ELDERLY SERVICES

CS/SB 642 — Elderly Services

by Appropriations Committee and Senator Fasano

This bill removes the Director of the Office of Long-Term Care Policy from the office's advisory council and provides that the council must elect a chair from among its membership to serve for a one-year term. The chair may not serve more than two consecutive terms.

This bill authorizes the Office of Volunteer Community Service to provide direct payment of lodging and transportation expenses to a volunteer or a vendor on behalf of a volunteer.

This bill provides guidelines for prioritizing services under the Community Care for the Elderly program that include the recipient's frailty level, risk of institutional placement, and their ability to pay for services. Should there be a need for further prioritization, a factor that must be considered is the potential recipient's ability to pay. Those who are less able to pay must receive a higher priority than those who are better able to pay.

This bill allows the Office of State Long-Term Care Ombudsman to collocate with the office of the Department of Elderly Affairs.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise provided.
Vote: Senate 40-0; House 117-0

MEDICAID

CS/CS/SB 1428 — Medicaid Audits of Pharmacies

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senator Peaden

The bill establishes requirements for audits of the Medicaid-related records of a pharmacy licensed in Florida. The audit must be conducted according to the following requirements:

- The pharmacist must be given at least one week's prior notice of the audit.
- Audits must be conducted by a Florida licensed pharmacist.

- Clerical, recordkeeping, or computer errors regarding records required by Medicaid must not be considered a willful violation and such errors must not be subject to criminal penalties without proof of intent to commit fraud.
- A pharmacist is permitted to use documentation written or transmitted by any means of communication for purposes of validating records with respect to orders or refills of a legend or narcotic drug.
- Findings of overpayment or underpayment must be based on actual overpayment or underpayment, not on projections based on the number of patients with a similar diagnosis or the number of similar orders or refills for similar drugs.
- All types of pharmacies must be audited under the same standards and parameters.
- A pharmacist must be allowed at least 10 days to produce documentation to address any discrepancy found during an audit.
- The period covered by an audit may not exceed one calendar year.
- An audit may not be scheduled during the first five days of any month.
- The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit.

The Agency for Health Care Administration must establish a process for a preliminary review and appeal of an audit report. A final audit report shall be delivered to the pharmacist within six months after receipt of the preliminary audit report or final appeal, whichever is later. Investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs are excluded from these requirements.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 119-0

CS/SB 2322 — Medically Needy Program

by Appropriations Committee and Senators Peaden, King, Alexander, Argenziano, Aronberg, Atwater, Bennett, Bullard, Campbell, Carlton, Clary, Constantine, Cowin, Crist, Dawson, Diaz de la Portilla, Dockery, Fasano, Garcia, Geller, Haridopolos, Hill, Jones, Klein, Lawson, Lee, Lynn, Margolis, Miller, Posey, Pruitt, Saunders, Sebesta, Siplin, Smith, Villalobos, Wasserman Schultz, Webster, Wilson, and Wise

This bill (Chapter 2003-9, L.O.F.) postpones the date for the implementation of a $270 income deductible for individuals enrolled in the Medicaid Medically Needy program from May 1, 2003 to July 1, 2003. The non-recurring sums of $8,265,777 from the General Revenue Fund, $2,505,224 from the Grants and Donations Trust Fund, and $11,727,287 from the Medical Care

Trust Fund were appropriated to the Agency for Health Care Administration to implement this provision during the 2002-2003 fiscal year.

This provision was approved by the Governor and took effect May 1, 2003.
Vote: Senate 40-0; House 118-0

CS/SB 2568 (Section 26) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Regulation of Health Care Facilities part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

This section requires the Agency for Health Care Administration and the Department of Elderly Affairs to seek federal approval to implement a Medicaid home and community-based waiver targeted to people with Alzheimer's disease. The waiver will be used to test the effectiveness of Alzheimer's specific interventions in delaying or avoiding institutional placement of individuals with Alzheimer's disease.

This section provides that the agency and the department shall ensure that providers are selected that have a history of successfully serving persons with Alzheimer's disease, and that specialized standards for providers and services tailored to persons in the early, middle, and late stages of Alzheimer's disease are developed.

During the waiver design process, the agency and the department must consult with the President of the Senate and the Speaker of the House of Representatives. Waiver authority ends at the end of the 2008 Regular Session of the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

PHARMACY/PRESCRIPTION DRUGS

CS/SB 320 — Medicaid/Wholesale Drug Prices

by Health, Aging, and Long-Term Care Committee and Senators Aronberg and Crist

This bill requires the Agency for Health Care Administration to publish on a free web site, available to the public, the most recent average wholesale price for the 200 drugs most frequently dispensed to the elderly, and to the extent possible, provide a mechanism that consumers may use to calculate the retail price that should be paid after the discount required under the Medicare

prescription discount program is applied. The bill also requires the Agency for Health Care Administration to submit a report to the Legislature by January 1, 2004, regarding the cost-effectiveness of and alternatives to the use of average wholesale price in the pricing of pharmaceutical products purchased by the Medicaid program.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 111-0

CS/SB 2084 — Drug Prescriptions

by Health, Aging, and Long-Term Care Committee and Senator Wasserman Schultz

The bill requires a written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug to be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription. The prescription must also contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity in both textual and numerical formats, and directions for use. The prescription must be dated with the month written out in textual letters and signed by the prescribing practitioner on the day when issued.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 113-1

CS/CS/SB 2312 — Prescription Drug Protection Act

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden and Campbell

The bill revises the Florida Drug and Cosmetic Act to impose more stringent regulations on prescription drug wholesalers. The list of prohibited acts relating to drugs, devices, and cosmetics is expanded to include additional prohibitions relating to prescription drugs. The bill creates criminal offenses relating to illicit activities involving diversion from the wholesale distribution of prescription drugs. Effective January 1, 2004, the permitting requirements for drug wholesalers are overhauled to require extensive information upon application for a permit, including a criminal history background check, and to require that permits expire annually rather than biennially.

Reciprocity for out-of-state drug wholesalers who are already licensed in another jurisdiction is eliminated and such establishments must seek a Florida permit. The bill distinguishes “primary drug wholesalers” from “secondary drug wholesalers.” The bill specifies factors that the Department of Health must consider in reviewing the qualifications of persons seeking a permit to engage in prescription drug wholesale activities in Florida. The department is authorized to adopt rules for the annual renewal of permits for prescription drug wholesalers.

The recordkeeping requirements for prescription drug wholesalers are revised for a wholesaler that is an authorized distributor of record (ADR) of a drug manufacturer. Each person who is engaged in wholesale drug distribution and who is not an ADR must provide to each wholesale drug distributor of such drug, before the sale is made, a written statement under oath *identifying each previous sale of the drug back to the last ADR*, the lot number of the drug, and the sales invoice number of the invoice evidencing the sale of the drug. The written statement must accompany the drug to the next wholesale drug distributor and *no longer needs to identify all sales of such drug* in the "pedigree papers." Effective March 1, 2004, an ongoing relationship is defined to exist between a manufacturer and a wholesaler when:

- The wholesaler is on the manufacturer's list of ADRs.
  or
- The wholesaler buys at least 90 percent of all of the manufacturer's products handled by the wholesaler directly from the manufacturer and has total annual prescription drug sales of $100 million or more.
  or
- The wholesaler has a verified account issued to the wholesaler by the manufacturer and makes twelve purchases from the manufacturer using the account and the wholesaler has more than $100 million in total annual prescription drug sales. The bill limits the definition of an authorized distributor to those wholesalers who have a verified account with a manufacturer, if the manufacturer fails to provide the department with a list of authorized distributors. The requirement for an ongoing relationship expires July 1, 2006.

Until July 1, 2006 wholesale prescription drug distributors of "specified drugs" must identify sales as required by the bill.

Each person who is engaged in the wholesale distribution of a "specified drug" (high-risk prescription drug) must provide to each wholesale drug distributor of such drug, before any sale of such high-risk drug is made to such wholesale distributor, a written statement under oath identifying each previous sale of the specified drug back to the manufacturer, the lot number of the high-risk prescription drug, and the sales invoice number of the invoice evidencing each previous sale of the high-risk prescription drug. The written statement must accompany the high-risk prescription drug at each subsequent wholesale distribution to a wholesale distributor. "High-risk prescription drug" is a specific drug on the list of drugs adopted by the department by rule, each of which is a specific drug seized by the department on at least five separate occasions because such drug was adulterated, counterfeited, or diverted from legal prescription drug distribution channels and the department has begun an administrative action to revoke the permits of two or more wholesale distributors that engaged in the illegal distribution of that specific drug.

Each wholesale distributor must annually provide the department with a written list of all prescription drug wholesalers and out-of-state prescription drug wholesalers from whom the

wholesale distributor purchases drugs. The term "authorized distributor of record" is revised to mean those distributors with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's products, without regard to whether the wholesale distributor acquired the products directly from the manufacturer. A wholesale distributor may not pay for any drug with cash.

The bill creates an 11-member Drug Wholesaler Advisory Council within the Department of Health. The council must annually review rules adopted to enforce the Florida Drug and Cosmetic Act, provide input to the department, and make recommendations regarding all proposed rules and matters to improve coordination with other state regulatory agencies and the Federal government.

The bill increases the statutory fee caps: for a prescription drug manufacturer's permit from $600 to $750 annually; for a prescription drug wholesaler's permit from $400 to $800 annually; and for an out-of-state prescription drug wholesaler's permit no less than $300 (previously $200) and no greater than $800 (previously $300) annually.

The Department of Health is authorized to inspect and copy financial documents or records related to the distribution of a drug in order to determine compliance with the Florida Drug and Cosmetic Act. A new cease and desist enforcement remedy is established, and the bill authorizes procedures for the department to issue an order to remove key personnel of a prescription drug wholesaler if she or he is engaged in specified prohibited acts.

The enforcement authority of the Statewide Grand Jury and the Office of the Statewide Prosecutor is expanded to investigate and prosecute criminal violations of the Florida Drug and Cosmetic Act. The criminal offenses relating to violations of the act which involve contraband or adulterated drugs may be prosecuted as racketeering. The Criminal Punishment Code is revised to include certain violations under the Florida Drug and Cosmetic Act.

If approved by the Governor, these provisions take effect July 1, 2003, except as otherwise expressly provided.
Vote: Senate 39-0; House 118-0

HB 207 — Pharmacy

by Rep. Mealor and others (SB 2670 by Senator Campbell)

The bill requires the Board of Pharmacy to adopt rules to establish practice guidelines for pharmacies to follow in disposing of records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs. Such rules must be consistent with the duty to preserve the confidentiality of such records in accordance with applicable state and federal law.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 40-0; House 105-0

PUBLIC HEALTH

SB 530 — Nick Oelrich Gift of Life Act

by Senator Smith

The bill creates the "Nick Oelrich Gift of Life Act" in honor of Alachua County Sheriff Stephen M. Oelrich's deceased son. The bill amends ch. 765, F.S., to revise procedures relating to anatomical gifts. Amendments to s. 765.512, F.S., prohibit a family member, guardian, representative ad litem, or health care surrogate of an adult donor from modifying "a decedent's wishes" or denying or preventing an anatomical gift from being made. In the absence of contrary indications by the decedent, the organ donation document would be a legally sufficient document of informed consent and would be legally binding. The bill adds an authorization for informational requests concerning the decedent's medical and social history to be directed to the decedent's family member or medical provider, or to third parties when a decedent's body or part thereof is donated.

The bill amends s. 765.516, F.S., relating to the ways to revoke or amend an anatomical gift. A donor may no longer amend or revoke an anatomical gift by making an oral statement to his or her spouse. Additionally, of the two persons to whom an oral amendment or revocation can be made regarding an anatomical gift, one must not be a family member. The bill also deletes the acceptability of a signed amendment or revocation found in the donor's effects versus on or about a person's body.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 91-24

CS/SB 2078 — Medical Practice/Temporary Certificates

by Health, Aging, and Long-Term Care Committee and Senator Villalobos

The bill authorizes issuance of a temporary certificate to practice medicine to visiting physicians who meet certain requirements, for educational purposes to help teach plastic surgery residents of a Florida medical school in conjunction with a nationally sponsored educational symposium. The certificate is valid for no more than 3 days per year and the certificate expires one year after issuance. The Department of Health may not issue more than six temporary certificates per calendar year under this provision. The physician must meet requirements specified in the bill to get the temporary certificate, including specified financial responsibility requirements for

malpractice. A physician applying for the temporary certificate is exempt from the practitioner profiling requirements, but all other regulatory provisions under chs. 456 and 458, F.S., apply.

If a physician is a graduate of a foreign medical school and holds a valid and unencumbered license to practice medicine in another country but is not licensed to practice medicine in another state within the United States, the educational symposium must pay for any medical judgments incurred by that physician by obtaining a surety bond, letter of credit, or certificate of deposit in an amount not less than $250,000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

SB 2082 — Saboor Grieving Parents Act

by Senators Webster, Cowin, and Campbell

This bill may be cited as the "Stephanie Saboor Grieving Parents Act." The bill creates s. 383.33625, F.S., to require a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., or a midwife licensed under ch. 467, F.S., who has custody of fetal remains following a spontaneous fetal demise, i.e., a miscarriage, after a gestation period of less than 20 weeks to notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Department of Health must adopt rules for the development of forms to be used by the health care practitioner for notification and election. The forms must be provided to the mother by the health care practitioner.

A birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., having custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks must notify the mother of her option to arrange for the burial or cremation of the fetal remains as well as the procedures provided by general law. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Agency for Health Care Administration must adopt rules for the development of forms to be used by the facility for notifications and elections, and the hospital must provide the forms to the mother.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-0

CS/SB 2348 — Advisory Council for a Fit Florida

by Health, Aging, and Long-Term Care Committee and Senator Pruitt

The bill creates the Advisory Council for a Fit Florida consisting of ten members. The council must advise the Governor, the Legislature, and the direct support organization of the Office of Tourism, Trade, and Economic Development and provide expertise relating to physical fitness and nutrition in the state. The council must submit to the Governor, the Legislature, the Office of Tourism, Trade, and Economic Development, and the direct support organization an annual report that includes recommendations for the furtherance of the physical fitness of Florida residents. Provisions creating the council stand repealed on July 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

HB 457 — Indigent Care and Trauma Center Tax

by Rep. Culp and others (CS/SB 2148 by Health, Aging, and Long-Term Care Committee and Senator Sebesta)

The bill continues the authorization for qualifying counties under s. 212.055(4), F. S., to impose and collect an indigent care and trauma center surtax by repealing the scheduled October 1, 2005 repeal of this subsection. The clerk of the circuit court, as an ex officio custodian of the funds of the authorizing county, must prepare on a biennial basis an audit of the indigent care trust fund. Commencing February 1, 2004, the audit must be delivered to the governing body and to the chair of the legislative delegation of each authorizing county.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 114-1

HB 953 — Weight-Loss Pills

by Rep. Roberson and others (CS/CS/SB 1626 by Criminal Justice Committee; Health, Aging, and Long-Term Care Committee; and Senators Margolis, Dawson, Bullard, Posey, Fasano, Miller, Garcia, Campbell, Peaden, Hill, and Klein)

The bill makes it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, a weight-loss pill to a person under 18 years of age. The bill defines “weight-loss pill” to mean a pill that is available without a prescription, the marketing, advertising, or packaging of which indicates that its primary purpose is for facilitating or causing weight loss. The term includes, but is not limited to, a pill that contains at least one of the following ingredients: ephedra species; ephedrine alkaloid containing dietary supplements; or Sida cordifelia. However, the term does not include a pill containing one or more of such ingredients which is marketed or intended for a primary purpose other than weight loss.

It is a defense to a charge of violating this prohibition if the buyer or recipient displays valid identification that indicated that the buyer or recipient was 18 years of age or older and the appearance of the buyer or recipient was such that a prudent person would reasonably believe that the buyer or recipient was not under 18 years of age.

A first violation of the offense created in the bill is punishable by a fine of $100; a second violation is punishable by a fine of $250; a third violation is punishable by a fine of $500; and a fourth or subsequent violation is punishable by a fine as determined by the Department of Agriculture and Consumer Services, not to exceed $1,000.

If approved by the Governor, these provisions take effect July 1, 2004.
Vote: Senate 39-0; House 111-4

REGULATION OF HEALTH CARE FACILITIES

CS/SB 56 — Certificate-of-Need Exemption/Open-Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senator Wise

This bill amends s. 408.036, F.S., to create an exemption for an adult open-heart-surgery program to be located in a new hospital that is being established in the location of an existing hospital when the existing hospital and existing adult open-heart-surgery program are being relocated to a replacement hospital that will use a closed-staff model. The Agency for Health Care Administration (AHCA) may grant the exemption provided the applicant:

- Meets and maintains current requirements of Florida rules, any future licensing requirements governing adult open-heart surgery adopted by AHCA, and the most current guidelines of the American College of Cardiology and American Heart Association Guidelines for Adult Open Heart Programs.
- Certifies that it will maintain the appropriate equipment and personnel.
- Certifies that it will maintain appropriate times of operation and protocols to ensure appropriate referrals.
- Is a newly licensed hospital in a physical location previously owned and licensed to a hospital that performed more than 300 open-heart surgeries per year, including heart transplants.
- Certifies that it can perform more than 300 diagnostic cardiac catheterization procedures per year, combined inpatient and outpatient, by the end of its third year of operation.
- Has a payor mix that reflects the community average for Medicaid, charity care, and self-pay patients or certifies that it will provide a minimum of 5 percent Medicaid, charity care, and self-pay services to open-heart-surgery patients.

If the applicant fails to meet these criteria or fails to reach 300 surgeries per year by the end of its third year of operation, the applicant must show cause why its exemption should not be revoked.

The bill provides that the applicant of the newly licensed hospital may apply for the certificate of need before taking possession of the facility, and the effective date of the certificate of need will be concurrent with the effective date of the newly issued hospital license.

AHCA must report to the Legislature by December 31, 2004, and annually thereafter concerning the number of requests for exemptions granted or denied.

The provision is repealed January 1, 2008.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-1; House 97-21

CS/CS/SB 250 — Rural Hospitals

by Appropriations Committee; Health, Aging, and Long-Term Care Committee; and Senators Peaden, Jones, Klein, Saunders, Fasano, and Argenziano

The bill changes the definition of rural hospital to provide that a hospital that received funding under the Medicaid disproportionate share/financial assistance program for rural hospitals prior to July 1, 2002, is deemed to have been a rural hospital and will continue to be a rural hospital through June 30, 2012, as long as the hospital continues to meet certain criteria. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria established in the bill may apply to the Agency for Health Care Administration for that designation.

The bill permits a rural hospital, or a not-for-profit operator of a rural hospital, to construct a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, without obtaining a certificate of need, provided certain conditions are met.

The bill expands the definition of the term "infant delivered," for the purpose of payment of an initial assessment for each infant delivered in a hospital, to finance the Florida Birth-Related Neurological Injury Compensation Plan to exclude infants born in a teaching hospital that have been deemed by the Florida Birth-Related Neurological Injury Compensation Association as being exempt from assessments since fiscal year 1997 to fiscal year 2001.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 37-0; House 112-0

CS/CS/SB 296 — Retirement Communities

by Banking and Insurance Committee; Health, Aging, and Long-Term Care Committee; and Senators Saunders, Lynn, Atwater, and Crist

The bill specifies that a nursing home that is part of a Continuing Care Retirement Community (CCRC) that is accredited by a recognized accrediting organization and that meets the minimum liquid reserve requirements established by the Office of Insurance Regulation satisfies the financial criteria for the Gold Seal Program, as long as the accreditation is not provisional. The Governor's Panel on Excellence in Long-term Care, in conjunction with the Agency for Health Care Administration, administers the award program, known as the Gold Seal Program, which recognizes nursing facilities that demonstrate excellence in long-term care over a sustained period of time.

The bill revises nursing home staffing standards to permit a nursing home that has a standard license or is a Gold Seal facility, exceeds minimum staffing requirements, and is a part of a CCRC or retirement community to share programming and staff with their assisted living, home health, and adult day care services. The bill establishes additional criteria for the sharing of staff and authorizes the Agency for Health Care Administration to adopt rules for documentation necessary to determine compliance with staffing requirements.

The bill modifies requirements for residents' organizations in CCRCs and selection of a resident representative before the provider's governing body to specify the methods of election of representatives, requirements for notice to residents, minimum levels of participation, and the duration of the term of election, and requires that there shall be only one resident's organization which represents the residents before the governing body of a provider.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

CS/SB 460 — Certificate-of-Need/Heart Surgery

by Health, Aging, and Long-Term Care Committee and Senators Pruitt and Klein

This bill amends s. 408.036, F.S., to authorize an exemption from certificate-of-need (CON) review for adult open-heart-surgery services in a hospital in Palm Beach, Polk, Martin, St. Lucie, and Indian River Counties. A hospital that meets the following criteria will be exempt from CON review for the establishment of an adult open-heart-surgery program:

- The hospital must certify that it will meet and continuously maintain the minimum licensure requirements adopted by the Agency for Health Care Administration for adult open-heart-surgery programs and the most current guidelines of the American College of Cardiology and the American Heart Association.

- The hospital must certify that it will maintain sufficient appropriate equipment and health personnel to ensure quality and safety.
- The hospital must certify that it will maintain appropriate times of operation and protocols to ensure availability and appropriate referrals in the event of emergencies.
- The hospital must demonstrate that it is referring 300 or more patients per year away from the hospital for cardiac services at a hospital with cardiac services, or that the average wait for transfer for 50 percent or more of the cardiac patients exceeds 4 hours.
- The hospital is a general acute care hospital that is in operation for three years or more.
- The hospital performs more than 300 diagnostic cardiac catheterization procedures per year (combined inpatient and outpatient).
- The hospital's payor mix, at a minimum, reflects the community average for Medicaid, charity care, and self-pay patients, or the facility must certify that it will provide a minimum of 5 percent of Medicaid, charity care, and self-pay to open-heart-surgery patients.
- If the hospital fails to meet the established criteria for open-heart programs or fails to perform 300 surgeries per year by the end of its third year of operation, it must show cause why its exemption should not be revoked.

By December 31, 2004, the Agency for Health Care Administration must report to the Legislature the number of requests for exemptions received under the provisions of this bill and the number granted or denied.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-6; House 72-38

SB 1568 — Acute Care Hospitals in High Growth Counties

by Senator Jones

This bill authorizes certain acute care hospitals in high growth counties to add up to 180 additional beds without certificate-of-need review by the Agency for Health Care Administration (Agency). A project authorized under the bill would not be subject to challenge under s. 408.039, F.S., or ch. 120, F.S., and the beds authorized would be excluded from the Agency inventory used to calculate future need for additional acute care beds.

To be eligible for this special provision created under s. 408.043, F.S., a hospital must be the sole acute care hospital in the county and be the only acute care hospital within a 10-mile radius of another hospital. A high growth county is one that has experienced at least a 60 percent growth rate for the most recent 10-year period for which data are available as determined by using the

most recent edition of the Florida Statistical Abstract. The hospital must provide written notice to the Agency that it qualifies under the subsection prior to the addition of the beds.

Four counties — Collier, Flagler, Sumter, and Wakulla — experienced a greater than 60 percent increase in population during the decade 1991-2001. Two of the four high-growth counties have a hospital with no other hospital within 10 miles of the eligible hospital. The two hospitals that currently would qualify for the bed addition allowable under the provisions of the bill are a 60-bed facility located in Sumter County, and an 81-bed facility located in Flagler County. In future years, other hospitals in high growth counties that met the criteria provided in the bill could add beds under this special provision.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 27-12; House 76-37

CS/SB 1582 — Blood Establishments

by Health, Aging, and Long-Term Care Committee and Senator Saunders

This bill defines blood establishment to be any person, entity, or organization operating in Florida that examines an individual for the purpose of blood donation; or that collects, processes, stores, tests, or distributes blood or blood components from the human body for the purpose of transfusion, for any other medical purpose, or for the production of any biological product. The bill prohibits any entity in Florida from conducting such activities unless it is operated in a manner consistent with the provisions of parts 211 and 600-640 of Title 21, C.F.R., which provide authority for the Food and Drug Administration's oversight of the nation's blood supply.

A blood establishment that operates in a manner that is not in accordance with those federal regulations and that constitutes a danger to the health or well-being of blood donors or recipients, as evidenced by the federal Food and Drug Administration's inspection process and the revocation of the blood establishment's license or registration, must cease all operation in Florida. The bill gives the Agency for Health Care Administration or any state attorney the power to enjoin such an entity from operating in the state of Florida.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 115-0

CS/SB 2036 — Uniform Commercial Code/Blood

by Health, Aging, and Long-Term Care Committee and Senator Smith

This bill amends s. 672.316(5), F.S., which specifies that the procurement, processing, transfusion, storage, distribution, and use of whole blood, plasma, blood products, and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose is the rendering of a service. The bill expands the exclusion of these

activities from the implied warranties of merchantability and fitness for a particular purpose by removing the current limitation which states that the exclusion applies to a defect that cannot be detected or removed by a reasonable use of scientific procedures or techniques. With this change, the described warranties would be inapplicable to any defect in blood or a blood product.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 118-0

CS/SB 2568 (Sections 18-25 and 27-33) — Services to Persons who are Disabled, Vulnerable, or Elderly

by Children and Families Committee and Senator Lynn

Please refer to the Medicaid part in this section, as well as the Children and Families Committee section, for further discussion of this bill.

The bill revises numerous sections in ch. 400, F.S., relating to the regulation of health care facilities, as follows:

- Requires nursing homes to provide proof of legal right to occupy the property as part of an application for licensure or change of ownership. Proof may include leases, deeds, or other legal documentation.
- Provides that grounds for denial, revocation, or suspension of an assisted living facility license include specified deficiencies cited on a single survey and not corrected within the time specified, instead of deficiencies that are similar to violations within the past two years.
- Eliminates the requirement that the Agency for Health Care Administration (Agency) send renewal notices by certified mail to assisted living facilities and adult family care homes and requires that the notice be sent electronically or by mail delivery. Similarly, the Department of Elderly Affairs will no longer be required to send renewal notices to adult day care centers by certified mail but may send them electronically or by mail delivery.
- Requires the Agency to impose administrative fines in the manner provided in ch. 120, F.S., for cited deficiencies in assisted living facilities.
- Allows federal civil monetary penalty revenues to be deposited in the Quality of Long-Term Care Facility Improvement Trust Fund and expands the programs that can be supported through the fund to include addressing areas of deficient practice identified through regulation or state monitoring, evaluation of special resident needs, initiatives authorized by the federal Centers for Medicare and Medicaid Services, and projects recommended through the Medicaid Up-or-Out demonstration program.

- Provides flexibility in staffing standards for a nursing home that does not have a conditional license by permitting it to staff below the minimum for one day as long as the staffing does not fall below 97 percent of the standards on any one day.
- Permits a nursing home seeking to be designated as a Gold Seal Program facility to provide evidence of financial soundness by the use of financial statements that are reviewed or audited by a certified public accountant.
- Requires the Department of Elderly Affairs to ensure that assisted living facility administrators and staff have met training requirements, but does not require the department to provide the training, and deletes the requirement that certain facilities must pay a fee for the training.
- Reinstates background screening for applicants who want to register Health Care Services Pools. The requirement was previously repealed by a sunset provision.

Other changes to health care regulation include:

- Repealing requirements for nursing homes and continuing care facilities to submit to the Agency financial data that largely duplicates the data submitted under the Medicaid cost reporting system for nursing homes.
- Requiring all providers regulated by the Agency to pay fines before a change of ownerships can be approved.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 117-0

HB 761 — Fitting and Dispensing of Hearing Aids

by Rep. Justice and others (SB 2180 by Senators Wasserman Schultz and Crist)

The bill creates a criminal offense for the "seller" or "person selling a hearing aid" who fails to refund all moneys that must be refunded to a purchaser of a hearing aid within 30 days after the return or attempted return of a hearing aid as required by s. 484.0512, F.S. The bill defines "seller" or "person selling a hearing aid" for purposes of the offense. Violators are liable for a first-degree misdemeanor punishable by jail up to 1 year and a fine of up to $1,000.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 39-0; House 116-2

HB 1527 — Florida Alzheimer's Training Act

by Rep. Gibson and others (CS/SB 1116 by Health, Aging, and Long-Term Care Committee and Senators Saunders, Fasano, and Crist)

The bill amends ss. 400.4785, 400.5571, and 400.6045, F.S., to require home health agencies, hospices, and adult day care centers to provide written information to employees, upon their beginning employment, about interacting with patients or participants who have Alzheimer's disease or dementia-related disorders. Employees of these services must subsequently receive training in the care of individuals with Alzheimer's disease or related disorders.

Under amendments to s. 400.4785, F.S., all home health agency employees hired on or after July 1, 2005, and providing direct care to patients must complete two hours of training in Alzheimer's disease and dementia-related disorders within nine months after beginning employment with the agency. Newly hired hospice employees (under s. 400.6045, F.S.) and adult day care center personnel (under s. 400.5571, F.S.) who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete at least one hour of dementia training within the first three months after beginning employment. Newly hired hospice and adult day care center employees who will be providing direct care to participants who have Alzheimer's or dementia-related disorders must complete an additional three hours of training within nine months after beginning employment. An adult day care center employee who is hired on or after July 1, 2004, must complete the training. A hospice employee who is hired on or after July 1, 2003, must complete the required training by July 1, 2004, or by the deadline specified in the bill, whichever is later.

Employees who have received the Alzheimer's training will receive a certificate to document the training, and they will not be required to repeat the training if they change employment to another home health agency, hospice, adult day care center, nursing home, or assisted living facility. While home health agencies, hospices, and adult day care centers will be required to provide Alzheimer's disease information to all their employees, the bill makes it the responsibility of the employee as well as the provider to obtain the training.

The Department of Elderly Affairs or its designee must approve the training courses, and must develop rules to establish standards for employees who are subject to the training and for the trainers and the training. The bill mandates that the training required for home health agency, adult day care, and hospice employees must be part of the total hours of training required annually as a condition of certification for certified nursing assistants. Licensed health care practitioners' continuing education hours would be counted toward the two hours required by the bill. Universities, colleges, and postsecondary schools educating students for health professions, as described in ch. 456, F.S., are encouraged to include basic training about Alzheimer's disease and related disorders in their curricula.

If approved by the Governor, these provisions take effect July 1, 2003.
Vote: Senate 38-0; House 115-0

PUBLIC RECORDS EXEMPTIONS

HB 1031 — Public Records Exemption - Florida Kidcare Program

by State Administration Committee and others (CS/SB 298 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

This bill reenacts and expands an exemption from ch. 119, F.S., the Public Records Law, and s. 24(a), Art. I of the State Constitution, for information held by the Agency for Health Care Administration, the Department of Children and Family Services, the Department of Health, or the Florida Healthy Kids Corporation that identifies a Florida Kidcare program applicant or enrollee. The bill allows the disclosure of the confidential and exempt information to another governmental entity if such disclosure is necessary for the entity to perform its duties and responsibilities. The receiving entity must maintain the confidential and exempt status of the information, and is prohibited from releasing the information without the written consent of the program applicant. The bill provides that a violation of the section is a second-degree misdemeanor.

The bill makes the exemption subject to a future review and repeal date of October 2, 2008, as required by s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The bill provides findings and statements of public necessity to justify the expansion of the public records exemption.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 113-0

HB 1033 — Public Records/Meetings Exemption - Statewide Provider and Subscriber Assistance Program

by State Administration Committee and others (CS/SB 306 by Governmental Oversight and Productivity Committee and Health, Aging, and Long-Term Care Committee)

The bill reenacts and amends the public records and meetings exemptions relating to the Statewide Provider and Subscriber Assistance Program contained in s. 408.7056, F. S. The bill consolidates and clarifies the exemptions for information held by the Agency for Health Care Administration and the Department of Insurance that identifies a subscriber, provides for the release of the records in a subscriber's grievance to the subscriber or the managed care entity involved in that grievance without redaction of identifying information about the subscriber, and

deletes the public meetings exemption when trade secrets are discussed in Statewide Provider and Subscriber Assistance Panel hearings.

If approved by the Governor, these provisions take effect October 1, 2003.
Vote: Senate 40-0; House 113-0