

STORAGE NAME: h2125.hcs

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 2125 (PCB HCS 99-05)

RELATING TO: Department of Health

SPONSOR(S): Committee on Health Care Services and Rep. Peaden

COMPANION BILL(S): SB 2220 (s)

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

(1) HEALTH CARE SERVICES YEAS 16 NAYS 1

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I. SUMMARY:

HB 2125 includes several provisions designed to improve efficiency of public health programs within the Department of Health. These provisions: clarify language regarding the use of incentives and promotional items in disease prevention and health education; revise the list of divisions that are authorized to exist in the department; update career service exemptions; permit the department to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning WIC and CMS; clarify co-payment requirements relating to primary care challenge grants; authorize the department to purchase automobiles for use by county health departments; remove any responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; remove language that prevents the preliminary HIV test results of a mother who has just given birth from being released to the mother at the time of delivery; clarify requirements relating to the performance of HIV tests on deceased persons; give the department authority to adopt rules relating to inspection of certain group care facilities; give the department authority to adopt rules relating to family planning; provide a definition for "multi-family water system" and revise the definition of "private water system"; revise the membership of the Health Information Systems Council; require the council to establish a review process for agency health-related data collection and maintenance; revise department authority relating to vital records; provide the department with authority to adopt rules for the requirement of notarized documents; remove language relating to reproduction and destruction of records and the disclosure of certain social security numbers; clarify procedures and modify reporting requirements relating to birth records; correct the name of the WIC program to conform to federal law; revise the membership of the Diabetes Advisory Council; remove language requiring the department to reimburse hospitals for the cost of furnishing data for the cancer registry; make technical changes relating to eligibility for the Medicaid service package in the CMS program; allow the department to use excess money for the improvement of health facilities; authorize the department to establish an advisory body for the A.G. Holley State Hospital; provide for a phase-in of Medicaid capitated payments to CMS; and authorize nursing homes to purchase medical oxygen.

In addition, HB 2125 makes several amendments to ch. 499, F.S., to: clarify that a person must be authorized to sell or transfer prescription drugs under ch. 499, and the person acquiring prescription drugs must be authorized to do so; clarify that providing the department with false information regarding any matter within the jurisdiction of ch. 499 is prohibited; prohibit distribution of a legend device to a patient without a prescription or order from a licensed practitioner; conform the prescription statement on labels to recently enacted federal language; authorize federal, state, and local government employees, acting within the scope of employee, to possess prescription drug samples; and authorize the immediate effect of a cease and desist order.

HB 2125 also provides names for three Department of Health buildings; and repeals obsolete and unnecessary provisions relating to the submission of Healthy Communities plans, Medicaid alternative service networks, and transportation of radioactive materials.

The Department of Health estimates that the repeal of certain requirements in this bill will provide the department with an annual savings of \$3,000. In addition, the Department of Health will be permitted to retain an estimated \$800,000 in fees collected by vital statistics for birth certificates. This portion of the fees is now transferred to the General Revenue Fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Department of Health

In 1996, legislation was passed creating a Department of Health (DOH) to protect and promote the health and safety of residents of, and visitors to, the state. The new department, which came into official existence on January 1, 1997, is composed of the State Health Office and Children's Medical Services Program of the former Department of Health and Rehabilitative Services (HRS). Examination and licensure of the medical professions were also removed from AHCA and transferred to DOH, effective July 1, 1997.

With the creation of DOH, HRS was renamed the Department of Children and Family Services and reorganized to include four program offices as well as an administration office. The four programs include: Children & Families, Mental Health & Substance Abuse, Economic Self-Sufficiency, and Developmental Services.

There are still several references to HRS in the statute that have not yet been changed to conform to the creation of the Department of Health and the Department of Children and Family Services.

The purpose and organizational structure for DOH is provided in s. 20.43, F.S. This section establishes that the divisions of the Department of Health include: Division of Administration; Division of Environmental Health; Division of Disease Control; Division of Family Health Services; Division of Children's Medical Services; Division of Local Health Planning, Education, and Workforce Development, and the Division of Medical Quality Assurance, which is responsible for medical boards and professions.

Section 20.43, F.S., also gives DOH the authority to use state or federal funds to protect or improve the public health by providing incentives for encouraging disease prevention and patient compliance with medical treatment, and through health education campaigns and promotional campaigns to recruit health professionals to be employed by the department.

Section 120.80(15), F.S., 1998 Supplement, provides that notwithstanding s. 120.57(1)(a), a formal hearing may not be conducted by the Secretary of Health, the director of the Agency Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to regulations of any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance.

When DOH was still a part of HRS, a process was established that allowed the agency to conduct its own administrative hearings in matters concerning the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Children's Medical Services (CMS) program, and exemption from disqualification review for certified nurse assistants. DOH no longer has the authority to continue this process.

Private and Public Water Systems

Section 381.0062, F.S., provides that "it is the intent of the Legislature to protect the public's health by establishing standards for the construction, modification, and operation of public and private water systems to assure consumers that the water provided to those systems is potable." Subsection (2) of s. 381.0062, F.S., defines "private water system" as "a water system that provides piped water for no more than four nonrental residences." No definition is provided for a water system that serves only one rental residence, and therefore, a single rental residence would now be included within the definitions of a private water system and a multi-family water system.

Chapter 64E-8, Florida Administrative Code, requires that owners of water systems connecting one or two residences only meet well setback from potential sources of contamination. Owners of water systems connecting three or four residences must meet the setback requirement, and also obtain a construction permit and provide satisfactory bacteria, nitrate and lead analytical results. There is no reference made to a single rental residence.

Testing for Human Immunodeficiency Virus (HIV)

Section 381.004(3)(a), F.S., provides that a test designed to identify HIV may not be ordered without the informed consent of the person being tested, except under specified circumstances. Additionally, s. 381.004(3)(d), provides that test results shall not be determined as positive or revealed to any person, without corroborating or confirmatory tests being conducted, except in certain situations. An exception to this requirement which was enacted in chapter 98-171, L.O.F., provides that "preliminary test results may be released to health care providers and to the person tested when decisions about medical care or treatment of the person tested cannot await the results of confirmatory testing." There is concern that the words "treatment of the person tested" prevents the preliminary HIV test results of a mother who has just given birth from being released to the mother for purposes of immediate initiation of drug therapy for the newborn. Certain drug therapy may help prevent the newborn from contracting HIV from the mother, but because the earlier the drug therapy is initiated the more effective it is, a delay in drug treatment could be detrimental to the infant. This situation only occurs when women who have received no prenatal care arrive at hospital emergency rooms for delivery, because they have not been offered HIV tests as part of a prenatal care program.

Chapter 98-171, L.O.F., also provided for additional exceptions to when informed consent is not required in ordering an HIV test. Section 381.004(3)(h)12, F.S., provides that informed consent is not required "for the performance of an HIV test by the medical examiner upon a deceased individual who is the source of a significant exposure to medical personnel or nonmedical personnel who provided emergency medical assistance and who expired or could not be resuscitated during treatment for the medical emergency." This change was made to allow medical persons and "Good Samaritans" to learn the test results of the source of exposure so that preventative treatment options could begin if the test results were positive. The concern with this language is that not all deceased individuals who are the source of a significant exposure are sent to medical examiners.

Health Information Systems Council

The Health Information Systems Council was created by s. 381.90, F.S., within the Department of Health to, "facilitate the identification, collection, standardization, sharing, and coordination of health-related data, including fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities." Membership of the council is provided for in this section and includes: the secretary of the Department of Health; the secretary of the Department of Business and Professional Regulation; the secretary of the Department of Children and Family Services; the director of the Agency for Health Care Administration; the secretary of the Department of Corrections; the Attorney General; the executive director of the Correctional Medical Authority; two members representing county health departments, one from a small county and one from a large county, appointed by the Governor; and a representative from the Florida Association of Counties.

Vital Records

Section 382.013, F.S., provides that a certificate for each live birth that occurs in this state shall be filed within 5 days after such birth with the local registrar of the district in which the birth occurred. This section sets out procedures for filing, as well as requirements for registration of paternity, the name of the child, undetermined parentage, and disclosure.

Section 382.025(1), F.S., provides that all Florida birth records are confidential and exempt from the provisions of s. 119.07(1), F.S. Subsection (2) of s. 382.025, F.S., provides that the department authorizes the issuance of a certified copy of any marriage, dissolution of marriage, or death or fetal death certificate, excluding confidential portions, to the person requesting the information. Death and fetal death certificates which include the confidential portions will only be issued to the registrant's spouse or parent, child, grandchild, or sibling, of legal age, or to any family member who provides a will, insurance policy, or document demonstrating his or her interest in the registrant's estate. The confidential portions will also be provided to any agency of the state or local government or the United States for official purposes upon approval of the department or upon order of any court of competent jurisdiction.

Section 382.0255, F.S., provides that the department is entitled to certain fees for the processing, filing, and retrieving of vital records and registrations. Previously, a portion of these fees was deposited in the Crimes Against Children Trust Fund administered by the Department of Law

Enforcement. This trust fund, however, was eliminated on July 1, 1995, and the funds that were being deposited in this trust fund are now transferred to general revenue rather than to Vital Statistics.

Florida Drug and Cosmetic Act

Chapter 499, F.S., is known as the Florida Drug and Cosmetic Act and its purpose is to: protect the public from injury by the use and merchandising of drugs, devices, and cosmetics; provide uniform legislation to be administered in conformity with federal laws which expressly prohibit the false advertisement of drugs, devices and cosmetics; and promote uniformity of such state and federal laws.

Section 499.05, F.S., establishes prohibited acts relating to drugs, devices, and cosmetics. This section prohibits the sale or transfer of a legend drug or compressed medical gas if the person is not authorized to do so under the law of the state in which he or she resides. A person's residence, however, is irrelevant when determining whether that person is authorized to sell or receive prescription drugs.

According to s. 499.007, F.S., any drug that is habit forming or not safe for use unless under the supervision of a practitioner licensed by law to administer such drugs, is misbranded if it fails to bear on the label the statement: "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: State Law Prohibits Dispensing Without Prescription." In 1997, Congress passed the Food and Drug Administration Modernization Act, which provides that the label statement on such drugs is to appear as "Rx Only" or the prescription symbol followed by the word "Only." Federal regulations implementing this new prescription statement provide for a phase-in of labeling changes through February 2003. If ch. 499, F.S., is not revised to reflect this change in federal law, many prescription drug products entering Florida will be misbranded under Florida law.

Section 499.028, F.S., relating to drug samples and complimentary drugs, provides that individuals may not possess a prescription drug sample unless: the drug sample was prescribed to her or him, the individual is the employee of a complimentary drug distributor that holds a permit, or the individual is a person to whom prescription drug samples may be distributed pursuant to this section. Currently, there is no clear provision allowing federal, state, and local government employees, acting within the scope of employment, to possess prescription drug samples.

The Administrative Procedure Act and Agency Rulemaking Authority

Section 120.536(1), F.S., states that, "A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may only adopt rules that implement, interpret, or make specific the particular powers and duties granted by the enabling statute." Section 120.536, F.S., further establishes that an agency may not adopt a rule merely because it is reasonably related to the purpose of the enabling legislation, nor may the agency have the authority to implement statutory provisions setting forth general legislative intent or policy.

Section 120.536(2), F.S., required each agency to provide the Administrative Procedures Committee a listing of rules adopted by the agency before October 1, 1996, which exceeded the rulemaking authority permitted in this section. These lists were to be provided by October 1, 1997, and subsequently combined and presented to the Speaker of the House of Representatives and the President of the Senate. This section further provides that the 1998 Legislature was to consider whether specific legislation authorizing these rules should be enacted. According to s. 120.536(2), F.S., each agency must have initiated appropriate proceedings to appeal rules exceeding rulemaking authority by January 1, 1999. By February 1, 1999, the Administrative Procedure Committee was required to submit to the President of the Senate and the Speaker of the House of Representatives, a report identifying rules that exceed rule authority for which repeal proceedings have not yet been initiated.

B. EFFECT OF PROPOSED CHANGES:

The list of divisions authorized under the Department of Health will be revised and language regarding use of incentives and promotional items in disease prevention and health education activities will be clarified.

Certain language referring to the Department of Health & Rehabilitative Services will be updated to conform to the creation of the Department of Health and the Department of Children and Family Services.

The Department of Health will be provided with necessary rule authority required by s. 120.536, F.S.

The Department of Health will be given the authority to purchase vehicles for use by county health departments, subject to approval of the Department of Management Services.

Language requiring the Department of Health to reimburse hospitals for the cost of furnishing data for the cancer registry will be removed from statute.

The Special Supplemental Food Program for Women, Infants, and Children will be retitled the Special Supplemental Nutrition Program for Women, Infants, and Children, to conform to federal law.

Language relating to benefits provided under the program for children with special health care needs will be clarified, and provision is made for the phase-in or Medicaid capitated payments for such services.

Co-payment requirements relating to primary care challenge grantees will be clarified.

The difference in regulatory requirements for public and private drinking water systems will be clarified.

The membership of the Health Information Systems Council will be revised, and the council will be given the responsibility of establishing a review process for agency health-related data collection and maintenance.

The membership of the Diabetes Advisory Council will be revised.

Technical and clarifying changes will be made to department requirements relating to birth records.

Language that may prevent the preliminary HIV test results of a mother who has just given birth from being released to the mother for purposes of immediate initiation of drug treatment therapy for the her newborn infant will be removed, and specific requirements will be established for the performance of HIV tests on deceased persons.

Technical changes will be made to ch. 499, F.S., to conform to federal requirements and improve clarity.

Certain department buildings will be named after Wilson T. Sowder, M.D., E. Charlton Prather, M.D., and William G. "Doc" Myers, M.D.

Sections 381.731(3), 383.307(5), 404.20(7), and 409.9125, F.S., will be repealed.

C. 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?

Yes, the Department of Health is given authority to adopt rules to implement particular sections in the bill and to comply with s. 120.536, F.S.

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

No.

- (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?

No.

4. Individual Freedom:

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

No.

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

No.

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?

Yes, the bill will clarify that a mother who has just given birth will be able to receive her HIV test results for purposes of determining medical care for her newborn infant.

- 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

D. STATUTE(S) AFFECTED:

Sections 20.43, 39.303, 63.162, 110.205, 120.80, 154.504, 287.155, 372.6672, 381.004, 381.0051, 381.006, 381.0061, 381.0062, 381.731, 381.90, 382.003, 382.004, 382.008, 382.013, 382.015, 382.016, 382.019, 382.025, 382.0255, 383.14, 383.307, 385.202, 385.203, 391.012, 391.028, 391.0315, 391.221, 391.222, 391.223, 392.69, 404.20, 409.9125, 409.9126, 465.019, 499.005, 499.007, 499.028, 499.066, 499.069, 742.10, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 20.43, F.S., relating to the Department of Health. The following subsections are amended:

Subsection (3) is amended to add the Division of Children's Medical Services Network, Division of Emergency Medical Services and Community Health Resources, Division of Children's Medical Services Prevention and Intervention, Division of Information Resource Management, and the Division of Health Awareness and Tobacco to the list of divisions that are authorized to exist in the Department of Health. The Division of Children's Medical Services and the Division of Local Health Planning, Education, and Workforce Department are removed from the authorized list of divisions.

Subsection (7) is amended to clarify language regarding the use of incentives and promotional items in disease prevention and health education activities.

Section 2. Amends s. 39.303, F.S., relating to child protection teams, to conform titles relating to Children's Medical Services.

Section 3. Amends s. 63.162, F.S., relating to hearings and records in adoption proceedings, to clarify the use of the term "intermediary."

Section 4. Amends s. 110.205, F.S., relating to career service exemptions, to update language regarding the establishment of exempt positions that now pertains to the Department of Health and Rehabilitative Services to conform to the creation of the Department of Health and the Department of Children and Family Services, and to include the positions of Assistant County Health Department Director and County Health Department Financial Administrator to the list of exempt positions.

Section 5. Amends s. 120.80, F.S., relating to exceptions and special requirements of the Department of Health, to allow the Department of Health to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning the Special Supplemental Nutrition Program for Women, Infants and Children, Children's Medical Services programs, Child Care Food Program, and exemption from disqualification reviews for certified nurse assistants.

Section 6. Amends s. 154.504, F.S., relating to eligibility and benefits, to permit providers to enter into contracts pursuant to s. 766.1115, F.S., provided co-payments are not used as compensation for services to health care providers.

Section 7. Amends s. 287.155, F.S., relating to the purchase of motor vehicles by certain agencies, to authorize the Department of Health to purchase automobiles, trucks, and other automotive equipment for use by county health departments, subject to the approval of the Department of Management Services.

Section 8. Amends s. 372.6672, F.S., relating to alligator management and trapping program implementation, to delete the Department of Health and Rehabilitative Services from any responsibility regarding alligator management and trapping.

Section 9. Amends s. 381.004, F.S., relating to testing for human immunodeficiency virus. The following subsections of this section are amended:

Subsection (3) is amended to remove language that prevents the preliminary HIV test results of a mother from being released to the mother at the time of delivery; and

Subsection (12) is amended to clarify requirements for the performance of HIV tests on deceased persons.

Section 10. Amends s. 381.0051, F.S., relating to family planning, to give the Department of Health the authority to adopt rules for family planning.

Section 11. Amends s. 381.006, F.S., relating to environmental health, to provide the department with rule making authority relating to the health inspection of certain group care facilities.

Section 12. Amends s. 381.0061, F.S., relating to administrative fines, to authorize the department to impose fines for violations relating to group care facilities.

Section 13. Amends s. 381.0062, F.S., relating to water systems. The following subsections of this section are amended:

Subsection (2) is amended to provide that “multi-family water system” means a water system that provides piped water for three to four residences, one of which may be a rental residence, and to clarify the definition of “private water system” to mean a water system that provides piped water for one or two residences, one of which may be a rental residence, or for a church located more than 200 feet from a water system covered under the Florida Safe Drinking Water Act.

Subsections (3), (4), and (5) are amended to include the term “multi-family water system” when applicable in place of private water system.

Section 14. Amends s. 381.90, F.S., relating to the Health Information Systems Council. The following subsections of this section are amended:

Subsection (3) is amended to revise the membership of the council. Added members include: the State Treasurer/Insurance Commissioner; a representative from the Florida Healthy Kids Corporation; a representative from a school of public health chosen by the Board of Regents; the Commissioner of Education; the secretary of the Department of Elderly Affairs; and the secretary of the Department of Juvenile Justice.

Subsection (7) is amended to revise the duties of the council. Additional responsibilities will include developing a review process to ensure cooperative planning among agencies that collect or maintain health-related data. The council is required to submit a report on the implementation of this data to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by January 1, 2000.

Section 15. Amends s. 382.003, F.S., relating to powers and duties of the Department of Health, to remove the word “rescinding” in relation to the department’s rule authority regarding vital records, and to provide the department with the authority to adopt rules for the requirement of notarized documents.

Section 16. Amends s. 382.004, F.S., relating to reproduction and destruction of records, to remove unnecessary language.

Section 17. Amends s. 382.008, F.S. relating to death and fetal death registration, to remove language relating to the limited disclosure of social security numbers, which is in conflict with federal law.

Section 18. Amends s. 382.013, F.S., relating to birth registration, to provide that a certificate for each live birth that occurs in this state shall be filed with the mother’s health insurer or HMO. The following subsections of this section are also amended:

Subsection (1) is amended to clarify procedures to be followed when a birth occurs outside a health care facility, and to provide authority for the department to require documents and proof as it deems necessary to establish the fact of a birth when it occurred outside of a health care facility and was not attended by a Florida licensed physician, certified nurse midwife, Florida licensed midwife, or a public health nurse employed by the department. A technical change replacing one of the parents with the mother or the father is also made;

Subsection (2) is amended to clarify circumstances for listing the name of the husband of the mother on the birth certificate; and

Subsection (4) is amended to clarify the responsibility for registering a birth record of a child of undetermined parentage and to delete ambiguous language.

Section 19. Amends s. 382.015, F.S., relating to new certificates of live birth, to replace the term "court decree" with "court order," and to delete language addressing the administrative acknowledgment of paternity. A technical change to delete unnecessary language is also made.

Section 20. Amends s. 382.016, F.S., relating to amendment of records. Subsections (3), (4), and (5) are created to add to s. 382.016, F.S., the language similar to that removed from s. 382.015(2), F.S., by the previous section.

Section 21. Amends s. 382.019, F.S., relating to delayed registration and administrative procedures, to clarify that after receipt of an application the department may file a delayed registration, and to clarify when the department may dismiss an inactive application.

Section 22. Amends s. 382.025, F.S., relating to certified copies of vital records. The following subsections of this section are amended:

Subsection (1) is amended to clarify that birth records over 100 years old are exempt from provisions of s. 119.07(1), F.S. and to provide a method for indicating death on a commemorative birth certificate; and

Subsection (2) is amended to allow for issuance of cause of death information to any person providing documented proof of need rather than restricting it to a family member only.

Section 23. Amends s. 382.0255, F.S., relating to the fee for a certification of a birth record, to permit the department to retain fees collected by vital statistics for birth certificates rather than transferring the fees to the General Revenue Fund.

Section 24. Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors, to change the name of the WIC program from the Special Supplemental Food Program for Women, Infants, and Children, to the Special Supplemental Nutrition Program for Women, Infants, and Children, to conform with federal law.

Section 25. Amends s. 385.202, F.S., relating to the statewide cancer registry, to remove language that requires the department to reimburse hospitals for the cost of furnishing data for the cancer registry.

Section 26. Amends s. 385.203, F.S., relating to the Diabetes Advisory Council, to revise the membership requirements of the council, and the scope of the council's activities.

Section 27. Amends s. 391.021, F.S., relating to definitions applying to Children's Medical Services, to give the Director of Children's Medical Services authority to appoint division directors subject to the approval of the secretary.

Section 28. Amends s. 391.028, F.S., relating to administration of the Children's Medical Services program, to remove "the Division of" from the title of Children's Medical Services, and to provide that the director of Children's Medical Services may appoint division directors subject to the approval of the secretary.

Section 29. Amends s. 391.0315, F.S., relating to benefits, to clarify that benefits provided under the program for children with special health care needs shall be the same benefits provided to children in ss. 409.905 and 409.906, F.S., relating to Medicaid.

Section 30. Amends s. 391.221, F.S., relating to the Statewide Children's Medical Services Network Advisory Council, to provide conforming language that is needed due to the reorganization of Children's Medical Services into two divisions.

Section 31. Amends s. 391.222, F.S., relating to the Cardiac Advisory Council, to provide conforming language that is needed due the reorganization of Children's Medical Services into two divisions.

Section 32. Amends s. 391.223, F.S., relating to technical advisory panels, to provide conforming language that is needed due the reorganization of Children's Medical Services into two divisions.

Section 33. Amends s. 392.69, F.S., relating to appropriations, sinking, and maintenance trust funds, to allow the department to use excess money, notwithstanding ch. 216, F.S., for the improvement of health facilities at A.G. Holley State Hospital, and to authorize the department to establish an advisory board to review and make recommendations relating to patient care at A.G. Holley State Hospital. Members of the advisory board shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members are to serve without remuneration, but per diem and travel expenses may be reimbursed as provided in s. 112.061, F.S.

Section 34. Amends s. 409.9126, F.S., relating to children with special health care needs, to provide for a phase-in of Medicaid capitation payments to Children's Medical Services for services provided to Medicaid eligible children with special health care needs.

Section 35. Amends s. 465.019, F.S., relating to institutional pharmacies, to allow nursing homes to purchase and possess medical oxygen.

Section 36. Amends s. 499.005, F.S., relating to prohibited acts, to clarify that a person must be authorized to sell or transfer legend drugs and compressed medical gas under ch. 499, and that a person acquiring a legend drug must be authorized to do so under the applicable law where the receipt occurs. Providing the department with false information regarding any matter within the jurisdiction of ch. 499 is prohibited, not just as it relates to a drug, device, or cosmetic. The distribution of a legend device to the patient or ultimate consumer without a prescription or order from a practitioner to use or prescribe the device is prohibited.

Section 37. Amends s. 499.007, F.S., relating to misbranded drugs or devices, to conform the prescription statement of labels to match recently enacted federal language.

Section 38. Amends s. 499.028, F.S., relating to drug samples or complimentary drugs, to authorize federal, state, and local government employees, acting within the scope of their employment, to possess prescription drug samples.

Section 39. Amends s. 499.066, F.S., relating to penalties and remedies, to authorize the immediate effect of a cease and desist order relating to persons who have violated ss. 499.001-499.081, F.S., or any rule adopted pursuant to those sections. Chapter 120, F.S., hearing rights attach for an abatement or modification of the cease and desist order.

Section 40. Amends s. 499.069, F.S., relating to punishment for violations of s. 499.005, F.S., to correct a statutory cross-reference to make the purchase of a prescription drug from an unauthorized source a third degree felony, rather than the purchase of a compressed medical gas from an unauthorized source a first-degree misdemeanor.

Section 41. Amends s. 742.10, F.S., relating to establishment of paternity for children born out of wedlock, to conform statutory cross-references.

Section 42. Provides that the building known as the 1911 State Board of Health Building which is part of a multi-building complex with the address of 1217 Pearl Street, Jacksonville, Florida shall be known as the Wilson T. Sowder, M.D. Building.

Section 43. Provides that the building authorized by Chapter 98-307, L.O.F., that will be located on Seagrape Drive on the Tampa Campus of the University of South Florida which will house laboratory facilities for the Department of Health shall be known as the William G. "Doc" Myers, M.D. Building.

Section 44. Provides that the Department of Health headquarters building that will comprise approximately 100,000 square feet that is authorized by item 1986 in the 1998-99 Appropriations Act shall be known as the E. Charlton Prather, M.D. Building.

Section 45. Repeals subsection (3) of s. 381.731, F.S., relating to submission of an initial Healthy Communities plan that was submitted in 1992.

Section 46. Repeals subsection (5) of s. 383.307, F.S., relating to department consultation agreements with birth centers that are unable to find consultants.

Section 47. Repeals subsection (7) of s. 404.20, F.S., relating to department monitoring requirements of the transportation of radioactive materials.

Section 48. Repeals s. 409.9125, F.S., relating to study requirements for Medicaid alternative service networks.

Section 49. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Department of Health estimates that it will save \$3,000 a year with the repeal of technologically obsolete radioactive monitoring requirements in s. 404.20, F.S. In addition, the Department of Health will be permitted to retain an estimated \$800,000 in fees collected by vital statistics for birth certificates. This portion of the fees is now transferred to the General Revenue Fund.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

STORAGE NAME: h2125.hcs

DATE: April 14, 1999

PAGE 13

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. **FISCAL COMMENTS:**

None.

IV. 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 expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

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.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Several revisions to the original PCB HCS 99-05 were needed to conform to SB 2220 and to make technical bill drafting corrections. In addition, the Committee on Health Care Services passed a series of amendments to the bill on March 23, 1999.

STORAGE NAME: h2125.hcs

DATE: April 14, 1999

PAGE 14

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Amy K. Guinan

Phil E. Williams