawful for the
204 person receiving the test results to divulge the test results to
205 the sheriff or chief correctional officer.

206 Section 9. This act shall take effect July 1, 2011.