

STORAGE NAME: h4535z.hcs
DATE: May 27, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4535 (Passed as CS/CS/SB 484)

RELATING TO: Health Care

SPONSOR(S): Committee on Health Care Services, Rep. Albright & others

COMPANION BILL(S): SB 484 (similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE SERVICES YEAS 10 NAYS 1
- (2) GOVERNMENTAL OPERATIONS (W/D)
- (3) FINANCE & TAXATION (W/D)
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS (W/D)

I. FINAL ACTION STATUS:

05/24/98 Became Law without Governor's Signature; Chapter No. 98-191

II. SUMMARY:

With regard to the Medicaid program, this bill: revises third party liability recovery procedures by the Agency for Health Care Administration (AHCA); revises payment schedules for persons dually eligible for Medicare and Medicaid; revises mandatory assignment provisions for Medicaid recipients to insure equal enrollment in MediPass and PSN's and managed care plans; requires AHCA to establish a revised Medicaid reimbursement methodology for long-term-care services for nursing home residents; authorizes AHCA to competitively negotiate for home health services; revises eligibility standards to conform to WAGES requirements; extends time Medicaid recipients may disenroll from a managed care plan or MediPass provider; creates a Medicaid outpatient specialty services pilot project; eliminates prohibition of federally qualified health centers participating in Medicaid provider services networks; limits reimbursement under District 6 Mental Health Pilot Projects to entities licensed under chs. 624, 641, or 636, F.S.; provides \$2 million from tobacco settlement revenues to provide Medicaid recipients with prosthetic and orthotic devices; requires Medicaid reimbursement to county health departments for school based services for patients enrolled in managed care plans.

With regard to the Department of Health and other health care issues, this bill: specifies that copayments collected by DOH or its contractors do not apply to health care providers practicing under the "Access to Health Care Act"; authorizes certain departments to share confidential client information; revises local WAGES coalition memberships; adds DOH to the definition of "medical review committee"; names the Carl S. Lytle, M.D. Memorial Health Facility in Marion County; repeals outdated silver nitrate requirements; transfers the Nursing Student Loan Forgiveness Program and scholarship program from the DOH to the Department of Education; increases the penalties for maliciously disseminating information identifying individuals who have a sexually transmissible disease and for persons committing multiple violations of s. 384.24(2); revises professional liability reporting requirements by certain insurers; provides that DOH is the designated state agency for receiving federal funds for the Child Care Food Program.

Finally, this bill revises the "Health Care Responsibility Act of 1988" to reduce the maximum amount a county may be required to pay out-of-county hospitals for care provided to qualified indigent residents of the county and increases the time a hospital has to notify the county of residence of a HCRA patient that the hospital provided health care to the patient.

The fiscal impact on local government of the HCRA portion of this bill may vary from county to county. An appropriation of \$2 million from tobacco settlement revenues will be matched with federal Medicaid funds to provide Medicaid recipients with prosthetic and orthotic devices.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Health Care Responsibility Act

The "Florida Health Care Responsibility Act" or HCRA was created in 1977 and was designed to ensure that the county of residence of an indigent person who receives inpatient hospital services in a county other than the county of residence, will reimburse the hospital for those services. The statutory provisions were revised in 1988 as part of chapter 88-294, Laws of Florida, to strengthen provisions requiring counties to fulfill their financial obligations for their indigent residents who are provided out-of-county hospital care. At that time, the act was renamed as the "Florida Health Care Responsibility Act of 1988."

The intent language that is part of HCRA, as specified in s. 154.302, F.S., places the ultimate financial obligation for hospital treatment for qualified out-of-county indigent patients on the county in which the indigent patient resides. Under s. 154.309, F.S., the county known or thought to be the county of residence is given first opportunity to certify that a treated indigent is a resident of the county. If that county fails to make such a determination within 60 days of written notification by the hospital, the agency is to determine the indigent's county of residency. This determination is then binding on the county of residence.

Under s. 154.304, F.S., a hospital qualifies as "participating" in HCRA if it meets two criteria. First, the hospital has to have reported to the Agency for Health Care Administration (AHCA or agency) that it provided charity care, based on the hospital's most recent audited actual experience, in an amount where the ratio of uncompensated charity care days compared to total acute care inpatient days equals or exceeds 2 percent. Second, the hospital is required to either sign a formal agreement with a county to treat the county's indigent patients, or demonstrate to the agency that at least 2.5 percent of its uncompensated charity care, as reported to the agency, is generated by out-of-county residents. Under this section of statute, "regional referral hospitals" are hospitals which have met the 2 percent charity care obligation and which meet the definition of a teaching hospital as defined in s. 408.07, F.S. The act defines "qualified indigent person" to mean a person who has been determined pursuant to s. 154.308, F.S., to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program which provides hospital care; who has no private insurance or has inadequate private insurance; and who does not reside in a public institution. Section 154.316, F.S., requires any hospital admitting or treating any out-of-county patient who may qualify as indigent under HCRA to notify the county known or thought to be the county of residency within 10 days of the treatment or admission, or the county forfeits its right to reimbursement. Hospitals have indicated that this 10 day period is insufficient.

Under s. 154.306, F.S., a county's financial obligation for qualified applicants does not exceed 45 days per county fiscal year. The rate of payment set by this act is 100 percent of the per diem reimbursement rate currently in effect for the out-of-county hospital under Medicaid, except that those counties that were at their 10-mil cap on October 1, 1991, reimburse hospitals for such services at not less than 80 percent of the hospital Medicaid per diem. If a county has negotiated a formal agreement with a hospital, the payment rate set by the agreement is substituted for the payment rate set by the statute. The maximum a county is required to pay is equivalent to \$4 multiplied by the most recent official state population estimate for the county.

Current county compliance with statutory requirements varies widely. Figures compiled by the Agency for Health Care Administration and the Florida Association of Counties indicate that the following amounts have been expended by counties under the Health Care Responsibility Act of 1988 in recent years: 1991-92, \$3,029,637; 1992-93, \$3,419,623; 1993-94, \$5,028,883; 1994-95, \$2,620,975; 1995-96, \$2,849,861; and 1996-97, \$2,074,076.

As stated, there is a \$4 per capita limit on the liability of any county for payments under HCRA. However, very few counties actually reach this cap. No county reached the cap during the 1996-97 fiscal year, and only 7 counties reached the cap between fiscal years 1991-92 and 1993-94 (DeSoto, Franklin, Gilchrist, Hardee, Madison, Nassau, and Wakulla). Total collections in fiscal year 1996-97 was only 3.6 percent of the total liability.

There are 8 counties in the state with no hospital within their boundary. These are Dixie, Gilchrist, Glades, Jefferson, Lafayette, Liberty, Sumter, and Wakulla. While 46 counties report paying at least some amount under the act during the past 3 fiscal years, 21 counties report no expenditures.

Medicaid Third Party Liability

Under provision of the federal Omnibus Budget Reconciliation Act of 1993, the Medicaid Estate Recovery Program is required to recover Medicaid payments from estates of certain deceased Medicaid recipients. In Florida, the Agency for Health Care Administration (AHCA) is responsible for identifying the estates of former Medicaid recipients and recovering any funds the estate might owe Florida as reimbursement for Medicaid expenditures made on behalf of the decedent. Currently, there is no time limitation as to when the estate's representative must pay AHCA the amount of the Medicaid expenditures.

The agency is presently classed as one of the last creditors to receive payment from an estate. Section 733.707, F.S., ranks the payment of expenses and obligations of estates in the following order:

- Class 1.--Costs, expenses of administration, and compensation of personal representatives and their attorneys' fees;
- Class 2.--Reasonable funeral, interment, and grave marker expenses, whether paid by a guardian under s. 744.441(16), the personal representative, or any other person, not to exceed the aggregate of \$6,000;
- Class 3.--Debts and taxes with preference under federal law;

- Class 4.--Reasonable and necessary medical and hospital expenses of the last 60 days of the last illness of the decedent, including compensation of persons attending him or her;
- Class 5.--Family allowance;
- Class 6.--Arrearage from court-ordered child support;.
- Class 7.--Debts acquired after death by the continuation of the decedent's business, in accordance with s. 733.612(22), but only to the extent of the assets of that business;
- Class 8.--All other claims, including those founded on judgments or decrees rendered against the decedent during the decedent's lifetime, and any excess over the sums allowed in paragraphs (b) and (d).

The agency's claims relating to public assistance are now categorized as Class 7 (debts acquired after death).

Medicaid Programs and Medicaid Eligibility

In 1996, Congress passed the Personal Responsibility and Work Opportunity Act, which replaced the federal Aid to Families with Dependent Children (AFDC) program with a new program called Temporary Assistance to Needy Families (TANF).

The major change from AFDC is that TANF limits the amount of time a person can receive financial assistance and sets work requirements for the program's participants. The link between Medicaid and the cash assistance program was eliminated. Persons eligible for TANF will no longer be automatically eligible for Medicaid as they were under AFDC. Parents and children receiving TANF must meet separate eligibility income and asset rules.

Florida's family assistance program under TANF is the Work and Gain Economic Self-Sufficiency (WAGES) program. The current State Medicaid eligibility requirements do not conform to WAGES program requirements.

Medicaid Home Health Services

The FY 1997-1998 General Appropriations Act authorized AHCA to competitively negotiate for home health services to Medicaid recipients. In the past, methods such as prior authorization have been effective in decreasing the number of home health providers, but the number of home health providers is beginning to increase again.

According to AHCA, when an excessive number of home health service providers exists, an increase in rates occurs and a high incidence of fraud and abuse emerges. Competitive negotiating gives AHCA the ability to control costs and fraud by allowing the agency to seek out qualified and cost-efficient bidders without imposing strict constraints on bid scoring.

Local WAGES Coalitions

Local WAGES coalitions are designed to plan and coordinate the delivery of WAGES Program services specified in the statewide implementation plan at the local level. The local delivery of services under the WAGES Program are coordinated as much as

possible with the local services and activities of the local service providers designated by the regional workforce development boards.

Currently, each local WAGES coalition must have a minimum of 11 members, of which at least one-half must be from the business community. The composition of the coalition membership must generally reflect the racial, gender, and ethnic diversity of the community as a whole. Members are appointed to 3-year terms, and the composition of the coalition membership must generally reflect the racial, gender, and ethnic diversity of the community. The membership of each coalition must include:

- Representatives of the principal entities that provide funding for the employment, education, training, and social service programs that are operated in the service area, including, but not limited to, representatives of local government, the regional workforce development board, and the United Way;
- A representative of the health and human services board;
- A representative of a community development board;
- Three representatives of the business community who represent a diversity of sizes of businesses;
- Representatives of other local planning, coordinating, or service-delivery entities;
- A representative of a grassroots community or economic development organization that serves the poor of the community.

Medical Review Committee - Exemption from Liability

Section 766.101(1)(a) defines a medical review committee for the purpose of exemption from liability. County health departments and healthy start coalitions are currently included in this definition. The Department of Health, however, was inadvertently left out of this definition.

Primary Care Challenge Grant Program

The Primary Care for Children & Families Challenge Grant Program was created to stimulate a partnership between the state and local governments for the development of coordinated primary health care delivery systems for low-income children and families. Children and families with incomes up to 150% of the federal poverty level are eligible. Successful applicant counties for the grant have to contribute a local match which consists of a combination of in-kind and cash contributions. Currently, participants pay no monthly premium for participation, but may be required to pay a copayment at the time the service is provided. These primary care challenge grant program copayments jeopardize the sovereign immunity protections for providers covered under the Access to Care Act as created in s. 766.1115, F.S.

Nursing Student Loan Forgiveness Program and scholarship program

The Nursing Student Loan Forgiveness Program (s. 240.4075, F.S.) and the Nursing scholarship program (s. 240.4076) were created to attract capable and promising individuals to the nursing profession. The scholarship program offers individuals an opportunity to receive scholarship money for an approved nursing program if the individual agrees to work at a health care facility in a medically underserved area for each year that scholarship assistance was received. The primary function of the loan

forgiveness program is to increase the employment and retention of registered nurses and licensed practical nurses in state and state-operated medical and health care facilities by making repayments toward loans received by the nurses from federal or state programs or commercial lending institutions for post-secondary study in nursing programs. Both programs are administered by the Department of Health.

Sharing of Confidential Information between Departments

Since the Department of Health and Rehabilitative Services was split into the Department of Health and the Department of Children and Family Services, the two departments have not had the ability to share confidential information in the same manner as when they were both part of the same department. Currently, a waiver request is presented to clients before services are provided by each agency. If a client refuses to sign a waiver, the departments cannot share the confidential information. The Department of Health believes that sharing confidential information improves child protection activities and helps reduce the incidence of abuse.

Prophylactic for Newborns' Eyes

Section 383.04 and 383.05, F.S., involve requirements that all newborns receive a prophylactic agent containing silver nitrate in the eyes within one hour of birth. These sections require that the prophylactic is to be prepared and distributed for free by DOH. This statute has not been enforced in many years because silver nitrate is no longer readily available and other more effective and less harmful eye prophylactics are used in place of silver nitrate. In addition, DOH does not receive funding to make the silver nitrate solution available.

Sexually Transmissible Diseases

According to section 384.34(2), F.S., any person who breaches the confidentiality of sexually transmissible disease information held by the department, including information related to contact investigation, is subject to the penalty of a first degree misdemeanor. In the enforcement of this statute, questions have arisen regarding the applicability of these penalties to persons not employed by the department.

Section 384.34(3), F.S., establishes that any person who maliciously disseminates false information concerning the existence of any sexually transmissible disease is subject to the penalty of a second degree misdemeanor. Section 381.004(6), F.S., establishes the penalty of a first degree misdemeanor for any person who breaches the confidentiality of information related to testing for human immunodeficiency virus (HIV), including the HIV testing of inmates.

According to the Department of Health, maintaining the security and privacy of sensitive client records is essential to the department's public health efforts. The department believes that increased penalties would enhance the ability of law enforcement to hold persons accountable for violations of this law, and that more severe penalties would reinforce public trust in the safety of these records and serve as a deterrent to mishandling or misuse.

Section 384.24, F.S., provides that it is unlawful for any person who has HIV to knowingly expose other person to the disease through sexual intercourse unless the person has been informed of the sexually transmitted disease and has consented to the sexual intercourse.

A. EFFECT OF PROPOSED CHANGES:

Health Care Responsibility Act

County governments that have a hospital within the county may reduce the total liability under HCRA by one-half if the funds are spent on in-county hospital care for qualified indigent residents. Also, hospitals will have increased the time to notify the county of residence of a HCRA patient that the hospital provided health care to the patient, from the current time period of 10 days to 30 days.

Medicaid Third Party Liability

AHCA will be able to more efficiently identify and recover funds owed to the state of Florida from the estates of former Medicaid recipients. Attorney's fees will be provided for in the distribution of amounts recovered in certain torts suits. Agency claims relating to public assistance debts will be removed from Class 7 (debts acquired after death) and categorized as Class 3 (debts and taxes with preferences under federal law). A significant increase in revenue for increased Medicaid spending should result.

Medicaid Programs and Medicaid Eligibility

Medicaid eligibility will be described as:

- A low income family with a child who is living with a caretaker relative as defined by the federal Medicaid statute;
- Family income does not exceed the gross income test limit;
- Family countable income and resources do not exceed the applicable AFDC standards under the AFDC State Plan in effect in July 1996, except as amended in the Medicaid State Plan to conform to the WAGES program requirement as permitted by federal law.

An appropriation of \$2 million from tobacco settlement revenues to be matched with federal Medicaid funds will be used to provide Medicaid recipients with prosthetic and orthotic devices.

The Department of Health will be the designated state agency for receiving federal funds for the Child Care Food Program.

Medicaid reimbursement to county health departments for school based services for patients enrolled in managed care plans will be required.

Mandatory assignment provisions for Medicaid recipients will be revised to insure equal enrollment in MediPass and PSN's and managed care plans.

The period during which a Medicaid recipient may disenroll from a managed care plan or Medipass provider will be extended from 60 to 90 days.

Medicaid Home Health Services

AHCA will be authorized to seek federal waivers to allow competitive negotiation in providing cost-effective purchasing of home health services. AHCA believes that competitive negotiation may help Medicaid in efforts to control spending, growth, and fraud in the home health program. AHCA is directed to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatient speciality services to Medicaid recipients on a prepaid, capitated basis. A new licensure category, separately or in combination, under part II of Chapter 641, F.S. for diagnostic imaging, clinical lab, and Medicaid home health services is created, and a provision that prohibits federally qualified health centers from participating in Medicaid provider services networks is repealed.

Local WAGES Coalitions

One public health official will sit on each local WAGES coalition as an ex officio member. At the option of the WAGES coalition, county health departments and healthy start coalitions are permitted to be on WAGES coalitions as regular members.

Medical Review Committee - Exemption from Liability

The Department of Health is included in the definition of "medical review committee" for purpose of exemption from liability.

Reimbursement of Medicaid Providers

Reimbursement under District 6 Mental Health Pilot Projects to entities licensed under chs. 624, 641, or 636, F.S., will be limited, effective January 1, 1999. AHCA will be required to establish a reimbursement methodology for long-term-care services for Medicaid-eligible nursing home residents. Payment provisions for persons dually eligible for Medicare and Medicaid will be revise.

Professional Liability Claims

Professional liability reporting requirements by certain insurers will be revised, and health care providers who obtain professional liability insurance from the Board of Regents will be required to report to the Department of Insurance claims for damages.

Primary Care Challenge Grant Programs

Copayments will not apply to health care providers practicing under the provisions of s. 766.1115, F.S.

Nursing Student Loan Forgiveness Program and scholarship program

The Nursing Student Loan Forgiveness Program and the Nursing scholarship program will be transferred from the Department of Health to the Department of Education. The transfer is specified as a type II transfer as provided in s. 20.06, F.S., which provides the method of reorganization of the executive branch of government.

Sharing of Confidential Information Between Departments

The Department of Health and Children and Family Services will have the ability to share confidential information in the same manner as when the two departments were both part of the former Department of Health and Rehabilitative Services.

The Carl S. Lytle, M.D. Memorial Health Facility

Upon completion, the Marion County Health Department building to be constructed in Belleview, FL, will be known as the "Carl S. Lytle, M.D. Memorial Health Facility.

Prophylactic for Newborns' Eyes

Instilling Silver nitrate into the eyes of newborns will no longer be required. An effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics will be instilled in place of the silver nitrate.

The Department of Health will no longer be required to prepare and distribute for free prophylactics for the eyes of newborns.

Sexually Transmissible Diseases

Any person who obtains and maliciously, or for monetary gain, disseminates information identifying an individual who has a sexually transmissible disease, including HIV or AIDS, will be guilty of a third degree felony. Any person who commits multiple violations of s. 384.24(2) -- knowingly exposing an individual to HIV infection through sexual intercourse unless the other person has been informed of the HIV infection and consents to the sexual intercourse -- is guilty of a first degree felony.

B. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

AHCA will be given the authority to seek federal waivers allowing the agency to competitively negotiate in purchasing home health services and

will have to modify its policies related to HCRA to reflect the changes in the bill.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Clerk of Court will provide AHCA with a copy of a monthly estate report already provided for the Department of Revenue.

County governments and hospitals that participate in HCRA will have to modify their procedures to comply with the bill.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, county governments which benefit will have to cover any associated administrative expenses.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Certain hospitals may experience increased reimbursement from county government for in-county indigent patients, and indigent patients may experience increased access to hospital care.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Approval of the bill may result in the closing of some home health agencies whose business is primarily devoted to providing services to Medicaid recipients.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

C. STATUTE(S) AFFECTED:

Sections 154.301, 154.302, 154.304, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, 154.314, 154.316, 154.504, 198.30, 240.4075, 240.4076, 381.0022, 402.115,

381.004, 384.34, 414.028, 766.101, 383.011, 383.04, 383.05, 409.903, 409.908, 409.912, 409.12, 409.9122, 409.910, 414.28, 627.912, F.S.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Provides that the Legislature finds that amendments to ss. 154.301 through 154.316, F.S., contained in this act fulfill an important state interest.

Sections 2 - 4 and 6 - 11 Amend ss. 154.301 - 154.314, F.S., relating to HCRA, to make technical and conforming changes.

Section 5. Amends s. 154.306, F.S., relating to financial responsibility for certified residents who are qualified indigent patients treated at an out-of-county participating hospital, to specify that the maximum amount a county may be required to pay to out-of-county hospitals for HCRA may be reduced by up to one-half (from \$4 per capita to \$2 per capita) provided that the amount not paid has or is being spent for in-county hospital care provided to qualified indigent residents.

Section 12. Amends s. 154.316, F.S., relating to hospital's responsibility to notify of admission of indigent patients, to change from 10 to 30 the number of days a hospital has after admitting or treating a HCRA patient to notify the county of residency

Section 13. Amends s. 154.504, F.S., relating to the primary care for children and families challenge grant, to add language providing that copayments shall not apply to health care providers practicing under the provisions of s. 766.1115, F.S.

Section 14. Amends s. 198.30, F.S., relating to estate recovery, to require that the circuit judge provide a copy of a monthly report containing the estate information of all decedents whose wills have been probated or propounded for probate before the circuit judge to the Agency for Health Care Administration.

Section 15. Amends s. 240.4075, F.S., relating to the Nursing Student Loan Forgiveness Program, transferring the Program from the Department of Health to the Department of Education.

Section 16. Amends s. 240.4076, F.S., relating to the Nursing scholarship program, transferring the program from the Department of Health to the Department of Education.

Section 17. Specifies that the transfers of the Nursing Student Loan Forgiveness Program and the Nursing scholarship program to the Department of Education are type II transfers.

Section 18. Creates s. 381.0022, F.S., relating to sharing of confidential or exempt information, to give the Department of Health and Children and Family Services the ability to share confidential information.

Section 19. Creates s. 402.115, F.S., relating to sharing of confidential or exempt information, to give the Department of Health and the Department of Children and Family Services the ability to share confidential information.

Section 20. Amends s. 381.004., relating to testing for human immunodeficiency virus, to establish the penalty of a third degree felony for any person who obtains and disseminates information that identifies an individual who has a sexually transmissible disease, including HIV and AIDS.

Section 21. Amends s. 384.34, F.S., relating to penalties, to establish the penalty of a third degree felony for any person who obtains and disseminates information that identifies an individual who has a sexually transmissible disease, and to establish the penalty of a first degree felony for any person who commits multiple violations of s. 384.24(2).

Section 22. Amends s. 414.028, F.S., relating to local WAGES coalitions, to provide that one public health official sit on each local WAGES coalition as an ex officio member and to permit county health departments and healthy start coalitions to be on WAGES coalitions as regular members at the option of the WAGES coalition.

Section 23. Amends s. 766.101, F.S., relating to "medical review committee", immunity from liability, to add the Department of Health to the definition of "medical review committee" for purpose of exemption from liability.

Section 24. Amends s. 383.011, F.S., relating to maternal and child health programs, to establish that the Department of Health is the designated state agency for receiving federal funds for the Child Care Food Program.

Section 25. Amends s. 383.04, F.S., relating to prophylactic required for eyes of infants, to remove language that requires silver nitrate to be instilled into the eyes of infants within an hour after birth and to require that an effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics be instilled instead.

Section 26. Repeals s. 383.05, F.S., relating to Department of Health preparation and free distribution of infant eye prophylactic.

Section 27. Amends s. 409.903, F.S., relating to mandatory payments for eligible persons, to update Medicaid eligibility requirements to conform to WAGES requirements as permitted by federal law.

Section 28. Amends s. 409.908(2), F.S., relating to reimbursement of Medicaid providers, to require the agency to establish a reimbursement methodology for long-term-care services for Medicaid-eligible nursing home residents. Amends 409.908(13), to revise payment provisions for persons dually eligible for Medicare and Medicaid

Section 29. Amends s. 409.912, F.S., relating to cost-effective purchasing of health care, to authorize the Agency for Health Care Administration to seek federal waivers allowing the agency to competitively negotiate to provide cost-effective purchasing of

home health services. Limits reimbursement, effective July 1, 1999, under District 6 Mental Health Pilot Projects to entities licensed under chs. 624, 641, or 636, F.S. Directs AHCA to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatient speciality services to Medicaid recipients on a prepaid, capitated basis, and creates new licensure category, separately or in combination, under part II of Chapter 641, F.S. for diagnostic imaging, clinical laboratory, and Medicaid home care services. Provides that this subsection is not intended to conflict with the provision of the 1997-98 General Appropriations Act authorizing competitive bidding for diagnostic imaging, clinical laboratory, or Medicaid home care services.

Section 30. Amends s. 409.12, F.S., effective January 1, 1999, to eliminate provisions that prohibit federally qualified health centers from participating in Medicaid provider services networks.

Section 31. Amends s 409.9122, F.S., relating to mandatory Medicaid managed care enrollment programs and procedures, to: require Medicaid reimbursement to county health departments for school based services for patients enrolled in managed care plans; revise mandatory assignment provisions for Medicaid recipients to insure a 50% enrollment in MediPass and provider services networks and 50% enrollment in managed care plans; and extend the period during which a Medicaid recipient may disenroll from managed care plan or MediPass provider from 60 to 90 days.

Section 32. Amends s. 409.910, F.S., relating to payments on behalf of Medicaid-eligible persons when other parties are liable, to require that after attorney's fees and taxable costs, one-half of the remaining recovery shall be paid to the department up to the total amount of medical assistance provided by Medicaid and the remaining amount shall be paid to the recipient with the fee for services of an attorney calculated at 25% of the judgment, award, or settlement, and to require that third-party beneficiaries pay the agency the full amount of the received benefit within 60 days of settlement.

Section 33. Amends s. 414.28, F.S., relating to public assistance debts, to categorize claims relating to public assistance debts as Class 3 (debts and taxes with preferences under federal law) instead of Class 7 (debts acquired after death).

Section 34. Amends s. 627.912, F.S., relating to professional liability claims and actions, to revise reporting requirements by certain insurers and to require health care providers who obtain professional liability insurance from the Board of Regents to report to the Department of Insurance claims for damages.

Section 35. Provides that upon completion, the Marion County Health Department building to be constructed in Belleview, Florida, shall be known as the "Carl S. Lytle, M.D. Memorial Health Facility".

Section 36. Provides for an appropriation of \$2 million from tobacco settlement revenues to be matched at an appropriate level with federal Medicaid funds to provide Medicaid recipients with prosthetic and orthotic devices.

Section 37. Provides an effective date of July 1 of the year in which enacted, unless otherwise provided in the act.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

There will be a reduction in licensure fees collected by AHCA as a result of a decrease in home health services agencies due to competitive negotiating.

An amount of \$2 million from tobacco settlement revenues to be matched at an appropriate level with federal Medicaid funds will be used to provide Medicaid recipients with prosthetic and orthotic devices.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A number of home health agencies may lose business as a result of competitive negotiation.

Certain hospitals may experience a small reduction in HCRA payments.

2. Direct Private Sector Benefits:

The costs of home health care services may be controlled and possibly reduced.

Certain hospitals may experienced increased reimbursement from county government for in-county indigent patients. Indigent patients may experience increased access to hospital care.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

The disease management initiatives that were approved as part of the General Appropriations Act for 1997-98 were estimated to generate approximately \$4.2 million in savings for the current year. The bill grants AHCA specific statutory authority for these initiatives. As a corollary, AHCA is seeking \$175,000 in expense funds as part of its 1998-99 Legislative Budget Request to be used to refine the prototype disease management model for Medicaid recipients with HIV/AIDS.

The competitive negotiation initiative for home health services that was approved as part of the General Appropriations Act for 1997-98 was estimated to generate approximately \$3.0 millions in savings for the current year. This bill grants AHCA specific statutory authority for this competitive negotiation.

AHCA estimates that the changes in the bill relating to Medicaid third party recovery in s. 409.910, F.S., will result in a loss of recovery of more than \$2.65 million per year.

A reduction in the cap to \$2 per capitain the HCRA Program would not appear to have a significant fiscal impact because so few counties exceed 50 percent of the liability. In fiscal year 1996-97, only 7 counties expended more than 50% of their HCRA responsibility, amounting to \$217,400, or 10.5% of total HCRA payments that year.

The \$2 million taken from the tobacco settlement revenues to provide Medicaid recipients with prosthetic and orthotic devices will be matched with federal funds of \$2,525,911 creating a total of \$4,525,911.

The chart which follows lists funding amounts by county under HCRA for the 1996-97 fiscal year, and the amount available for in county use if this bill were to become law.

HEALTH CARE RESPONSIBILITY ACT FY 1996-97						
County	Population	\$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Alachua	201,257	\$805,028	\$2,944	0	*	\$402,514
Baker	20,618	\$82,472	\$78,552	95.25%		\$0
Bay	141,342	\$565,369	\$0	0.00%	*	\$282,684
Bradford	24,557	\$98,228	\$58,655	59.71%		\$0
Brevard	454,174	\$1,816,696	\$60,247	3.32%	*	\$908,348
Broward	1,383,624	\$5,534,496	\$225,590	4.08%	*	\$2,767,248
Calhoun	12,113	\$48,452	\$0	0.00%	*	\$24,226
Charlotte	131,419	\$525,676	\$7,182	1.37%	*	\$262,838
Citrus	108,181	\$432,724	\$55,396	12.80%	*	\$216,362
Clay	123,852	\$495,408	\$14,713	2.97%	*	\$247,704
Collier	192,813	\$771,252	\$14,363	1.86%	*	\$385,626
Columbia	51,314	\$205,256	\$0	0.00%	*	\$102,628
Dade	2,037,305	\$8,149,220	\$0	0.00%	*	\$4,074,610
Desoto	27,323	\$109,292	\$10,335	9.46%	*	\$54,646
Dixie	12,722	\$50,888	\$32,132	63.14%		\$0
Duval	726,898	\$2,907,592	\$0	0.00%	*	\$1,453,796
Escambia	286,768	\$1,147,072	\$0	0.00%	*	\$573,536
Flagler	38,556	\$154,224	\$14,083	9.13%	*	\$77,112
Franklin	10,390	\$41,560	\$40,944	98.52%		\$0
Gadsden	45,214	\$180,856	\$2,944	1.63%	*	\$90,428
Gilchrist	12,270	\$49,080	\$39,665	80.82%		\$0
Glades	8,827	\$35,308	\$0	0.00%	*	\$17,654
Gulf	13,617	\$54,468	\$0	0.00%	*	\$27,234
Hamilton	12,859	\$51,436	\$0	0.00%	*	\$25,718
Hardee	23,027	\$92,108	\$0	0.00%	*	\$46,054

Hendry	30,126	\$120,504	\$31,128	25.83%	*	\$60,252
Hernando	121,777	\$487,108	\$40,014	8.21%	*	\$243,554
Highlands	78,938	\$315,752	\$25,883	8.20%	*	\$157,876
Hillsborough	905,364	\$3,621,456	\$27,237	0.75%	*	\$1,810,728
Holmes	17,516	\$70,064	\$0	0.00%	*	\$35,032
Indian River	102,412	\$409,648	\$0	0.00%	*	\$204,824
Jackson	46,968	\$187,872	\$0	0.00%	*	\$93,936
Jefferson	13,659	\$54,636	\$0	0.00%	*	\$27,318
Lafayette	6,698	\$26,792	\$0	0.00%	*	\$13,396
Lake	181,341	\$725,364	\$26,452	3.65%	*	\$362,682
Lee	385,513	\$1,542,052	\$21,887	1.42%	*	\$771,026
Leon	221,367	\$885,468	\$0	0.00%	*	\$442,734
Levy	30,418	\$121,672	\$107,606	88.44%		\$0
County	Population	\$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Liberty	6,991	\$27,964	\$2,944	10.53%	*	\$13,982
Madison	18,503	\$74,012	\$0	0.00%	*	\$37,006
Manatee	237,630	\$950,520	\$30,570	3.22%	*	\$475,260
Marion	230,221	\$920,884	\$98,068	10.65%	*	\$460,442
Martin	114,567	\$458,268	\$80,429	17.55%	*	\$229,134
Monroe	84,488	\$337,952	\$0	0.00%	*	\$168,976
Nassau	50,066	\$200,264	\$181,928	90.84%		\$0
Okaloosa	165,712	\$662,848	\$0	0.00%	*	\$331,424
Okeechobee	33,699	\$134,796	\$45,000	33.38%	*	\$67,398
Orange	775,789	\$3,103,156	\$0	0.00%	*	\$1,551,578
Osceola	141,727	\$566,908	\$17,337	3.06%	*	\$283,454
Palm Beach	983,052	\$3,932,208	\$21,511	0.55%	*	\$1,966,104
Pasco	311,273	\$1,245,092	\$246,830	19.82%	*	\$622,546
Pinellas	882,495	\$3,529,980	\$70,704	2.00%	*	\$1,764,990
Polk	450,091	\$1,800,364	\$48,212	2.68%	*	\$900,182
Putnam	70,510	\$282,040	\$33,911	12.02%	*	\$141,020
St. Johns	100,778	\$403,112	\$0	0.00%	*	\$201,556
St. Lucie	175,643	\$702,572	\$33,013	4.70%	*	\$351,286

County	Population	\$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Santa Rosa	98,821	\$395,284	\$89,234	22.57%	*	\$197,642
Sarasota	306,502	\$1,226,008	\$18,579	1.52%	*	\$613,004
Seminole	332,158	\$1,328,632	\$15,119	1.14%	*	\$664,316
Sumter	37,761	\$151,044	\$54,901	36.35%	*	\$75,522
Suwannee	31,094	\$124,376	\$22,834	18.36%	*	\$62,188
Taylor	18,516	\$74,064	\$0	0.00%	*	\$37,032
Union	12,795	\$51,180	\$7,519	14.69%	*	\$25,590
Volusia	410,705	\$1,642,820	\$17,681	1.08%	*	\$821,410
Wakulla	17,568	\$70,272	\$0	0.00%	*	\$35,136
Walton	34,163	\$136,652	\$0	0.00%	*	\$68,326
Washington	19,396	\$77,584	\$0	0.00%	*	\$38,792
State Total	14,395,851	\$57,583,404	\$2,074,275	Average = 13.25%	7 Counties exceed 50%	\$28,469,620

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues. However, the bill may reduce the revenues collected under HCRA for certain government-owned hospitals if counties choose to allocate a portion of their HCRA funds to in-county hospitals.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

In conducting their analysis of the HCRA portion of this bill, AHCA staff contacted several counties and hospitals, including Orange and Pinellas counties and HCRA participating hospitals in Leon and Hillsborough counties. According to AHCA, comments regarding the

legislation were favorable, suggesting that perhaps the bill would result in increased funding for in-county indigent hospital care.

Bill History:

HB 4535

03/31/98 H Filed; Introduced -HJ 00378
04/06/98 H Referred to Governmental Operations (GRC); Finance & Taxation (FRC); Health & Human Services Appropriations -HJ 00464
04/22/98 H Withdrawn from Governmental Operations (GRC) -HJ 00967; Now in Finance & Taxation (FRC)
04/24/98 H Withdrawn from Finance & Taxation (FRC); Health & Human Services Appropriations -HJ 01094; Placed on General Calendar; Read second time -HJ 01140; Amendment(s) adopted -HJ 01141
04/28/98 H Senate Bill substituted; Laid on Table, refer to CS/CS/SB 484

CS/CS/SB 484

12/08/97 S Prefiled
01/06/98 S Referred to Health Care; Ways and Means
01/12/98 S On Committee agenda-- Health Care, 01/22/98, 9:00 am, Room-EL
01/22/98 S Comm. Action: CS by Health Care
01/27/98 S Now in Ways and Means
03/03/98 S Introduced, referred to Health Care; Ways and Means -SJ 00036; On Committee agenda-- Health Care, 01/22/98, 9:00 am, Room-EL; Comm. Action: CS by Health Care -SJ 00008; CS read first time on 03/03/98 -SJ 00100; Now in Ways and Means -SJ 00008
03/23/98 S On Committee agenda-- Ways and Means, 03/26/98, 2:30 pm, Room-EL --Not considered
03/27/98 S On Committee agenda-- Ways and Means, 04/01/98, 12:30 pm, Room-EL
04/01/98 S Comm. Action:-CS/CS by Ways and Means -SJ 00408; CS read first time on 04/08/98 -SJ 00409
04/03/98 S Placed on Calendar -SJ 00408
04/17/98 S Placed on Special Order Calendar -SJ 00528
04/21/98 S Placed on Special Order Calendar -SJ 00528
04/22/98 S Placed on Special Order Calendar -SJ 00741
04/23/98 S Placed on Special Order Calendar -SJ 00812; Read second time -SJ 00843; Amendment(s) adopted -SJ 00844, -SJ 00848; Ordered engrossed -SJ 00849
04/24/98 S Read third time -SJ 00877; CS passed as amended; YEAS 33 NAYS 0 -SJ 00877; Immediately certified -SJ 00877
04/24/98 H In Messages
04/28/98 H Received -HJ 01443; In Government Services Council, pending ranking -HJ 01444; Substituted for HB 4535 -HJ 01512; Read second time -HJ 01512; Amendment(s) adopted -HJ 01512; Read third time -HJ 01523; CS passed as amended; YEAS 117 NAYS 0 -HJ 01523
04/28/98 S In returning messages

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04/30/98 S Concurred; CS passed as amended; YEAS 39 NAYS 1; Ordered engrossed, then enrolled
05/08/98 Signed by Officers and presented to Governor
05/24/98 Became Law without Governor's Signature; Chapter No. 98-191; See also CS/SB 314 (Ch. 98-89)

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 2, 1998, the Health Care Services Committee passed the following amendments:

- Removed reference in Section 2 to a nonexistent definition in the Medicaid statutes.
- Inserted the word "any" on page 2, line 24, to ensure that local contributions used to seek Medicaid matching funds are not limited to existing local contributions.

The HCRA section of this bill was discussed before the Health Care Services Committee on January 5, 1998 in the form of PCB HCS 98-04, and an amendment was added to increase the time a hospital has to notify the county of residence of a HCRA patient that the hospital provided health care to the patient, from the current time period of 10 days to 30 days. On February 16, 1998, the Health Care Services Committee adopted an amendment to incorporate PCB HCS 98-04 into PCB HCS 98-02.

On February 16, 1998, the Health Care Services Committee also adopted amendments to require distribution of attorney's fees for recovery of third party benefits, to address issues relating to public health concerns and the Department of Health, and to establish that any person who obtains and disseminates information identifying an individual who has a sexually transmissible disease is guilty of a third degree felony.

On March 3, 1998 the Health Care Services Committee adopted an amendment directing AHCA to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatients speciality services to Medicaid recipients on a prepaid, capitated basis. The amendments also created a new licensure category, separately or in combination, under Chapter 636, F.S. for diagnostic imaging, clinical laboratory, and home health services. The Committee adopted another amendment to eliminate language that prohibits federally qualified health centers from participating in Medicaid provider services networks.

On March 9, 1998, the Health Care Services Committee adopted an amendment relating to coverage for contraceptives. The amendment creates the Equity in Contraceptive Coverage Act of 1998, which requires certain health insurance policies and health maintenance contracts to provide coverage for prescription oral contraceptives approved by the federal Food and Drug Administration and prescribed by an authorized practitioner. This section does not require an insurer to provide coverage for prescription oral contraceptives if the insurer or policy holder objects on religious or moral grounds, nor does this section apply to any prescription medications which are abortifacient in nature.

On March 11, 1998, the Health Care Services Committee reconsidered and then withdrew Amendment 7 dealing with a proposal to implement a Medicaid outpatient speciality services

demonstration project, which was adopted on March 3, 1998. In place of the amendment, the Committee adopted an amendment similar to Amendment 7 except that it requires the entities to be licensed under part II of chapter 641, F.S.

On March 11, 1998, the Health Care Services Committee also adopted an amendment to transfer the Nursing Student Loan Forgiveness Program and the Nursing scholarship program from the Department of Health to the Department of Education.

On March 18, 1998, the Health Care Services Committee voted in favor of PCB-02. Two additional amendments were adopted to clarify language relating to penalties for disseminating confidential information.

On April 28, 1998 a strike everything amendment to SB 484 was passed on the House floor. The following provisions were not in HB 4535 but were passed in the strike everything amendment to SB 484. These provisions:

- revise payment provisions for persons dually eligible for Medicare and Medicaid;
- revise mandatory assignment provisions for Medicaid recipients to insure a 50% enrollment in MediPass and PSN's and 50% enrollment in managed care plans;
- require the agency to establish a reimbursement methodology for long-term-care services for Medicaid-eligible nursing home residents;
- limit reimbursement, effective July 1, 1999, under District 6 Mental Health Pilot Projects to entities licensed under chs. 624, 641, or 636;
- extend the period during which a Medicaid recipient may disenroll from a managed care plan or MediPass provider;
- provide that the Department of Health is the designated state agency for receiving federal funds for the Child Care Food Program;
- revise professional liability reporting requirements by certain insurers and requires health care providers who obtain professional liability insurance from the Board of Regents to report to the Department of Insurance claims for damages;
- provide \$2 million from tobacco settlement revenues to be matched with federal Medicaid funds to provide Medicaid recipients with prosthetic and orthotic devices; and
- require Medicaid reimbursement to county health departments for school based services for patients enrolled in managed care plans.

Provisions in HB 4535 that were left out of the strike everything amendment to SB 484 include provisions that:

- Authorize AHCA to establish a separate pharmacy provider type for parenteral/enteral services; and

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- Require certain insurance policies to provide coverage for prescribed oral contraceptives.

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Amy K. Guinan

Michael P. Hansen

FINAL RESEARCH PREPARED BY COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Amy K. Guinan

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