Committee on Health Regulation

CS/HB 171 — Osteopathic Physicians

by Health and Human Services Quality Subcommittee; and Rep. Trujillo and others (CS/SB 414 by Health Regulation Committee and Senator Negron)

The bill revises requirements for licensure to practice osteopathic medicine in Florida for physicians who are licensed in another state and have not actively practiced osteopathic medicine for more than the previous 2 years and for new, unlicensed physicians who completed internship, residency, or fellowship more than 2 years ago. Any such physician whose present ability and fitness to practice osteopathic medicine has been adversely affected by the interruption of his or her active practice of osteopathic medicine, as determined by the Board of Osteopathic Medicine (the board), may, at the board's discretion, be denied licensure in Florida, granted a license with restrictions, or granted full licensure upon fulfillment of certain conditions.

The bill removes the requirement that a person desiring to be registered to practice as a resident physician, intern, or fellow must pass all parts of the examination conducted by the National Board of Osteopathic Medical Examiners and complete 1 year of residency, and deletes obsolete and redundant nomenclature.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 39-0; House 116-0

Committee on Health Regulation

CS/CS/HB 227 — Prescription Drug Abuse

by Justice Appropriations Subcommittee; Health and Human Services Quality Subcommittee; and Rep. Stargel and others (CS/CS/SB 402 by Budget Committee; Health Regulation Committee; and Senators Negron and Fasano)

The bill creates a 15-member Statewide Task Force on Prescription Drug Abuse and Newborns within the Department of Legal Affairs. The purpose of the task force is to examine and analyze the emerging problem of neonatal withdrawal syndrome as it pertains to prescription drugs. The task force will research the impact of prescription drug use and neonatal withdrawal syndrome, evaluate effective strategies for treatment and prevention, and provide policy recommendations to the Legislature.

The task force is required to hold its organizational session by May 1, 2012, and must meet at least four times per year thereafter. Staff support for the task force will be provided by the Department of Legal Affairs. The task force must submit an interim report of its recommendations to the President of the Senate and the Speaker of the House of Representatives by January 15, 2013, and a final report to the President of the Senate and the Speaker of the House of Representatives by January 15, 2015.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

Committee on Health Regulation

CS/HB 309 — Radiological Personnel

by Health and Human Services Quality Subcommittee; and Rep. Oliva and others (CS/SB 376 by Health Regulation Committee and Senator Flores)

This bill allows for the certification of nationally-recognized specialties of radiologic technologist which are currently not recognized in statute. The bill updates existing definitions and certification procedures to encompass emerging technologies and specialties.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 38-0; House 113-0

Committee on Health Regulation

CS/CS/CS/HB 363 — Physician Assistants

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Health and Human Services Quality Subcommittee; and Rep. Kreegel and others (CS/SB 774 by Health Regulation Committee and Senator Hays)

The bill removes the requirements that a physician assistant (PA) obtain an additional license authorizing him or her to prescribe medication. The bill does not alter any current authority granted to PAs to prescribe. PAs will continue to be issued a prescriber number granting them authority to prescribe certain drugs. The Department of Health will continue to process requests for a prescriber number and determine if the PA qualifies for the prescribing privilege. The bill requires PAs to provide certain documentation as evidence of eligibility for a prescriber number.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 39-0; House 115-0

Committee on Health Regulation

CS/SB 364 — Blood Establishments

by Health Regulation Committee and Senator Gaetz

This bill creates a restricted prescription drug distributor permit under which a blood establishment may lawfully purchase, possess, and distribute certain prescription drugs to hospitals or other health care entities.

Local governments may not restrict the access to or use of public facilities or infrastructure for the collection of blood or blood components based on whether the blood establishment is operating as a for-profit or not-for-profit organization. Blood establishments may not base the service fee of blood or blood components provided to hospitals or other health care providers on whether the purchasing entity is a for-profit or not-for profit organization.

Blood establishments, with certain exceptions, that collect blood or blood components from volunteer donors in Florida must disclose information about the collection and distribution process; the volume of collections, purchases, and distributions; certain financial statements, and corporate ethical policies on the establishment's Internet site. A blood establishment that fails to comply with these disclosures is subject to a civil penalty.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 116-1

Committee on Health Regulation

CS/HB 413 — Chiropractic Medicine

by Health and Human Services Quality Subcommittee; and Rep. Mayfield and others (CS/CS/SB 470 by Budget Subcommittee on Health and Human Services Appropriations; Health Regulation Committee and Senator Jones)

The bill revises the regulation of chiropractic medicine in several ways. It:

- Expands eligibility for obtaining a chiropractic medicine faculty certificate to include performing research or a part-time faculty appointment;
- Provides the Board of Chiropractic Medicine (the Board) with discretion to approve continuing education courses sponsored by chiropractic colleges after review;
- Prohibits approval of chiropractic continuing education courses that pertain to a specific company brand, product line, or service;
- Expands statutory licensure requirements for chiropractic physicians to include passage of Part IV of the National Board of Chiropractic Examiners' (NBCE) certification examination and the NBCE physiotherapy examination;
- Specifies that chiropractic physicians must preserve the identity of funds and property of a patient if the value of the funds and property is greater than $501;
- Specifies that money or other property entrusted to a chiropractic physician by a patient may not exceed the value of $1,500;
- Limits indirect supervision of a certified chiropractic physician's assistant (CCPA) to the supervising physician's address of record;
- Eliminates the 24-month requirement for the CCPA curriculum; and
- Expands and revises the exceptions to ownership and control of a chiropractic practice by persons other than licensed chiropractic physicians. More specifically, the bill creates or revises the following exceptions to the requirement that no person other than a sole proprietorship, group practice, partnership, or corporation that is wholly-owned by one or more licensed chiropractic physicians, or by a licensed chiropractic physician and the spouse, parent, child, or sibling of that chiropractic physician, may employ a chiropractic physician or engage a chiropractic physician as an independent contractor to provide chiropractic services:
  - A limited liability company, limited partnership, any person, professional association, or any other entity that is wholly-owned by: a licensed chiropractic physician and the spouse or surviving spouse, parent, child, or sibling of the chiropractic physician; or a trust whose trustees are licensed chiropractic physicians and the spouse, parent, child, or sibling of a chiropractic physician;
  - A limited liability company, limited partnership, professional association, or any other entity wholly-owned by a licensed chiropractor or chiropractors, a licensed medical doctor or medical doctors, a licensed osteopath or osteopaths, or a licensed podiatrist or podiatrists;
  - An entity that is wholly-owned, directly or indirectly, by a licensed or registered hospital or other entity licensed or registered under ch. 395, F.S.;
  - An entity that is wholly-owned and operated by an organization that is exempt from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code;

- A health care clinic licensed under ch. 400, part X, F.S., that provides chiropractic services by a licensed chiropractic physician; and
- A health maintenance organization or prepaid health clinic regulated under ch. 641, F.S.

Upon the death of a chiropractic physician who wholly-owns a sole proprietorship, group practice, partnership, corporation, limited liability company, limited partnership, professional association, or any other entity, with his or her spouse, parent, child, or sibling, and that wholly-owned entity employs a licensed chiropractic physician or engages a chiropractor as an independent contractor to provide chiropractic services, the bill allows the deceased chiropractic physician's surviving spouse or adult children to hold, operate, pledge, sell, mortgage, assign, transfer, own, or control the deceased chiropractic physician's ownership interests for so long as the surviving spouse or adult children remain the sole proprietor of the chiropractic practice.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 113-0

Committee on Health Regulation

CS/CS/HB 509 — Pharmacy

by Health and Human Services Committee; Health and Human Services Quality Subcommittee; and Rep. Logan (CS/SB 850 by Budget Subcommittee on Health and Human Services Appropriations and Senator Oelrich)

This bill expands the types of vaccines that may be administered by a pharmacist pursuant to a written protocol with a supervising physician. A pharmacist may administer the influenza and pneumococcal vaccines. A pharmacist may also administer the shingles vaccines pursuant to a prescription issued by a licensed physician. The bill also authorizes a pharmacist to administer epinephrine autoinjections to address unforeseen allergic reactions.

This bill amends the definition of the term "practice of the profession of pharmacy" to include the administration of certain vaccines and epinephrine autoinjections to adults.

The bill also requires each pharmacist certified to administer a vaccine or epinephrine autoinjection to complete a three hour continuing education course on the safe and effective administration of such as part of the biennial relicensure or recertification process.

If approved by the Governor, these provisions take effect on July 1, 2012, except Section 3, relating to pharmacist continuing education, which takes effect on October 1, 2012.
Vote: Senate 36-1; House 118-0

Committee on Health Regulation

SB 608 — Florida Healthy Kids Corporation

by Senator Flores

The bill adds one member to the Board of Directors of the Florida Healthy Kids Corporation. The additional member will be appointed by the Governor from among three nominees submitted by the Florida Dental Association.

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

Committee on Health Regulation

CS/CS/HB 653 — Health Care Fraud

by Health Care Appropriations Subcommittee; Health and Human Services Quality Subcommittee; and Rep. Cruz and others (CS/CS/SB 208 by Criminal Justice Committee; Health Regulation Committee; and Senator Joyner)

The bill amends s. 456.0635, F.S., to ease licensure and licensure renewal requirements for health care practitioners who have been convicted of a felony under ch. 409, F.S., relating to social and economic assistance, including the Florida Medicaid program; ch. 817, F.S., relating to fraudulent practices; ch. 893, F.S., relating to controlled substances; or a similar felony offense committed in another state or jurisdiction. The bill establishes differing timeframes for which an applicant must wait for licensure approval depending upon the nature of the conviction.

In order to be licensed or to renew a license, an applicant must not:

- Have been convicted of or entered a plea of guilty or nolo contendere to, regardless of adjudication, an offense under the specified laws, and any subsequent period of probation ended:
  - For felonies of the first or second degree, more than 15 years before the date of application.
  - For felonies of the third degree, except those under s. 893.13(6)(a), F.S., relating to unlawful possession of controlled substances, more than 10 years before the date of application.
  - For felonies of the third degree under s. 893.13(6)(a), F.S., more than 5 years before the date of application.
- Have been convicted of or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, relating to federal controlled substance laws, or 42 U.S.C. ss. 1395-1396, relating to the federal Medicare, Medicaid, and related programs, unless the subsequent conviction or plea ended more than 15 years before the date of application;
- Have been terminated for cause from the Florida Medicaid program, unless he or she has been in good standing for the most recent 5 years (already in statute);
- Have been terminated for cause from any other state Medicaid program unless he or she has been in good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of application (already in statute); or
- Be currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

These provisions do not apply to applicants for initial licensure who were enrolled in an educational program recognized by the Department of Health on or before July 1, 2009, and who applied for licensure after July 1, 2012.

A person who is denied licensure renewal under the provisions of this bill may only regain licensure by meeting the qualifications and completing the application process for initial

licensure as defined by the appropriate practice board or the Department of Health. However, a person who was denied licensure under s. 456.0635, F.S., as it existed between July 1, 2009, and June 30, 2012, is not required to retake and pass any examinations necessary for licensure.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 115-0

Committee on Health Regulation

CS/HB 655 — Biomedical Research

by Health and Human Services Committee and Rep. Coley (CS/SB 616 by Governmental Oversight and Accountability Committee and Senator Flores)

This bill revises provisions related to the James and Esther King Biomedical Research Program (King Program) and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program).

The bill:

- Carries forward for 2 additional years (from 3 to 5 years) the balance of any appropriation from the Biomedical Research Trust Fund, which is obligated but not disbursed;
- Renames a member of the Biomedical Research Advisory Council (Council) and the advisory council of the Florida Center for Universal Research to Eradicate Disease;
- Allows the Speaker of the House of Representatives to choose a member of the Council from a comprehensive cardiovascular program with experience in biomedical research approved by the American College of Cardiology;
- Staggers the terms of service for members of the Council;
- Removes the Council's responsibility for developing, supervising, and consulting in the appointment of research peer review panels;
- Clarifies conflict of interest provisions concerning members of the council and peer review panels;
- Removes provisions regarding the public's access to the meetings of certain peer review panels;
- Exempts grant programs under the purview of the Council from the Administrative Procedures Act;
- Consolidates the Council's annual reporting requirement, so that submission of the report covering the programs under its purview, including the King Program and the Bankhead-Coley Program, is due by December 15; and
- Makes the consideration of certain types of applications for grants by the Department of Health discretionary.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 38-0; House 116-0

Committee on Health Regulation

CS/CS/CS/HB 711 — Sale or Lease of a County, District, or Municipal Hospital

by Health and Human Services Committee; Community and Military Affairs Subcommittee; Health and Human Services Quality Subcommittee; and Rep. Hooper and others (CS/CS/CS/SB 1568 by Budget Subcommittee on General Government Appropriations; Community Affairs; Health Regulation; and Senators Gaetz and Garcia)

The bill requires any sale or lease of a public hospital or health care system that is owned by a county, district, or municipality to be approved by the Secretary of Health Care Administration, unless a majority vote of the registered voters within that county, district, or municipality is required by law.

The governing board of a public hospital or health care system must commence an evaluation of the possible benefits to an affected community from the sale or lease of the hospital facilities no later than December 31, 2012, unless exempted. The bill sets forth the considerations and procedures for the evaluation, including public notice and a public hearing. Within 160 days after initiation of the evaluation, the governing board must publish its findings related to the evaluation process.

The bill provides that prior to a sale or lease, the governing board of the public hospital or health care system must provide public notice of the proposed transaction, publish documents associated with the transaction, and publish the governing board's findings regarding the proposed sale or lease. The bill provides the process of review of the sale or lease to be conducted by the Secretary prior to approval or rejection of the sale or lease. The bill also authorizes any interested party, which is defined as the governing board or any person submitting a proposal, to seek judicial review of the Secretary's decision.

The bill allocates net proceeds received from any non-exempted sale or lease and allocates ad valorem tax revenue collected when a public hospital or health care system is sold or leased to a for-profit corporation or other business entity subject to local taxation. Fifty percent is earmarked for health care economic development, including the promotion and support of health care business development or research, and fifty percent is earmarked for funding the delivery of indigent health care.

This bill exempts the sale or lease of any hospital's or health care system's physical property that generates less than 20 percent of the hospital's net revenue from the evaluation, public disclosure and approval processes, and the allocation of net proceeds or tax revenue provisions in the bill. However, certain activities must be conducted publicly.

This bill defers hospitals and health care systems that are under lease at the time of the passage of this bill from these processes and allocations until termination of the lease under certain conditions. The bill also exempts hospitals and health care systems that have executed a letter of intent to sell or lease before December 31, 2011, or issued a request for proposals for sale or

lease on or before February 1, 2012, from these processes and allocations, so long as the sale or lease of the hospital of health care system occurs by December 31, 2012.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 108-9

Committee on Health Regulation

CS/SB 730 — Medicaid Managed Care

by Health Regulation Committee and Senators Flores, Negron, and Gaetz

Effective May 12, 2012, the bill limits the scope of the Subscriber Assistance Program, which provides assistance to subscribers of certain managed care entities who have grievances that have not been resolved by the internal grievance process of the managed care entity. The bill limits review by the Subscriber Assistance Program to unresolved grievances from subscribers of prepaid health clinics certified under ch. 641, F.S., Florida Healthy Kids plans, and health insurance policies or health maintenance organization contracts that meet the grandfathered health plan coverage provisions under the federal Patient Protection and Affordable Care Act. However, the Subscriber Assistance Program is not applicable to such a health plan if the plan elects to have all of its policies or contracts subject to applicable internal grievance and external review processes by an independent review organization. Such a plan must notify the Agency for Health Care Administration (AHCA) in writing if it elects to have all of its policies or contracts subject to external review.

The bill authorizes the AHCA to extend or modify its current contracts, prior to October 1, 2014, with comprehensive behavioral health care providers that are reimbursed through a capitated, prepaid arrangement in order to ensure continuity of care as the state transitions to statewide managed care. The bill also repeals the October 1, 2014, expiration date set for s. 409.912(21), F.S., that authorizes the AHCA to impose a fine on a Medicaid contract provider that violates s. 409.912, F.S., or its contract with the AHCA.

The bill authorizes the AHCA to calculate a medical loss ratio for managed care plans in the existing Medicaid reform pilot program and the new statewide Medicaid managed care program, if required as a condition of a Medicaid waiver. Expenditures must be classified in a manner consistent with the medical loss ratio requirements under the federal Patient Protection and Affordable Care Act, except that funds provided by plans to graduate medical education institutions to underwrite the costs of residency positions are to be classified as medical expenditures under specified circumstances. Also, prior to final determination of the medical loss ratio, a plan may contribute to a designated state trust fund for the purpose of supporting Medicaid and indigent care and have the contribution counted as a medical expenditure.

The bill specifies that contracts between the AHCA and a person or entity, including Medicaid providers and managed care plans, necessary to administer the Medicaid program are not rules and are not subject to ch. 120, F.S.

The definition of "comprehensive long-term care plan," as it is used in the statewide managed care program, is amended to include a Medicare Advantage Special Needs Plan organized as a preferred provider organization, provider-sponsored organization, health maintenance organization, or coordinated care plan. The definition of "eligible plan" is amended to include additional Medicare Advantage plans for purposes of the managed medical assistance program.

The bill modifies the criteria the AHCA must use in giving preferences in the selection of eligible plans in the new statewide managed care program. The bill clarifies the preference that is to be given to organizations that are based in and perform operational functions in this state to include corporate headquarters as an operational function. The term "corporate headquarters" is defined to mean the principal office of the organization.

The penalty provisions for plans in the statewide Medicaid managed care program that reduce enrollment levels or leave a region before the end of their contract term are modified to specify that all departing plans must pay a penalty of 25 percent of that portion of the minimum surplus required by law *which is attributable to the provision of coverage to Medicaid enrollees*, not all their lines of business.

The bill changes a reference to primary care *physician* to primary care *provider* in the primary care initiative under the statewide Medicaid managed care program. The change clarifies that primary care may be provided by a health care practitioner other than a physician, such as an advanced registered nurse practitioner.

The bill amends the requirements for participation of specialty plans in the statewide Medicaid managed care program to exempt specialty plans from the regional plan number limits, however the aggregate enrollment of all specialty plans in a region may not exceed 10 percent of the total enrollees of that region.

The bill specifies that participation of Medicare Advantage plans in the statewide Medicaid managed care program shall be pursuant to a contract with the AHCA that is consistent with the Medicare Improvement for Patients and Providers Act of 2008. Such plans are not subject to the procurement requirements of the statewide Medicaid managed care program if the plan's Medicaid enrollees consist exclusively of dually eligible recipients who are enrolled in the plan in order to receive Medicare benefits as of the date that the invitation to negotiate is issued. The participation of Medicare Advantage plans in the long-term care managed care component of the statewide Medicaid managed care program is limited to Medicare Advantage Special Needs Plans.

Effective May 12, 2012, the bill requires certain individual, group, blanket, and franchise health insurance policies to comply with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act in accordance with rules adopted by the Office of Insurance Regulation (Financial Services Commission) and certain provisions of the Employee Retirement Income Security Act relating to internal grievances.

If approved by the Governor, these provisions take effect July 1, 2012, except that sections 1, 11, 12, and 13 take effect May 12, 2012.
Vote: Senate 40-0; House 82-37

Committee on Health Regulation

CS/CS/HB 787 — Health Care Facilities

by Health and Human Services Committee; Health and Human Services Quality Subcommittee; and Rep. Trujillo (CS/SB 1292 by Health Regulation Committee and Senator Bogdanoff)

Nursing Homes

This bill revises the definition of "geriatric outpatient clinic" to allow licensed practical nurses to work there, and "resident care plan" to eliminate signature requirements.

The bill requires nursing homes to maintain clinical records on each resident. It also eliminates certain reporting requirements, such as the total number of grievances handled and the monthly report of notices of litigations and complaints filed against the nursing home.

The bill allows any licensed nursing home to provide services, including respite care, therapeutic spa, and adult day care services to nonresidents, with certain requirements relating to adult day care services provided. The bill provides clarification for the meaning of "day" as it relates to monitoring of adult day care center programs co-located with licensed nursing homes. The bill also provides various criteria for respite care in nursing home facilities.

Nursing homes are no longer required to report staffing data but still must comply with minimum staffing requirements set in statute, with fines and license citations as penalties for noncompliance. New staffing requirements are established for facilities that care for residents under 21 years of age. Provisions concerning internal risk management are simplified to require that nursing homes submit a report to AHCA within 15 calendar days after an adverse event occurs; other, more detailed provisions for internal risk management are deleted.

Nursing home surveyors are no longer required to spend time in a licensed nursing home as part of their training. The bill expands the eligibility requirements of nursing home administrators to include those with baccalaureate degrees in health services administration or an equivalent major.

Other Facilities

For purposes of licensure as a health care clinic under ch. 400, part X, F.S., the definition of "clinic" is amended to exclude certain large businesses owned by health care practitioners. Such businesses are no longer required to be licensed as clinics under ch. 400, F.S., as long as they do not receive payment for health care services under personal injury protection insurance coverage.

The bill revises provisions related to management of nurse registries and licensure of home medical equipment providers. An administrator may manage up to five nurse registries under certain circumstances. A home medical equipment provider that is located out of state must submit documentation pertaining to accreditation.

Organizations providing companion services which contract with the Agency for Persons with Disabilities are exempt from registration as a homemaker and companion organization. The definition of "hospice" is expanded to include limited liability companies.

Hospitals located more than 100 road miles from the closest level II adult cardiovascular services program do not need to meet the 60-minute transfer time protocol if they demonstrate that there is a formalized, written transfer agreement with a hospital that has a level II program.

The bill revises the definition of "urgent care center" to include additional facilities. The bill provides requirements for posting an urgent care center's schedule of charges, with an exemption for businesses which have urgent care centers for their own employees only. Additionally, an urgent care center that is affiliated with a hospital or ambulatory surgical center must notify patients and post in advertisements whether the charges for medical services are the same as or more than the charges for medical services received at the affiliated hospital or surgical center.

The bill allows a continuing care facility to petition the agency to designate a certain number of its sheltered nursing home beds to provide assisted living, rather than extended congregate care, if the beds are in a distinct area of the facility which can be adapted to meet the requirements for an assisted living facility.

The bill provides an exception to prohibited kickbacks or payments for referrals to authorize assisted living facilities to use employees or persons under contract with the facility, to provide payments for referrals of persons who are not Medicaid recipients, and to compensate residents for referrals of friends. The bill also revises the definition of "remuneration' for purposes of regulating home health agencies to exclude items with an individual value up to $15 from the prohibitions of certain remunerations.

Clinical laboratories are prohibited from providing personnel to perform any duties in a physician's office or leasing any part of a physician's office unless the office and the laboratory are owned and operated by the same entity. A $5,000 fine and license citations are established as penalties for violation.

The bill creates a second degree misdemeanor for a person to alter, deface, or falsify a license certificate.

AHCA Responsibilities

Rulemaking authority for the AHCA concerning do not resuscitate orders is deleted, as is the authority to investigate consumer complaints related to health care facilities' billing practices. The bill revises provisions relating to licensure renewal notices to provide that they are courtesy notices sent by the agency and to clarify provisions related to payment of late fees. Penalties are established for acts relating to display of licenses and violations that are not designated as class I, II, III, or IV violations. The AHCA is authorized to post its automatic electronic review of

certain medication subject to prior authorization ("step-edit" review) under Medicaid within 21 days after the prior authorization and step-edit protocols and updates are approved.

Controlled Substance Prescribing

The bill revises definitions related to controlled substance prescribing in ch. 456, F.S., and exempts certain types of physicians from registering as controlled substance prescribers under this chapter. Such physicians include board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, neurologists, surgeons, pain management specialists, and those who prescribe medically necessary controlled substances for hospitalized patients. Clinics owned and operated by certain physicians are exempt from registration as pain management clinics. Clinics owned and operated by board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, anesthesiologists, neurologists, or physician multispecialty practices in which at least one physician is certified in pain medicine are also exempt from registration as a pain management clinic. Pain related to rheumatoid arthritis is removed from the definition of "chronic nonmalignant pain" in all three chapters.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 28-10; House 80-33

Committee on Health Regulation

CS/CS/CS/HB 799 — Physical Therapy

by Education Committee; Health Care Appropriations Subcommittee; Health and Human Services Quality Subcommittee; and Rep. Goodson and others (CS/SB 1228 by Health Regulation Committee and Senator Montford)

The bill authorizes the Board of Physical Therapy Practice (the board) to issue temporary permits to practice as physical therapists (PT) or physical therapist assistants (PTA) under the direct supervision of licensed PTs to applicants who meet certain conditions, prior to passing a national examination approved by the board. The bill provides that a temporary permit will be valid until a license is granted and will be void if the permittee does not pass the examination within 6 months of graduation from a PT or PTA training program. The bill provides standards that supervising PTs must meet and prohibits certain fraudulent acts concerning temporary permits.

If approved by the Governor, these provisions take effect June 1, 2012.
Vote: Senate 39-0; House 117-0

Committee on Health Regulation

SB 1040 — Practice of Dentistry

by Senators Bogdanoff, Oelrich, and Altman

The bill specifies the entity by which 2-year dental education programs for foreign-trained dentists wishing to be licensed in Florida must be accredited.

The bill allows dental hygienist licensure applicants to have taken certain examinations anytime prior to licensure application, rather than within 10 years of application, and adds certain criteria to licensure requirements relating to prior disciplinary action or to criminal convictions related to the practice of a health care profession. The bill designates the Dental Hygiene Examination produced by the American Board of Dental Examiners (ADEX) as the official practical examination for licensure of dental hygienists in Florida and specifies certain conditions related to Florida representation on ADEX governing boards as well as other conditions. The bill provides for licensure of dental hygienists who took the ADEX in another state.

The bill also allows dental hygienists to administer local anesthesia under the direct supervision of a dentist if the hygienist completes an educational course in anesthesia administration, maintains CPR certification, and is certified by the Board of Dentistry (a $35 fee is required). Anesthesia certification never has to be renewed.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 33-7; House 115-0

Committee on Health Regulation

CS/CS/CS/HB 1205 — Drug-Free Workplaces

by State Affairs Committee; Appropriations Committee; Government Operations Subcommittee; and Rep. Smith and others (CS/CS/CS/SB 1358 by Budget Committee; Budget Subcommittee on General Government Appropriations; Governmental Oversight and Accountability Committee; and Senator Hays)

This bill amends drug-free workplace provisions in s. 112.0455, F.S., concerning state agency employees, and s. 440.102, F.S., concerning employers and employees covered under the Workers' Compensation Law. It authorizes state agencies to conduct random drug testing on all employees every three months. Employees to be tested must be chosen via computer-generated random sampling by an independent third party, and each sample may not constitute more than ten percent of the total employee population. Agencies may also administer drug tests to all job applicants. Drug testing must be conducted within each agency's appropriation.

The bill also revises provisions related to discipline and management of state agency employees with positive drug tests. An agency may discipline or terminate the employment of any employee who receives a first-time positive drug test. If the employee is not discharged, the employer may refer him or her to an employee assistance program or alcohol and drug rehabilitation program, in which he or she may participate at personal expense or at the expense of a health insurance plan. The employer must determine whether the employee is able to safely and effectively perform assigned job duties while participating in such programs, and if the employee is deemed unable to do so, he or she must be placed in a job assignment which can be performed during that time or placed on leave status. Certain employees, such as those who carry firearms or work with children, are automatically considered to be unable to perform their duties while participating in employee assistance programs or alcohol and drug rehabilitation programs.

In provisions relating to employees and employers covered by the Workers' Compensation Law, the bill replaces references to "safety-sensitive" positions with "mandatory-testing" positions and provides a definition for "mandatory-testing." The bill states that employers who maintain drug-free workplace programs which exceed statutory standards are still entitled to receive insurance discounts. The requirement that random drug testing provisions must be specified in collective bargaining agreements before such testing is implemented is deleted.

The bill also provides for the drug testing of all Department of Corrections job applicants and for random testing of corrections employees in mandatory-testing positions.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 26-14; House 79-37

Committee on Health Regulation

CS/CS/CS/HB 1263 — Department of Health

by Health and Human Services Committee, Appropriations Committee, Health and Human Services Quality Subcommittee; and Rep. Hudson and others (CS/SB 1824 by Health Regulation and Senator Garcia)

This bill substantially amends portions of the Florida Statutes which affect the Department of Health (DOH). The purpose, powers, and duties of the DOH are restated to more succinctly reflect organizational changes that were recommended as a result of the DOH review required by the 2010 Legislature in HB 5311. Substantive provisions in this bill include:

- Authorizing two or more counties and county health departments to combine their operations by an agreement which meets specific criteria;
- Repealing the Florida Center for Universal Research to Eradicate Disease (FLCURED);
- Specifically authorizing county governments to enact health regulations and ordinances that are not inconsistent with state public health laws and rules;
- Basing the list of diseases of public health significance that the DOH may require practitioners to report on recommendations from the Centers for Disease Control and Prevention, the Council of State and Territorial Epidemiologists, and emerging diseases that are necessary for the prevention and control of a disease specific to Florida;
- Amending portions of law relating to onsite sewage treatment and disposal to:
  - Repeal the onsite sewage treatment and disposal system evaluation program;
  - Require counties and municipalities with a first magnitude spring to develop and adopt by ordinance a local evaluation and assessment program, unless the county or municipality opts out; and authorize all other counties and municipalities to establish local evaluation and assessment programs;
  - Set out the framework and allowable criteria if an evaluation program is adopted by a county or municipality by ordinance;
  - Grandfather in any existing county or municipal programs established prior to July 1, 2011, provided that such a program does not require an evaluation at the point of sale in a real estate transaction;
  - Provide that a permit issued by the DOH for the installation, modification, or repair of a septic system transfers with title to the property so that title is not encumbered when transferred if new permit requirements are in place at the time of transfer; and
  - Allow system owners to choose the least costly remedial measure to resolve a system failure;
- Requiring the DOH to establish an interagency agreement with the Department of Children and Family Services for fiscal management of the Special Supplemental Nutrition Program for Women, Infants, and Children, including implementation of an electronic benefits transfer (EBT) system;
- Requiring a health care practitioner to provide certain information when a developmental disability is diagnosed based on the results of a prenatal test and establishing an advisory council to assist the DOH develop an information clearinghouse related to developmental disabilities;

- Amending the Children's Medical Services (CMS) program to revise eligibility requirements so that a child must have a diagnosis of one or more chronic and *serious* medical conditions and the family has a need for specialized services and be enrolled in Medicaid; or if funding is available, a child who does not qualify for Medicaid but who is unable to access specialized services that are medically necessary or essential family support services may participate on a sliding fee schedule;
- Amending the statewide tuberculosis control program to be a coordinated effort of county health departments and contracted or other private health care providers and requiring a transition plan for the closure of the A.G. Holley State Hospital which is to be fully implemented by January 1, 2013;
- Requiring the DOH to contract for the evaluation and review of laboratory certification applications and for laboratory inspections;
- Requiring a physician who performs liposuction procedures in an office setting where more than 1,000 cubic centimeters of supernatant fat is removed to register the office with the DOH;
- Requiring the Board of Nursing to deny a program application for a new prelicensure nursing education program if the educational institution has an existing program that is on probationary status;
- Revising various entities powers over the regulation of public swimming pools and public bathing places to:
  - Limit the DOH's duty to inspect and regulate such places to sanitation and safety standards.
  - Authorize the DOH to issue health advisories related to public bathing places;
  - Authorize county health department responsibility to grant them authority over water quality at such places; and
  - Authorize local government responsibility over construction and modification reviews of such places;
- Transferring the Nursing Student Loan Forgiveness Program to the Department of Education; and
- Requiring the Division of Medical Quality Assurance to develop a plan to improve the efficiency of its functions relating to timeliness in processing licenses, publishing board meetings, and coordination of joint functions between the division and regulatory boards.

The bill also consolidates and renames several divisions within the DOH and removes unused rulemaking authority, unnecessary legislative intent and findings, and obsolete date references. It also removes provisions requiring the Legislature to expend funds, which have no effect on the Legislature's budget decisions in the General Appropriations Act.

If approved by the Governor, these provisions take effect upon becoming law unless otherwise expressly stated.
Vote: Senate 31-9; House 86-29

Committee on Health Regulation

CS/SB 1856 — Public Records and Public Meetings/Peer Review Panels/Biomedical Research Grants

by Health Regulation Committee and Senator Flores

The bill exempts from Florida's public records and public meetings laws information related to a peer review panel's review of applications for biomedical research grants under the James and Esther King Biomedical Research Program (King Program) and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program). Meetings in which peer review panels review applications for biomedical research grants are exempt from public meetings laws; records generated by the panels are confidential and exempt from public records laws, except for final recommendations of the panels; and the research grant applications themselves are held confidential and exempt from public records laws. The bill authorizes the disclosure of the exempted information under certain circumstances, provides for the repeal of the public records and public meetings exemption unless reenacted before October 2, 2017, in accordance with the Open Government Sunset Review Act, and provides a statement of public necessity for the exemption.

If approved by the Governor, these provisions take effect on the same date that CS/SB 616 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.
Vote: Senate 39-0; House 115-0

Committee on Health Regulation

HB 4163 — Continuing Education for Athletic Trainers and Massage Therapists

by Rep. Hudson (CS/SB 1258 by Health Regulation Committee and Senator Benacquisto)

The bill repeals s. 456.034, F.S., to delete the requirement for a massage therapist or an athletic trainer to complete an educational course in HIV/AIDS as part of the initial application for licensure and continuing education in HIV/AIDS as part of licensure renewal.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 38-0; House 103-16

Committee on Health Regulation

HB 7035 — OGSR/Physician Workforce Surveys

by Government Operations Subcommittee and Rep. Roberson (CS/SB 830 by Governmental Oversight and Accountability Committee and Health Regulation Committee)

This bill re-enacts the exemptions from the requirements of the Public Records Law for all personal identifying information contained in records provided by allopathic and osteopathic physicians in response to the Department of Health physician workforce survey. The bill is the result of a review of the exemptions under the Open Government Sunset Review Act. The exemptions will expire on October 2, 2012, unless re-enacted by the Legislature before that date.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 39-0; House 114-0