

By the Council for Healthy Communities and Committee on Health Regulation and Representatives Farkas, Sobel, Fiorentino, Johnson, Alexander, Ritter, Harrell, Wishner, Siplin, Rubio, Kravitz and Hogan

1 A bill to be entitled
2 An act relating to health care and health
3 professional responsibility; transferring to
4 the Department of Health the powers, duties,
5 functions, and assets that relate to the
6 consumer complaint services, investigations,
7 and prosecutorial services performed by the
8 Agency for Health Care Administration under
9 contract with the department; transferring
10 full-time equivalent positions and the
11 practitioner regulation component from the
12 agency to the department; amending s. 20.43,
13 F.S.; deleting the provision authorizing the
14 department to enter into such contract with the
15 agency, to conform; updating a reference to
16 provide the name of a regulatory board under
17 the Division of Medical Quality Assurance;
18 requiring the Office of Legislative Services to
19 develop a business plan for the Board of
20 Dentistry; providing an appropriation;
21 requiring a report to the Governor and
22 Legislature; requiring the Department of Health
23 to contract for the implementation of the
24 electronic continuing education tracking system
25 and requiring said system to be compatible and
26 integrated with the department's licensure and
27 renewal system; amending s. 456.057, F.S.;
28 authorizing specified persons to release
29 certain medical records to a custodian upon
30 board order; exempting such persons from
31 liability for the release of such records;

1 amending s. 456.072, F.S.; providing additional
2 penalties to be imposed on certain health care
3 practitioners relating to notice to patients
4 concerning availability and access to medical
5 records; amending s. 456.076, F.S.; providing
6 additional conditions for impaired
7 practitioners to enroll in a treatment program
8 as an alternative to discipline; amending s.
9 456.0375, F.S.; revising the definition of
10 "clinic" to exempt public college and
11 university clinics from medical clinic
12 registration and to clarify when a health care
13 practitioner may supervise another health care
14 practitioner; amending s. 456.072, F.S.;
15 revising grounds for disciplinary action
16 relating to performing health care services
17 improperly and to leaving foreign bodies in
18 patients; amending s. 631.57, F.S.; exempting
19 medical malpractice insurance premiums from an
20 assessment; amending s. 395.002, F.S.; defining
21 "medically unnecessary procedure"; amending s.
22 394.4787, F.S.; conforming a cross reference;
23 amending s. 395.0161, F.S.; providing
24 rulemaking authority relating to inspections
25 and investigations of facilities; amending s.
26 395.0197, F.S.; revising requirements for
27 internal risk management programs; amending s.
28 465.019, F.S.; revising the definition of
29 "class II institutional pharmacies" to allow
30 dispensing and consulting services to hospice
31 patients under certain circumstances; providing

1 legislative findings relating to responsiveness
2 to emergencies and disasters; amending s.
3 381.0011, F.S.; revising duties of the
4 Department of Health; authorizing the State
5 Health Officer to take specified emergency
6 actions to protect the public health; amending
7 s. 381.0034, F.S.; providing a requirement for
8 instruction of certain health care licensees on
9 conditions caused by nuclear, biological, and
10 chemical terrorism, as a condition of initial
11 licensure, and, in lieu of the requirement for
12 instruction on HIV and AIDS, as a condition of
13 relicensure; amending s. 381.0035, F.S.;
14 providing a requirement for instruction of
15 employees at certain health care facilities on
16 conditions caused by nuclear, biological, and
17 chemical terrorism, upon initial employment,
18 and, in lieu of the requirement of instruction
19 on HIV and AIDS, as biennial continuing
20 education; providing an exception; creating s.
21 381.0421, F.S.; requiring postsecondary
22 education institutions to provide information
23 on hepatitis B; requiring individuals residing
24 in on-campus housing to document vaccinations
25 against hepatitis B or sign a waiver; amending
26 ss. 395.1027 and 401.245, F.S.; correcting
27 cross references; amending s. 401.23, F.S.;
28 revising definitions of "advanced life support"
29 and "basic life support" and defining
30 "emergency medical condition"; amending s.
31 401.252, F.S.; authorizing physician assistants

1 to conduct interfacility transfers in a
2 permitted ambulance under certain
3 circumstances; amending s. 401.27, F.S.;
4 providing that the course on conditions caused
5 by nuclear, biological, and chemical terrorism
6 shall count toward the total required hours for
7 biennial recertification of emergency medical
8 technicians and paramedics; amending s.
9 456.033, F.S.; providing a requirement for
10 instruction of certain health care
11 practitioners on conditions caused by nuclear,
12 biological, and chemical terrorism, as a
13 condition of initial licensure, and, in lieu of
14 the requirement for instruction on HIV and
15 AIDS, as part of biennial relicensure; creating
16 s. 456.0345, F.S.; providing continuing
17 education credits to health care practitioners
18 for certain life support training; amending s.
19 456.072, F.S.; conforming provisions relating
20 to grounds for disciplinary actions to changes
21 in health care practitioners' course
22 requirements; amending s. 456.38, F.S.;
23 revising provisions relating to the health care
24 practitioner registry for disasters and
25 emergencies; prohibiting certain termination of
26 or discrimination against a practitioner
27 providing disaster medical assistance; amending
28 ss. 458.319 and 459.008, F.S.; conforming
29 provisions relating to exceptions to continuing
30 education requirements for physicians and
31 osteopathic physicians; amending s. 765.512,

1 F.S., relating to anatomical gifts; prohibiting
2 modification of a donor's intent; providing
3 that a donor document is legally binding;
4 authorizing specified persons to furnish
5 donors' medical records upon request; amending
6 s. 765.516, F.S.; revising procedures by which
7 the terms of an anatomical gift may be amended
8 or the gift may be revoked; amending s.
9 456.073, F.S.; revising procedures and
10 timeframes for formal hearings of health care
11 practitioner disciplinary cases; requiring a
12 joint audit of hearings and their billing
13 formulas and a report to the Legislature;
14 amending s. 456.076, F.S.; requiring each
15 impaired practitioner to pay a portion of the
16 cost of the consultant and impaired
17 practitioner program and the full cost of the
18 required treatment program or plan; providing
19 certain exceptions; repealing s. 456.047, F.S.,
20 to terminate the standardized credentialing
21 program for health care practitioners;
22 prohibiting the refund of moneys collected
23 through the credentialing program; amending ss.
24 456.039, 456.0391, 456.072, and 456.077, F.S.;
25 removing references, to conform; amending s.
26 458.309, F.S.; requiring accreditation of
27 physician offices in which surgery is
28 performed; amending s. 459.005, F.S.; requiring
29 accreditation of osteopathic physician offices
30 in which surgery is performed; amending s.
31 456.004, F.S., relating to powers and duties of

1 the department; requiring performance measures
2 for certain entities; providing procedures for
3 considering board requests to privatize
4 regulatory functions; amending s. 456.009,
5 F.S.; requiring performance measures for
6 certain legal and investigative services and
7 annual review of such services to determine
8 whether such performance measures are being
9 met; amending s. 456.011, F.S.; requiring
10 regulatory board committee meetings, including
11 probable cause panels, to be held
12 electronically unless certain conditions are
13 met; providing for determination of location of
14 in-person meetings; amending s. 456.026, F.S.;
15 requiring inclusion of performance measures for
16 certain entities in the department's annual
17 report to the Legislature; creating s.
18 458.3093, F.S.; requiring submission of
19 credentials for initial physician licensure to
20 a national licensure verification service;
21 requiring verification of such credentials by
22 that service or an equivalent program; creating
23 s. 459.0053, F.S.; requiring submission of
24 credentials for initial osteopathic physician
25 licensure to a national licensure verification
26 service; requiring verification of such
27 credentials by that service, a specified
28 association, or an equivalent program; amending
29 ss. 458.331, 459.015, and 627.912, F.S.;
30 raising the malpractice closed claims reporting
31 requirement amount; amending s. 456.073, F.S.;

1 requiring health care practitioner licensees to
2 pay the actual costs of investigation and
3 prosecution under certain circumstances;
4 requiring cases in which no probable cause has
5 been found to be closed within a specified
6 period of time; requiring a study of the field
7 office structure and organization of the Agency
8 for Health Care Administration and a report to
9 the Legislature; amending s. 456.025, F.S.;
10 eliminating certain restrictions on the setting
11 of licensure renewal fees for health care
12 practitioners; creating s. 456.0165, F.S.;
13 restricting the costs that may be charged by
14 educational institutions hosting health care
15 practitioner licensure examinations; requiring
16 health care practitioner licensure and
17 licensure renewal fees to be set at the
18 statutory fee cap or at graduated levels equal
19 to certain percentages of the actual regulatory
20 costs, whichever is less; amending s. 468.301,
21 F.S.; revising the definition of "direct
22 supervision" applicable to the regulation of
23 radiologic technology; amending s. 468.302,
24 F.S.; authorizing certified nuclear medicine
25 technologists to administer X radiation from
26 certain devices under certain circumstances;
27 exempting certain persons from radiologic
28 technologist certification and providing
29 certain training requirements for such
30 exemption; amending s. 468.352, F.S.; revising
31 and providing definitions applicable to the

1 regulation of respiratory therapy; amending s.
2 468.355, F.S.; revising provisions relating to
3 respiratory therapy licensure and testing
4 requirements; amending s. 468.368, F.S.;
5 revising exemptions from respiratory therapy
6 licensure requirements; repealing s. 468.356,
7 F.S., relating to the approval of educational
8 programs; repealing s. 468.357, F.S., relating
9 to licensure by examination; requiring
10 applications for health care practitioner
11 licensure and licensure renewal to be submitted
12 electronically beginning July 1, 2003; annually
13 adjusting by 2.5 percent the statutory fee caps
14 applicable to regulation of health care
15 practitioners; renumbering ss. 381.0602,
16 381.6021, 381.6022, 381.6023, 381.6024, and
17 381.6026, F.S., and renumbering and amending
18 ss. 381.60225 and 381.6025, F.S., to move
19 provisions relating to organ and tissue
20 procurement, donation, and transplantation to
21 part V, ch. 765, F.S., relating to anatomical
22 gifts; revising cross references, to conform;
23 amending ss. 395.2050, 409.815, 765.5216, and
24 765.522, F.S.; revising cross references, to
25 conform; creating s. 765.539, F.S.; prohibiting
26 cadaveric organ and tissue procurement
27 organizations from pooling human cells or
28 tissues; providing effective dates.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. (1) Effective July 1, 2002, all powers,
2 duties, functions, records, personnel, property, and
3 unexpended balances of appropriations, allocations, and other
4 funds of the Agency for Health Care Administration that relate
5 to consumer complaint services, investigations, and
6 prosecutorial services currently provided by the Agency for
7 Health Care Administration under a contract with the
8 Department of Health are transferred to the Department of
9 Health by a type two transfer, as defined in s. 20.06(2),
10 Florida Statutes. This transfer of funds shall include all
11 advance payments made from the Medical Quality Assurance Trust
12 Fund to the Agency for Health Care Administration.

13 (2)(a) Effective July 1, 2002, 279 full-time
14 equivalent positions are eliminated from the Agency for Health
15 Care Administration's total number of authorized positions.
16 Effective July 1, 2002, 279 full-time equivalent positions are
17 authorized for the Department of Health, to be added to the
18 department's total number of authorized positions. However,
19 should the General Appropriations Act for fiscal year
20 2002-2003 reduce the number of positions from the practitioner
21 regulation component at the Agency for Health Care
22 Administration, that provision shall be construed to eliminate
23 the full-time equivalent positions from the practitioner
24 regulation component which is hereby transferred to the
25 Department of Health, thereby resulting in no more than 279
26 positions being eliminated from the agency and no more than
27 279 positions being authorized to the department.

28 (b) All records, personnel, and funds of the consumer
29 complaint and investigative services units of the agency are
30 transferred and assigned to the Division of Medical Quality
31 Assurance of the Department of Health.

1 (c) All records, personnel, and funds of the health
2 care practitioner prosecutorial unit of the agency are
3 transferred and assigned to the Office of the General Counsel
4 of the Department of Health.

5 (3) The Department of Health is deemed the successor
6 in interest in all legal proceedings and contracts currently
7 involving the Agency for Health Care Administration and
8 relating to health care practitioner regulation. Except as
9 provided herein, no legal proceeding shall be dismissed, nor
10 any contract terminated, on the basis of this type two
11 transfer. The interagency agreement between the Department of
12 Health and the Agency for Health Care Administration shall
13 terminate on June 30, 2002.

14 Section 2. Paragraph (g) of subsection (3) of section
15 20.43, Florida Statutes, is amended to read:

16 20.43 Department of Health.--There is created a
17 Department of Health.

18 (3) The following divisions of the Department of
19 Health are established:

20 (g) Division of Medical Quality Assurance, which is
21 responsible for the following boards and professions
22 established within the division:

23 1. The Board of Acupuncture, created under chapter
24 457.

25 2. The Board of Medicine, created under chapter 458.

26 3. The Board of Osteopathic Medicine, created under
27 chapter 459.

28 4. The Board of Chiropractic Medicine, created under
29 chapter 460.

30 5. The Board of Podiatric Medicine, created under
31 chapter 461.

- 1 6. Naturopathy, as provided under chapter 462.
- 2 7. The Board of Optometry, created under chapter 463.
- 3 8. The Board of Nursing, created under part I of
- 4 chapter 464.
- 5 9. Nursing assistants, as provided under part II of
- 6 chapter 464.
- 7 10. The Board of Pharmacy, created under chapter 465.
- 8 11. The Board of Dentistry, created under chapter 466.
- 9 12. Midwifery, as provided under chapter 467.
- 10 13. The Board of Speech-Language Pathology and
- 11 Audiology, created under part I of chapter 468.
- 12 14. The Board of Nursing Home Administrators, created
- 13 under part II of chapter 468.
- 14 15. The Board of Occupational Therapy, created under
- 15 part III of chapter 468.
- 16 16. The Board of Respiratory ~~Care therapy~~, as created
- 17 ~~provided~~ under part V of chapter 468.
- 18 17. Dietetics and nutrition practice, as provided
- 19 under part X of chapter 468.
- 20 18. The Board of Athletic Training, created under part
- 21 XIII of chapter 468.
- 22 19. The Board of Orthotists and Prosthetists, created
- 23 under part XIV of chapter 468.
- 24 20. Electrolysis, as provided under chapter 478.
- 25 21. The Board of Massage Therapy, created under
- 26 chapter 480.
- 27 22. The Board of Clinical Laboratory Personnel,
- 28 created under part III of chapter 483.
- 29 23. Medical physicists, as provided under part IV of
- 30 chapter 483.
- 31

1 24. The Board of Opticianry, created under part I of
2 chapter 484.

3 25. The Board of Hearing Aid Specialists, created
4 under part II of chapter 484.

5 26. The Board of Physical Therapy Practice, created
6 under chapter 486.

7 27. The Board of Psychology, created under chapter
8 490.

9 28. School psychologists, as provided under chapter
10 490.

11 29. The Board of Clinical Social Work, Marriage and
12 Family Therapy, and Mental Health Counseling, created under
13 chapter 491.

14

15 ~~The department may contract with the Agency for Health Care~~
16 ~~Administration who shall provide consumer complaint,~~
17 ~~investigative, and prosecutorial services required by the~~
18 ~~Division of Medical Quality Assurance, councils, or boards, as~~
19 ~~appropriate.~~

20 Section 3. The Office of Legislative Services shall
21 develop a business plan, with accompanying revenue and cost
22 analysis, for the Board of Dentistry with regard to
23 outsourcing of administrative, investigative, legal, and
24 prosecutorial functions and other tasks and services that are
25 necessary to carry out the regulatory responsibilities of the
26 board; employing its own executive director and other staff;
27 and obtaining authority over collections and expenditures of
28 funds paid by dentists and dental hygienists into the Medical
29 Quality Assurance Trust Fund. The sum of \$50,000 is hereby
30 appropriated to the Office of Legislative Services from the
31 Board of Dentistry account within the Medical Quality

1 Assurance Trust Fund for the purpose of developing this
2 business plan. The completed business plan shall be submitted
3 to the Governor, the President of the Senate, and the Speaker
4 of the House of Representatives no later than January 1, 2003,
5 for review by the appropriate legislative committees.

6 Section 4. On or before October 1, 2002, the
7 Department of Health shall contract with one or more private
8 entities to implement the electronic continuing education
9 tracking system required under s. 456.025(7), Florida
10 Statutes. The electronic continuing education tracking system
11 or systems must be compatible with the Department of Health's
12 licensure and renewal system no later than March 1, 2003. On
13 or before July 1, 2003, the Department of Health shall
14 integrate such system or systems into the Department of
15 Health's licensure and renewal system.

16 Section 5. Subsection (19) of section 456.057, Florida
17 Statutes, is amended to read:

18 456.057 Ownership and control of patient records;
19 report or copies of records to be furnished.--

20 (19) The board, or department when there is no board,
21 may temporarily or permanently appoint a person or entity as a
22 custodian of medical records in the event of the death of a
23 practitioner, the mental or physical incapacitation of the
24 practitioner, or the abandonment of medical records by a
25 practitioner. The custodian appointed shall comply with all
26 provisions of this section, including the release of patient
27 records. Any person or entity having possession or physical
28 control of the medical records may release them to the
29 custodian upon presentment of an order signed by the board
30 giving the custodian access to the records. A person or
31

1 entity is not liable in tort or contract for providing the
2 records to a validly appointed custodian.

3 Section 6. Subsection (7) is added to section 456.072,
4 Florida Statutes, to read:

5 456.072 Grounds for discipline; penalties;
6 enforcement.--

7 (7) In addition to any other discipline imposed
8 through final order or citation entered on or after July 1,
9 2002, pursuant to this section or for a violation of any
10 practice act, the board, or the department when there is no
11 board, shall require, in appropriate cases, any licensee who
12 is a records owner, as defined in s. 456.057, to notify his or
13 her patients of the requirements imposed by s. 456.057(11).

14 Section 7. Paragraph (a) of subsection (3) of section
15 456.076, Florida Statutes, is amended to read:

16 456.076 Treatment programs for impaired
17 practitioners.--

18 (3)(a) Whenever the department receives a written or
19 oral legally sufficient complaint alleging that a licensee
20 under the jurisdiction of the Division of Medical Quality
21 Assurance within the department is impaired as a result of the
22 misuse or abuse of alcohol or drugs, or both, or due to a
23 mental or physical condition which could affect the licensee's
24 ability to practice with skill and safety, and no complaint
25 against the licensee other than impairment exists, the
26 reporting of such information shall not constitute grounds for
27 discipline pursuant to s. 456.072 or the corresponding grounds
28 for discipline within the applicable practice act if the
29 probable cause panel of the appropriate board, or the
30 department when there is no board, finds:

31

1 1. The licensee has acknowledged the impairment
2 problem.

3 2. The licensee has voluntarily enrolled in an
4 appropriate, approved treatment program.

5 3. The licensee has voluntarily withdrawn from
6 practice or limited the scope of practice as required by the
7 consultant, in each case, until such time as the panel, or the
8 department when there is no board, is satisfied the licensee
9 has successfully completed an approved treatment program.

10 4. The licensee has executed releases for medical
11 records, authorizing the release of all records of
12 evaluations, diagnoses, and treatment of the licensee,
13 including records of treatment for emotional or mental
14 conditions, to the consultant. The consultant shall make no
15 copies or reports of records that do not regard the issue of
16 the licensee's impairment and his or her participation in a
17 treatment program.

18 5. The licensee has voluntarily notified his or her
19 patients of the requirements imposed by s. 456.057(11) on a
20 records owner who is terminating practice, retiring, or
21 relocating and is no longer available to patients.

22 Section 8. Paragraph (b) of subsection (1) of section
23 456.0375, Florida Statutes, is amended to read:

24 456.0375 Registration of certain clinics;
25 requirements; discipline; exemptions.--

26 (1)

27 (b) For purposes of this section, the term "clinic"
28 does not include and the registration requirements herein do
29 not apply to:

30 1. Entities licensed or registered by the state
31 pursuant to chapter 390, chapter 394, chapter 395, chapter

1 397, chapter 400, chapter 463, chapter 465, chapter 466,
2 chapter 478, chapter 480, or chapter 484.

3 2. Entities exempt from federal taxation under 26
4 U.S.C. s. 501(c)(3), as well as all public college and
5 university clinics.

6 3. Sole proprietorships, group practices,
7 partnerships, or corporations that provide health care
8 services by licensed health care practitioners pursuant to
9 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,
10 486, 490, 491, or part I, part III, part X, part XIII, or part
11 XIV of chapter 468, or s. 464.012, which are wholly owned by
12 licensed health care practitioners or the licensed health care
13 practitioner and the spouse, parent, or child of a licensed
14 health care practitioner, so long as one of the owners who is
15 a licensed health care practitioner is supervising the
16 services performed therein and is legally responsible for the
17 entity's compliance with all federal and state laws. However,
18 no health care practitioner may supervise the delivery of
19 health care services beyond the scope of the practitioner's
20 license. Nothing in this section shall be construed to
21 prohibit a health care practitioner from providing
22 administrative or managerial supervision for personnel
23 purposes.

24 Section 9. Paragraphs (aa) and (bb) of subsection (1)
25 of section 456.072, Florida Statutes, are amended to read:

26 456.072 Grounds for discipline; penalties;
27 enforcement.--

28 (1) The following acts shall constitute grounds for
29 which the disciplinary actions specified in subsection (2) may
30 be taken:

31

1 (aa) ~~Performing or attempting to perform~~ health care
2 services on the wrong patient, a wrong-site procedure, a wrong
3 procedure, or an unauthorized procedure or a procedure that is
4 medically unnecessary or otherwise unrelated to the patient's
5 diagnosis or medical condition. For the purposes of this
6 paragraph, ~~performing or attempting to perform~~ health care
7 services includes the preparation of the patient.

8 (bb) Leaving a foreign body in a patient, such as a
9 sponge, clamp, forceps, surgical needle, or other
10 paraphernalia commonly used in surgical, examination, or other
11 diagnostic procedures, unless leaving the foreign body is
12 medically indicated and documented in the patient record. For
13 the purposes of this paragraph, it shall be legally presumed
14 that retention of a foreign body is not in the best interest
15 of the patient and is not within the standard of care of the
16 profession, unless medically indicated and documented in the
17 patient record ~~regardless of the intent of the professional~~.

18 Section 10. Subsection (7) is added to section 631.57,
19 Florida Statutes, to read:

20 631.57 Powers and duties of the association.--

21 (7) Notwithstanding any other provision of law, the
22 net direct written premiums of medical malpractice insurance
23 are not subject to assessment under this section to cover
24 claims and administrative costs for the type of insurance
25 defined in s. 624.604.

26 Section 11. Subsections (22) through (33) of section
27 395.002, Florida Statutes, are renumbered as subsections (23)
28 through (34), respectively, and a new subsection (22) is added
29 to said section to read:

30 395.002 Definitions.--As used in this chapter:

31

1 (22) "Medically unnecessary procedure" means a
2 surgical or other invasive procedure that a reasonable
3 physician, in light of the patient's history and available
4 diagnostic information, would not deem to be indicated in
5 order to treat, cure, or palliate the patient's condition or
6 disease.

7 Section 12. Subsection (7) of section 394.4787,
8 Florida Statutes, is amended to read:

9 394.4787 Definitions; ss. 394.4786, 394.4787,
10 394.4788, and 394.4789.--As used in this section and ss.
11 394.4786, 394.4788, and 394.4789:

12 (7) "Specialty psychiatric hospital" means a hospital
13 licensed by the agency pursuant to s. 395.002~~(30)~~~~(29)~~as a
14 specialty psychiatric hospital.

15 Section 13. Subsection (5) is added to section
16 395.0161, Florida Statutes, to read:

17 395.0161 Licensure inspection.--

18 (5)(a) The agency shall adopt rules governing the
19 conduct of inspections or investigations it initiates in
20 response to:

21 1. Reports filed pursuant to s. 395.0197.

22 2. Complaints alleging violations of state or federal
23 emergency access laws.

24 3. Complaints made by the public alleging violations
25 of law by licensed facilities or personnel.

26 (b) Such rules shall set forth the procedures to be
27 used in such investigations or inspections in order to protect
28 the due process rights of licensed facilities and personnel
29 and to minimize, to the greatest reasonable extent possible,
30 the disruption of facility operations and the cost to
31 facilities resulting from such investigations.

1 Section 14. Subsections (2), (14), and (16) of section
2 395.0197, Florida Statutes, are amended to read:

3 395.0197 Internal risk management program.--

4 (2) The internal risk management program is the
5 responsibility of the governing board of the health care
6 facility. Each licensed facility shall utilize the services of
7 ~~hire~~ a risk manager, licensed under s. 395.10974, who is
8 responsible for implementation and oversight of such
9 facility's internal risk management program as required by
10 this section. ~~A risk manager must not be made responsible for~~
11 ~~more than four internal risk management programs in separate~~
12 ~~licensed facilities, unless the facilities are under one~~
13 ~~corporate ownership or the risk management programs are in~~
14 ~~rural hospitals.~~

15 (14) The agency shall have access, as set forth in
16 rules adopted pursuant to s. 395.0161(5), to all licensed
17 facility records necessary to carry out the provisions of this
18 section. The records obtained by the agency under subsection
19 (6), subsection (8), or subsection (10) are not available to
20 the public under s. 119.07(1), nor shall they be discoverable
21 or admissible in any civil or administrative action, except in
22 disciplinary proceedings by the agency or the appropriate
23 regulatory board, nor shall records obtained pursuant to s.
24 456.071 be available to the public as part of the record of
25 investigation for and prosecution in disciplinary proceedings
26 made available to the public by the agency or the appropriate
27 regulatory board. However, the agency or the appropriate
28 regulatory board shall make available, upon written request by
29 a health care professional against whom probable cause has
30 been found, any such records which form the basis of the

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1 determination of probable cause, except that, with respect to
2 medical review committee records, s. 766.101 controls.

3 (16) The agency shall review, as part of its licensure
4 inspection process, the internal risk management program at
5 each licensed facility regulated by this section to determine
6 whether the program meets standards established in statutes
7 and rules, whether the program is being conducted in a manner
8 designed to reduce adverse incidents, and whether the program
9 is appropriately reporting incidents under this section. Only
10 a risk manager licensed under s. 395.10974 and employed by the
11 agency may conduct inspections to determine whether a program
12 meets the requirements of this section. Such determination
13 shall be based on that level of care, skill, and judgment
14 which, in light of all relevant surrounding circumstances, is
15 recognized as acceptable and appropriate by reasonably prudent
16 similar licensed risk managers.

17 Section 15. Paragraph (b) of subsection (2) of section
18 465.019, Florida Statutes, is amended to read:

19 465.019 Institutional pharmacies; permits.--

20 (2) The following classes of institutional pharmacies
21 are established:

22 (b) "Class II institutional pharmacies" are those
23 institutional pharmacies which employ the services of a
24 registered pharmacist or pharmacists who, in practicing
25 institutional pharmacy, shall provide dispensing and
26 consulting services on the premises to patients of that
27 institution and to patients receiving care in a hospice
28 licensed under part IV of chapter 400 which is located on the
29 premises of that institution, for use on the premises of that
30 institution. However, an institutional pharmacy located in an
31 area or county included in an emergency order or proclamation

1 of a state of emergency declared by the Governor may provide
2 dispensing and consulting services to individuals who are not
3 patients of the institution. However, a single dose of a
4 medicinal drug may be obtained and administered to a patient
5 on a valid physician's drug order under the supervision of a
6 physician or charge nurse, consistent with good institutional
7 practice procedures. The obtaining and administering of such
8 single dose of a medicinal drug shall be pursuant to
9 drug-handling procedures established by a consultant
10 pharmacist. Medicinal drugs may be dispensed in a Class II
11 institutional pharmacy, but only in accordance with the
12 provisions of this section.

13 Section 16. Responsiveness to emergencies and
14 disasters; legislative findings.--The Legislature finds that
15 it is critical that Florida be prepared to respond
16 appropriately to a health crisis and injuries in the event of
17 an emergency or disaster. The Legislature finds that there is
18 a need to better educate health care practitioners on diseases
19 and conditions that might be caused by nuclear, biological,
20 and chemical terrorism so that health care practitioners can
21 more effectively care for patients and better educate patients
22 as to prevention and treatment. Additionally, the Legislature
23 finds that not all health care practitioners have been
24 recently trained in life support and first aid and that all
25 health care practitioners should be encouraged to obtain such
26 training. The Legislature finds that health care practitioners
27 who are willing to respond in emergencies or disasters should
28 not be penalized for providing their assistance.

29 Section 17. Section 381.0011, Florida Statutes, is
30 amended to read:

31

1 381.0011 Duties and powers of the Department of
2 Health; authority of State Health Officer.--

3 (1) It is the duty of the Department of Health to:

4 (a)~~(1)~~ Assess the public health status and needs of
5 the state through statewide data collection and other
6 appropriate means, with special attention to future needs that
7 may result from population growth, technological advancements,
8 new societal priorities, or other changes.

9 (b)~~(2)~~ Formulate general policies affecting the public
10 health of the state.

11 (c)~~(3)~~ Include in the department's strategic plan
12 developed under s. 186.021 a summary of all aspects of the
13 public health mission and health status objectives to direct
14 the use of public health resources with an emphasis on
15 prevention.

16 (d)~~(4)~~ Administer and enforce laws and rules relating
17 to sanitation, control of communicable diseases, illnesses and
18 hazards to health among humans and from animals to humans, and
19 the general health of the people of the state.

20 (e)~~(5)~~ Cooperate with and accept assistance from
21 federal, state, and local officials for the prevention and
22 suppression of communicable and other diseases, illnesses,
23 injuries, and hazards to human health.

24 (f)~~(6)~~ Declare, enforce, modify, and abolish
25 quarantine of persons, animals, and premises as the
26 circumstances indicate for controlling communicable diseases
27 or providing protection from unsafe conditions that pose a
28 threat to public health, except as provided in ss. 384.28 and
29 392.545-392.60.

30
31

1 ~~1.(a)~~ The department shall adopt rules to specify the
2 conditions and procedures for imposing and releasing a
3 quarantine. The rules must include provisions related to:
4 ~~a.1.~~ The closure of premises.
5 ~~b.2.~~ The movement of persons or animals exposed to or
6 infected with a communicable disease.
7 ~~c.3.~~ The tests or ~~prophylactic~~ treatment, including
8 vaccination, for communicable disease required prior to
9 employment or admission to the premises or to comply with a
10 quarantine.
11 ~~d.4.~~ Testing or destruction of animals with or
12 suspected of having a disease transmissible to humans.
13 ~~e.5.~~ Access by the department to quarantined premises.
14 ~~f.6.~~ The disinfection of quarantined animals, persons,
15 or premises.
16 ~~g.~~ Methods of quarantine.
17 ~~2.(b)~~ Any health regulation that restricts travel or
18 trade within the state may not be adopted or enforced in this
19 state except by authority of the department.
20 ~~(g)(7)~~ Provide for a thorough investigation and study
21 of the incidence, causes, modes of propagation and
22 transmission, and means of prevention, control, and cure of
23 diseases, illnesses, and hazards to human health.
24 ~~(h)(8)~~ Provide for the dissemination of information to
25 the public relative to the prevention, control, and cure of
26 diseases, illnesses, and hazards to human health. The
27 department shall conduct a workshop before issuing any health
28 alert or advisory relating to food-borne illness or
29 communicable disease in public lodging or food service
30 establishments in order to inform persons, trade associations,
31 and businesses of the risk to public health and to seek the

1 input of affected persons, trade associations, and businesses
2 on the best methods of informing and protecting the public,
3 except in an emergency, in which case the workshop must be
4 held within 14 days after the issuance of the emergency alert
5 or advisory.

6 ~~(i)(9)~~ Act as registrar of vital statistics.

7 ~~(j)(10)~~ Cooperate with and assist federal health
8 officials in enforcing public health laws and regulations.

9 ~~(k)(11)~~ Cooperate with other departments, local
10 officials, and private boards and organizations for the
11 improvement and preservation of the public health.

12 ~~(l)(12)~~ Cooperate with other departments, local
13 officials, and private organizations in developing and
14 implementing a statewide injury control program.

15 ~~(m)(13)~~ Adopt rules pursuant to ss. 120.536(1) and
16 120.54 to implement the provisions of law conferring duties
17 upon it. This paragraph ~~subsection~~ does not authorize the
18 department to require a permit or license unless such
19 requirement is specifically provided by law.

20 ~~(n)(14)~~ Perform any other duties prescribed by law.

21 (2) The State Health Officer is authorized to take the
22 following actions to protect the public health:

23 (a) Notwithstanding chapters 465 and 499 and rules
24 adopted thereunder, the State Health Officer may direct
25 pharmacists employed by the department to compound bulk
26 prescription drugs and provide these bulk prescription drugs
27 to county health department physicians, physician assistants,
28 and nurses for administration to persons as part of a
29 prophylactic or treatment regimen when there is a significant
30 risk to the public health from a disease, an environmental
31

1 contaminant, or a suspected act of nuclear, biological, or
2 chemical terrorism.

3 (b) The State Health Officer, upon declaration of a
4 public health emergency pursuant to s. 381.00315, may take
5 such actions as are necessary to protect the public health.
6 Such actions shall include, but are not limited to:

7 1. Directing Florida manufacturers and wholesalers of
8 prescription and over-the-counter drugs permitted under
9 chapter 499 to give priority to shipping such drugs to
10 pharmacies and health care providers located in geographic
11 areas identified by the State Health Officer. Florida
12 manufacturers and wholesalers must respond to the State Health
13 Officer's priority shipping directive before shipping the
14 specified drugs to other pharmacies or health care providers
15 in Florida.

16 2. Notwithstanding s. 456.036, temporarily
17 reactivating the inactive licenses of physicians licensed
18 under chapter 458 or chapter 459; physician assistants
19 licensed under chapter 458 or chapter 459; licensed practical
20 nurses, registered nurses, and advanced registered nurse
21 practitioners licensed under chapter 464; respiratory
22 therapists licensed under part V of chapter 468; and emergency
23 medical technicians and paramedics licensed under chapter 401
24 when such practitioners are needed to respond to the public
25 health emergency. Only those licensees referenced in this
26 subparagraph who request reactivation and have unencumbered
27 inactive licenses are eligible for reactivation. Any inactive
28 license reactivated pursuant to this subparagraph shall return
29 to inactive status when the public health emergency ends or
30 prior to the end of the public health emergency if the State
31 Health Officer determines that the health care practitioner is

1 no longer needed to provide services during the emergency. The
2 license may only be reactivated for a period not to exceed 90
3 days without meeting the requirements of s. 456.036 or chapter
4 401. If a physician assistant or advanced registered nurse
5 practitioner requests reactivation and volunteers during the
6 declared public health emergency, the county health department
7 medical director, if appropriate, shall serve as the
8 supervising physician for the physician assistant and shall be
9 authorized to delegate acts of medical diagnosis and treatment
10 to the advanced registered nurse practitioner.

11 3. Notwithstanding any law to the contrary, compelling
12 an individual to be examined, tested, vaccinated, treated, or
13 quarantined for communicable diseases that have significant
14 morbidity or mortality and present a severe danger to public
15 health. Prior to taking action under this subparagraph, the
16 State Health Officer shall, to the extent possible, consult
17 with the Governor.

18 a. Examination, testing, or treatment may be performed
19 by any qualified person authorized by the State Health
20 Officer.

21 b. If the individual poses a danger to public health,
22 the State Health Officer may subject the individual to
23 quarantine. If there is no practicable method to quarantine
24 the individual, the State Health Officer may use any means
25 necessary to vaccinate or treat the individual.

26 c. Any order of the State Health Officer given to
27 effectuate this subparagraph shall be immediately enforceable
28 by law enforcement.

29
30 Individuals who assist the State Health Officer at his or her
31 request on a volunteer basis during a public health emergency

1 declared pursuant to s. 381.00315 shall be entitled to the
2 benefits in s. 110.504(2), (3), (4), and (5).

3 Section 18. Section 381.0034, Florida Statutes, is
4 amended to read:

5 381.0034 Requirement for instruction on conditions
6 caused by nuclear, biological, and chemical terrorism and on
7 human immunodeficiency virus and acquired immune deficiency
8 syndrome.--

9 (1) ~~As of July 1, 1991,~~The Department of Health shall
10 require each person licensed or certified under chapter 401,
11 chapter 467, part IV of chapter 468, or chapter 483, as a
12 condition of biennial relicensure, to complete an educational
13 course approved by the department on conditions caused by
14 nuclear, biological, and chemical terrorism. The course shall
15 consist of education on diagnosis and treatment,~~the~~ modes of
16 transmission, infection control procedures, and clinical
17 management. Such course shall also include information on
18 reporting suspected cases of conditions caused by nuclear,
19 biological, or chemical terrorism to the appropriate health
20 and law enforcement authorities,~~and prevention of human~~
21 ~~immunodeficiency virus and acquired immune deficiency~~
22 ~~syndrome. Such course shall include information on current~~
23 ~~Florida law on acquired immune deficiency syndrome and its~~
24 ~~impact on testing, confidentiality of test results, and~~
25 ~~treatment of patients.~~ Each such licensee or certificateholder
26 shall submit confirmation of having completed said course, on
27 a form provided by the department, when submitting fees or
28 application for each biennial renewal.

29 (2) Failure to complete the requirements of this
30 section shall be grounds for disciplinary action contained in
31 the chapters specified in subsection (1). In addition to

1 discipline by the department, the licensee or
2 certificateholder shall be required to complete the required
3 ~~said~~ course or courses.

4 (3) The department shall require, as a condition of
5 granting a license under the chapters specified in subsection
6 (1), that an applicant making initial application for
7 licensure complete respective an educational courses course
8 acceptable to the department on conditions caused by nuclear,
9 biological, and chemical terrorism and on human
10 immunodeficiency virus and acquired immune deficiency
11 syndrome. An applicant who has not taken such courses a
12 ~~course~~ at the time of licensure shall, upon an affidavit
13 showing good cause, be allowed 6 months to complete this
14 requirement.

15 (4) The department shall have the authority to adopt
16 rules to carry out the provisions of this section.

17 (5) Any professional holding two or more licenses or
18 certificates subject to the provisions of this section shall
19 be permitted to show proof of having taken one
20 department-approved course on conditions caused by nuclear,
21 biological, and chemical terrorism ~~human immunodeficiency~~
22 ~~virus and acquired immune deficiency syndrome~~, for purposes of
23 relicensure or recertification for the additional licenses.

24 Section 19. Section 381.0035, Florida Statutes, is
25 amended to read:

26 381.0035 Educational courses course on human
27 immunodeficiency virus and acquired immune deficiency syndrome
28 and on conditions caused by nuclear, biological, and chemical
29 terrorism; employees and clients of certain health care
30 facilities.--
31

1 (1)(a) The Department of Health shall require all
2 ~~employees and~~ clients of facilities licensed under chapters
3 393, 394, and 397 ~~and employees of facilities licensed under~~
4 ~~chapter 395 and parts II, III, IV, and VI of chapter 400~~ to
5 complete, biennially, a continuing educational course on the
6 modes of transmission, infection control procedures, clinical
7 management, and prevention of human immunodeficiency virus and
8 acquired immune deficiency syndrome with an emphasis on
9 appropriate behavior and attitude change. Such instruction
10 shall include information on current Florida law and its
11 impact on testing, confidentiality of test results, and
12 treatment of patients and any protocols and procedures
13 applicable to human immunodeficiency counseling and testing,
14 reporting, the offering of HIV testing to pregnant women, and
15 partner notification issues pursuant to ss. 381.004 and
16 384.25.

17 (b) The department shall require all employees of
18 facilities licensed under chapters 393, 394, 395, and 397 and
19 parts II, III, IV, and VI of chapter 400 to complete,
20 biennially, a continuing educational course on conditions
21 caused by nuclear, biological, and chemical terrorism. The
22 course shall consist of education on diagnosis and treatment,
23 modes of transmission, infection control procedures, and
24 clinical management. Such course shall also include
25 information on reporting suspected cases of conditions caused
26 by nuclear, biological, or chemical terrorism to the
27 appropriate health and law enforcement authorities.

28 (2) New employees of facilities licensed under
29 chapters 393, 394, 395, and 397 and parts II, III, IV, and VI
30 of chapter 400 shall be required to complete a course on human
31 immunodeficiency virus and acquired immune deficiency

1 syndrome, with instruction to include information on current
2 Florida law and its impact on testing, confidentiality of test
3 results, and treatment of patients. New employees of such
4 facilities shall also be required to complete a course on
5 conditions caused by nuclear, biological, and chemical
6 terrorism, with instruction to include information on
7 reporting suspected cases to the appropriate health and law
8 enforcement authorities.

9 (3) Facilities licensed under chapters 393, 394, 395,
10 and 397, and parts II, III, IV, and VI of chapter 400 shall
11 maintain a record of employees and dates of attendance at
12 ~~human immunodeficiency virus and acquired immune deficiency~~
13 ~~syndrome~~ educational courses on human immunodeficiency virus
14 and acquired immune deficiency syndrome and on conditions
15 caused by nuclear, biological, and chemical terrorism.

16 (4) The department shall have the authority to review
17 the records of each facility to determine compliance with the
18 requirements of this section. The department may adopt rules
19 to carry out the provisions of this section.

20 (5) In lieu of completing a course as required in
21 paragraph (1)(b), the employee may complete a course on
22 end-of-life care and palliative health care or a course on
23 HIV/AIDS so long as the employee completed an approved course
24 on conditions caused by nuclear, biological, and chemical
25 terrorism in the immediately preceding biennium.

26 Section 20. Section 381.0421, Florida Statutes, is
27 created to read:

28 381.0421 Vaccination against hepatitis B.--

29 (1) A postsecondary education institution shall
30 provide detailed information concerning the risks associated
31 with hepatitis B and the availability, effectiveness, and

1 known contraindications of any required or recommended vaccine
2 against hepatitis B to every student, or to the student's
3 parent or guardian if the student is a minor, who has been
4 accepted for admission.

5 (2) An individual enrolled in a postsecondary
6 education institution who will be residing in on-campus
7 housing shall provide documentation of vaccinations against
8 hepatitis B unless the individual, if the individual is 18
9 years of age or older, or the individual's parent or guardian,
10 if the individual is a minor, declines the vaccinations and
11 the individual, parent, or guardian signs a waiver provided by
12 the institution acknowledging receipt and review of the
13 information provided.

14 (3) This section does not require any postsecondary
15 education institution to provide or pay for vaccinations
16 against hepatitis B.

17 Section 21. Subsection (4) of section 395.1027,
18 Florida Statutes, is amended to read:

19 395.1027 Regional poison control centers.--

20 (4) By October 1, 1999, each regional poison control
21 center shall develop a prehospital emergency dispatch protocol
22 with each licensee defined by s. 401.23~~(14)~~~~(13)~~in the
23 geographic area covered by the regional poison control center.
24 The prehospital emergency dispatch protocol shall be developed
25 by each licensee's medical director in conjunction with the
26 designated regional poison control center responsible for the
27 geographic area in which the licensee operates. The protocol
28 shall define toxic substances and describe the procedure by
29 which the designated regional poison control center may be
30 consulted by the licensee. If a call is transferred to the
31 designated regional poison control center in accordance with

1 the protocol established under this section and s. 401.268,
2 the designated regional poison control center shall assume
3 responsibility and liability for the call.

4 Section 22. Section 401.23, Florida Statutes, is
5 amended to read:

6 401.23 Definitions.--As used in this part, the term:

7 (1) "Advanced life support" means the use of skills
8 and techniques described in the most recent United States
9 Department of Transportation National Standard Paramedic
10 Curriculum by a paramedic under the supervision of a
11 licensee's medical director as required by rules of the
12 department. The term "advanced life support" also includes
13 other techniques that have been approved and are performed
14 under conditions specified by rules of the department. The
15 term "advanced life support" also includes provision of care
16 by a paramedic under the supervision of a licensee's medical
17 director to a person experiencing an emergency medical
18 condition as defined in subsection (11)~~treatment of~~
19 ~~life-threatening medical emergencies through the use of~~
20 ~~techniques such as endotracheal intubation, the administration~~
21 ~~of drugs or intravenous fluids, telemetry, cardiac monitoring,~~
22 ~~and cardiac defibrillation by a qualified person, pursuant to~~
23 ~~rules of the department.~~

24 (2) "Advanced life support service" means any
25 emergency medical transport or nontransport service which uses
26 advanced life support techniques.

27 (3) "Air ambulance" means any fixed-wing or
28 rotary-wing aircraft used for, or intended to be used for, air
29 transportation of sick or injured persons requiring or likely
30 to require medical attention during transport.

31

1 (4) "Air ambulance service" means any publicly or
2 privately owned service, licensed in accordance with the
3 provisions of this part, which operates air ambulances to
4 transport persons requiring or likely to require medical
5 attention during transport.

6 (5) "Ambulance" or "emergency medical services
7 vehicle" means any privately or publicly owned land or water
8 vehicle that is designed, constructed, reconstructed,
9 maintained, equipped, or operated for, and is used for, or
10 intended to be used for, land or water transportation of sick
11 or injured persons requiring or likely to require medical
12 attention during transport.

13 (6) "Ambulance driver" means any person who meets the
14 requirements of s. 401.281.

15 (7) "Basic life support" means the use of skills and
16 techniques described in the most recent United States
17 Department of Transportation National Standard EMT-Basic
18 Curriculum by an emergency medical technician or paramedic
19 under the supervision of a licensee's medical director as
20 required by rules of the department. The term "basic life
21 support" also includes other techniques that have been
22 approved and are performed under conditions specified by rules
23 of the department. The term "basic life support" also includes
24 provision of care by a paramedic or emergency medical
25 technician under the supervision of a licensee's medical
26 director to a person experiencing an emergency medical
27 condition as defined in subsection (11)~~treatment of medical~~
28 ~~emergencies by a qualified person through the use of~~
29 ~~techniques such as patient assessment, cardiopulmonary~~
30 ~~resuscitation (CPR), splinting, obstetrical assistance,~~
31 ~~bandaging, administration of oxygen, application of medical~~

1 ~~antishock trousers, administration of a subcutaneous injection~~
2 ~~using a premeasured autoinjector of epinephrine to a person~~
3 ~~suffering an anaphylactic reaction, and other techniques~~
4 ~~described in the Emergency Medical Technician Basic Training~~
5 ~~Course Curriculum of the United States Department of~~
6 ~~Transportation. The term "basic life support" also includes~~
7 ~~other techniques which have been approved and are performed~~
8 ~~under conditions specified by rules of the department.~~

9 (8) "Basic life support service" means any emergency
10 medical service which uses only basic life support techniques.

11 (9) "Certification" means any authorization issued
12 pursuant to this part to a person to act as an emergency
13 medical technician or a paramedic.

14 (10) "Department" means the Department of Health.

15 (11) "Emergency medical condition" means:

16 (a) A medical condition manifesting itself by acute
17 symptoms of sufficient severity, which may include severe
18 pain, psychiatric disturbances, symptoms of substance abuse,
19 or other acute symptoms, such that the absence of immediate
20 medical attention could reasonably be expected to result in
21 any of the following:

22 1. Serious jeopardy to the health of a patient,
23 including a pregnant woman or fetus.

24 2. Serious impairment to bodily functions.

25 3. Serious dysfunction of any bodily organ or part.

26 (b) With respect to a pregnant woman, that there is
27 evidence of the onset and persistence of uterine contractions
28 or rupture of the membranes.

29 (c) With respect to a person exhibiting acute
30 psychiatric disturbance or substance abuse, that the absence
31

1 of immediate medical attention could reasonably be expected to
2 result in:

3 1. Serious jeopardy to the health of a patient; or

4 2. Serious jeopardy to the health of others.

5 (12)~~(11)~~ "Emergency medical technician" means a person
6 who is certified by the department to perform basic life
7 support pursuant to this part.

8 (13)~~(12)~~ "Interfacility transfer" means the
9 transportation by ambulance of a patient between two
10 facilities licensed under chapter 393, chapter 395, or chapter
11 400, pursuant to this part.

12 (14)~~(13)~~ "Licensee" means any basic life support
13 service, advanced life support service, or air ambulance
14 service licensed pursuant to this part.

15 (15)~~(14)~~ "Medical direction" means direct supervision
16 by a physician through two-way voice communication or, when
17 such voice communication is unavailable, through established
18 standing orders, pursuant to rules of the department.

19 (16)~~(15)~~ "Medical director" means a physician who is
20 employed or contracted by a licensee and who provides medical
21 supervision, including appropriate quality assurance but not
22 including administrative and managerial functions, for daily
23 operations and training pursuant to this part.

24 (17)~~(16)~~ "Mutual aid agreement" means a written
25 agreement between two or more entities whereby the signing
26 parties agree to lend aid to one another under conditions
27 specified in the agreement and as sanctioned by the governing
28 body of each affected county.

29 (18)~~(17)~~ "Paramedic" means a person who is certified
30 by the department to perform basic and advanced life support
31 pursuant to this part.

1 (19)~~(18)~~ "Permit" means any authorization issued
2 pursuant to this part for a vehicle to be operated as a basic
3 life support or advanced life support transport vehicle or an
4 advanced life support nontransport vehicle providing basic or
5 advanced life support.

6 (20)~~(19)~~ "Physician" means a practitioner who is
7 licensed under the provisions of chapter 458 or chapter 459.
8 For the purpose of providing "medical direction" as defined in
9 subsection(15)~~(14)~~for the treatment of patients immediately
10 prior to or during transportation to a United States
11 Department of Veterans Affairs medical facility, "physician"
12 also means a practitioner employed by the United States
13 Department of Veterans Affairs.

14 (21)~~(20)~~ "Registered nurse" means a practitioner who
15 is licensed to practice professional nursing pursuant to part
16 I of chapter 464.

17 (22)~~(21)~~ "Secretary" means the Secretary of Health.

18 (23)~~(22)~~ "Service location" means any permanent
19 location in or from which a licensee solicits, accepts, or
20 conducts business under this part.

21 Section 23. Paragraph (b) of subsection (2) of section
22 401.245, Florida Statutes, is amended to read:

23 401.245 Emergency Medical Services Advisory Council.--

24 (2)

25 (b) Representation on the Emergency Medical Services
26 Advisory Council shall include: two licensed physicians who
27 are "medical directors" as defined in s. 401.23(16)~~(15)~~or
28 whose medical practice is closely related to emergency medical
29 services; two emergency medical service administrators, one of
30 whom is employed by a fire service; two certified paramedics,
31 one of whom is employed by a fire service; two certified

1 emergency medical technicians, one of whom is employed by a
2 fire service; one emergency medical services educator; one
3 emergency nurse; one hospital administrator; one
4 representative of air ambulance services; one representative
5 of a commercial ambulance operator; and two laypersons who are
6 in no way connected with emergency medical services, one of
7 whom is a representative of the elderly. Ex officio members of
8 the advisory council from state agencies shall include, but
9 shall not be limited to, representatives from the Department
10 of Education, the Department of Management Services, the
11 Department of Insurance, the Department of Highway Safety and
12 Motor Vehicles, the Department of Transportation, and the
13 Department of Community Affairs.

14 Section 24. Subsection (1) of section 401.252, Florida
15 Statutes, is amended to read:

16 401.252 Interfacility transfer.--

17 (1) A licensed basic or advanced life support
18 ambulance service may conduct interfacility transfers in a
19 permitted ambulance, using a registered nurse or physician
20 assistant in place of an emergency medical technician or
21 paramedic, if:

22 (a) The registered nurse or physician assistant holds
23 a current certificate of successful course completion in
24 advanced cardiac life support;

25 (b) The physician in charge has granted permission for
26 such a transfer, has designated the level of service required
27 for such transfer, and has deemed the patient to be in such a
28 condition appropriate to this type of ambulance staffing; and

29 (c) The registered nurse operates within the scope of
30 part I of chapter 464 or the physician assistant operates
31

1 within the physician assistant's scope of practice under
2 chapter 458 or chapter 459.

3 Section 25. Subsection (6) of section 401.27, Florida
4 Statutes, is amended to read:

5 401.27 Personnel; standards and certification.--

6 (6)(a) The department shall establish by rule a
7 procedure for biennial renewal certification of emergency
8 medical technicians. Such rules must require a United States
9 Department of Transportation refresher training program of at
10 least 30 hours as approved by the department every 2 years.
11 Completion of the course required by s. 381.0034(1) shall
12 count toward the 30 hours.The refresher program may be
13 offered in multiple presentations spread over the 2-year
14 period. The rules must also provide that the refresher course
15 requirement may be satisfied by passing a challenge
16 examination.

17 (b) The department shall establish by rule a procedure
18 for biennial renewal certification of paramedics. Such rules
19 must require candidates for renewal to have taken at least 30
20 hours of continuing education units during the 2-year period.
21 Completion of the course required by s. 381.0034(1) shall
22 count toward the 30 hours.The rules must provide that the
23 continuing education requirement may be satisfied by passing a
24 challenge examination.

25 Section 26. Section 456.033, Florida Statutes, is
26 amended to read:

27 456.033 Requirement for instruction for certain
28 licensees on conditions caused by nuclear, biological, and
29 chemical terrorism and on HIV and AIDS.--

30 (1) The appropriate board shall require each person
31 licensed or certified under chapter 457; chapter 458; chapter

1 459; chapter 460; chapter 461; chapter 463; part I of chapter
2 464; chapter 465; chapter 466; part II, part III, part V, or
3 part X of chapter 468; or chapter 486 to complete a continuing
4 educational course, approved by the board, on conditions
5 caused by nuclear, biological, and chemical terrorism ~~human~~
6 ~~immunodeficiency virus and acquired immune deficiency syndrome~~
7 as part of biennial relicensure or recertification. The course
8 shall consist of education on diagnosis and treatment, the
9 modes of transmission, infection control procedures, and
10 clinical management. Such course shall also include
11 information on reporting suspected cases of conditions caused
12 by nuclear, biological, or chemical terrorism to the
13 appropriate health and law enforcement authorities, ~~and~~
14 ~~prevention of human immunodeficiency virus and acquired immune~~
15 ~~deficiency syndrome. Such course shall include information on~~
16 ~~current Florida law on acquired immune deficiency syndrome and~~
17 ~~its impact on testing, confidentiality of test results,~~
18 ~~treatment of patients, and any protocols and procedures~~
19 ~~applicable to human immunodeficiency virus counseling and~~
20 ~~testing, reporting, the offering of HIV testing to pregnant~~
21 ~~women, and partner notification issues pursuant to ss. 381.004~~
22 ~~and 384.25.~~

23 (2) Each such licensee or certificateholder shall
24 submit confirmation of having completed said course, on a form
25 as provided by the board, when submitting fees for each
26 biennial renewal.

27 (3) The board shall have the authority to approve
28 additional equivalent courses that may be used to satisfy the
29 requirements in subsection (1). Each licensing board that
30 requires a licensee to complete an educational course pursuant
31 to this section may count the hours required for completion of

1 the course included in the total continuing educational
2 requirements as required by law.

3 (4) Any person holding two or more licenses subject to
4 the provisions of this section shall be permitted to show
5 proof of having taken one board-approved course on conditions
6 caused by nuclear, biological, and chemical terrorism ~~human~~
7 ~~immunodeficiency virus and acquired immune deficiency~~
8 ~~syndrome~~, for purposes of relicensure or recertification for
9 additional licenses.

10 (5) Failure to comply with the ~~above~~ requirements of
11 this section shall constitute grounds for disciplinary action
12 under each respective licensing chapter and s. 456.072(1)(e).
13 In addition to discipline by the board, the licensee shall be
14 required to complete the required course or courses.

15 (6) The board shall require as a condition of granting
16 a license under the chapters and parts specified in subsection
17 (1) that an applicant making initial application for licensure
18 complete respective ~~an~~ educational courses ~~course~~ acceptable
19 to the board on conditions caused by nuclear, biological, and
20 chemical terrorism and on human immunodeficiency virus and
21 acquired immune deficiency syndrome. An applicant who has not
22 taken such courses ~~a course~~ at the time of licensure shall,
23 upon an affidavit showing good cause, be allowed 6 months to
24 complete this requirement.

25 (7) The board shall have the authority to adopt rules
26 to carry out the provisions of this section.

27 (8) The board shall report to the Legislature by March
28 1 of each year as to the implementation and compliance with
29 the requirements of this section.

30 (9)(a) In lieu of completing a course as required in
31 subsection (1), the licensee may complete a course on ~~in~~

1 end-of-life care and palliative health care or a course on
2 HIV/AIDS, so long as the licensee completed an approved
3 ~~AIDS/HIV~~ course on conditions caused by nuclear, biological,
4 and chemical terrorism in the immediately preceding biennium.

5 (b) In lieu of completing a course as required by
6 subsection (1), a person licensed under chapter 466 ~~who has~~
7 ~~completed an approved AIDS/HIV course in the immediately~~
8 ~~preceding 2 years~~ may complete a course approved by the Board
9 of Dentistry.

10 Section 27. Section 456.0345, Florida Statutes, is
11 created to read:

12 456.0345 Life support training.--Health care
13 practitioners who obtain training in advanced cardiac life
14 support, cardiopulmonary resuscitation, or emergency first aid
15 shall receive an equivalent number of continuing education
16 course credits which may be applied toward licensure renewal
17 requirements.

18 Section 28. Paragraph (e) of subsection (1) of section
19 456.072, Florida Statutes, is amended to read:

20 456.072 Grounds for discipline; penalties;
21 enforcement.--

22 (1) The following acts shall constitute grounds for
23 which the disciplinary actions specified in subsection (2) may
24 be taken:

25 (e) Failing to comply with the educational course
26 requirements for conditions caused by nuclear, biological, and
27 chemical terrorism or for human immunodeficiency virus and
28 acquired immune deficiency syndrome.

29 Section 29. Section 456.38, Florida Statutes, is
30 amended to read:

31

1 456.38 Practitioner registry for disasters and
2 emergencies.--The Department of Health shall ~~may~~ include on
3 its application and renewal forms for the licensure or
4 certification of health care practitioners licensed pursuant
5 to chapter 458, chapter 459, chapter 464, or part V of chapter
6 468, as defined in s. 456.001,who could assist the department
7 in the event of a disaster a question asking if the
8 practitioner would be available to provide health care
9 services in special needs shelters or to help staff disaster
10 medical assistance teams during times of emergency or major
11 disaster. The names of practitioners who answer affirmatively
12 shall be maintained by the department as a health care
13 practitioner registry for disasters and emergencies. A health
14 care practitioner who volunteers his or her services in a
15 special needs shelter or as part of a disaster medical
16 assistance team during a time of emergency or disaster shall
17 not be terminated or discriminated against by his or her
18 employer for such volunteer work, provided that the health
19 care practitioner returns to his or her regular employment
20 within 2 weeks or within a longer period that has been
21 previously approved by the employer in writing.

22 Section 30. Subsection (4) of section 458.319, Florida
23 Statutes, is amended to read:

24 458.319 Renewal of license.--

25 (4) Notwithstanding the provisions of s. 456.033, a
26 physician may complete continuing education on end-of-life
27 care and palliative care in lieu of continuing education in
28 conditions caused by nuclear, biological, and chemical
29 terrorism AIDS/HIV, if that physician has completed the
30 AIDS/HIV continuing education in conditions caused by nuclear,
31

1 biological, and chemical terrorism in the immediately
2 preceding biennium.

3 Section 31. Subsection (5) of section 459.008, Florida
4 Statutes, is amended to read:

5 459.008 Renewal of licenses and certificates.--

6 (5) Notwithstanding the provisions of s. 456.033, an
7 osteopathic physician may complete continuing education on
8 end-of-life and palliative care in lieu of continuing
9 education in conditions caused by nuclear, biological, and
10 chemical terrorism ~~AIDS/HIV~~, if that physician has completed
11 the ~~AIDS/HIV~~ continuing education in conditions caused by
12 nuclear, biological, and chemical terrorism in the immediately
13 preceding biennium.

14 Section 32. Subsections (1), (2), and (6) of section
15 765.512, Florida Statutes, are amended to read:

16 765.512 Persons who may make an anatomical gift.--

17 (1) Any person who may make a will may give all or
18 part of his or her body for any purpose specified in s.
19 765.510, the gift to take effect upon death. An anatomical
20 gift made by an adult donor and not revoked by the donor as
21 provided in s. 765.516 is irrevocable ~~and does not require the~~
22 ~~consent or concurrence of any person~~ after the donor's death.
23 A family member, guardian, representative ad litem, or health
24 care surrogate of a decedent who has made an anatomical gift
25 may not modify the decedent's wishes or deny or prevent the
26 anatomical gift from being made.

27 (2) If the decedent has executed an agreement
28 concerning an anatomical gift, by ~~including~~ signing an organ
29 and tissue donor card, by expressing his or her wish to donate
30 in a living will or advance directive, or by signifying his or
31 her intent to donate on his or her driver's license or in some

1 other written form has indicated his or her wish to make an
2 anatomical gift, and in the absence of actual notice of
3 contrary indications by the decedent, the document is evidence
4 of legally sufficient informed consent to donate an anatomical
5 gift and is legally binding. Any surrogate designated by the
6 decedent pursuant to part II of this chapter may give all or
7 any part of the decedent's body for any purpose specified in
8 s. 765.510.

9 (6) A gift of all or part of a body authorizes:

10 (a) Any examination necessary to assure medical
11 acceptability of the gift for the purposes intended.

12 (b) The decedent's medical provider, family, or a
13 third party to furnish medical records requested concerning
14 the decedent's medical and social history.

15 Section 33. Subsection (1) of section 765.516, Florida
16 Statutes, is amended to read:

17 765.516 Amendment of the terms of or the revocation of
18 the gift.--

19 (1) A donor may amend the terms of or revoke an
20 anatomical gift by:

21 (a) The execution and delivery to the donee of a
22 signed statement.

23 (b) An oral statement that is⁺

24 ~~1. Made to the donor's spouse; or~~

25 ~~2. made in the presence of two persons, other than the~~
26 donor's spouse, and communicated to the donor's family or
27 attorney or to the donee.

28 (c) A statement during a terminal illness or injury
29 addressed to an attending physician, who must communicate the
30 revocation of the gift to the procurement organization that is
31 certified by the state.

1 (d) A signed document found on or about the donor's
2 person ~~or in the donor's effects~~.

3 Section 34. Subsection (5) of section 456.073, Florida
4 Statutes, is amended to read:

5 456.073 Disciplinary proceedings.--Disciplinary
6 proceedings for each board shall be within the jurisdiction of
7 the department.

8 (5)(a) A formal hearing before an administrative law
9 judge from the Division of Administrative Hearings shall be
10 held pursuant to chapter 120 if there are any disputed issues
11 of material fact raised within 45 days after service of the
12 administrative complaint. The administrative law judge shall
13 issue a recommended order pursuant to chapter 120. ~~If any~~
14 ~~party raises an issue of disputed fact during an informal~~
15 ~~hearing, the hearing shall be terminated and a formal hearing~~
16 ~~pursuant to chapter 120 shall be held.~~

17 (b) Notwithstanding s. 120.569(2), the department
18 shall notify the division within 45 days after receipt of a
19 petition or request for a hearing that the department has
20 determined requires a formal hearing before an administrative
21 law judge.

22 Section 35. The Office of Program Policy Analysis and
23 Government Accountability and the Auditor General shall
24 conduct a joint audit of all hearings and billings therefor
25 conducted by the Division of Administrative Hearings for all
26 state agencies and nonstate agencies and shall present a
27 report to the President of the Senate and the Speaker of the
28 House of Representatives on or before January 1, 2003, which
29 contains findings and recommendations regarding the manner in
30 which the division charges for its services. The report shall
31 recommend alternative billing formulas.

1 Section 36. Subsection (7) is added to section
2 456.076, Florida Statutes, to read:

3 456.076 Treatment programs for impaired
4 practitioners.--

5 (7) Each licensee participating in an impaired
6 practitioner program pursuant to this section shall pay a
7 minimum of 40 percent of the costs of the consultant and
8 impaired practitioner program incurred as a result of that
9 licensee, unless the consultant finds the licensee to be
10 financially unable to pay. Payment of these costs shall be a
11 condition of the contract between the impaired practitioner
12 program and the impaired practitioner. Failure to pay the
13 required costs shall be a violation of the contract, unless
14 prior arrangements have been made with the impaired
15 practitioner program. If the licensee has entered the
16 impaired practitioner program as a result of a disciplinary
17 investigation, such payment shall be included in the final
18 order imposing discipline. The remaining costs shall be paid
19 out of the Medical Quality Assurance Trust Fund or other
20 federal, state, or private program funds. Each licensee shall
21 pay the full cost of the approved treatment program or other
22 treatment plan required by the impaired practitioner program,
23 unless private funds are available to assist with such
24 payment.

25 Section 37. Section 456.047, Florida Statutes, is
26 repealed.

27 Section 38. All revenues associated with s. 456.047,
28 Florida Statutes, and collected by the Department of Health on
29 or before July 1, 2002, shall remain in the Medical Quality
30 Assurance Trust Fund, and no refunds shall be given.

31

1 Section 39. Paragraph (d) of subsection (4) of section
2 456.039, Florida Statutes, is amended to read:

3 456.039 Designated health care professionals;
4 information required for licensure.--

5 (4)

6 (d) Any applicant for initial licensure or renewal of
7 licensure as a health care practitioner who submits to the
8 Department of Health a set of fingerprints or information
9 required for the criminal history check required under this
10 section shall not be required to provide a subsequent set of
11 fingerprints or other duplicate information required for a
12 criminal history check to the Agency for Health Care
13 Administration, the Department of Juvenile Justice, or the
14 Department of Children and Family Services for employment or
15 licensure with such agency or department if the applicant has
16 undergone a criminal history check as a condition of initial
17 licensure or licensure renewal as a health care practitioner
18 with the Department of Health or any of its regulatory boards,
19 notwithstanding any other provision of law to the contrary. In
20 lieu of such duplicate submission, the Agency for Health Care
21 Administration, the Department of Juvenile Justice, and the
22 Department of Children and Family Services shall obtain
23 criminal history information for employment or licensure of
24 health care practitioners by such agency and departments from
25 the Department of Health ~~Health's health care practitioner~~
26 ~~credentialing system.~~

27 Section 40. Paragraph (d) of subsection (4) of section
28 456.0391, Florida Statutes, is amended to read:

29 456.0391 Advanced registered nurse practitioners;
30 information required for certification.--

31 (4)

1 (d) Any applicant for initial certification or renewal
2 of certification as an advanced registered nurse practitioner
3 who submits to the Department of Health a set of fingerprints
4 and information required for the criminal history check
5 required under this section shall not be required to provide a
6 subsequent set of fingerprints or other duplicate information
7 required for a criminal history check to the Agency for Health
8 Care Administration, the Department of Juvenile Justice, or
9 the Department of Children and Family Services for employment
10 or licensure with such agency or department, if the applicant
11 has undergone a criminal history check as a condition of
12 initial certification or renewal of certification as an
13 advanced registered nurse practitioner with the Department of
14 Health, notwithstanding any other provision of law to the
15 contrary. In lieu of such duplicate submission, the Agency for
16 Health Care Administration, the Department of Juvenile
17 Justice, and the Department of Children and Family Services
18 shall obtain criminal history information for employment or
19 licensure of persons certified under s. 464.012 by such agency
20 or department from the Department of Health ~~Health's health~~
21 ~~care practitioner credentialing system.~~

22 Section 41. Paragraph (v) of subsection (1) of section
23 456.072, Florida Statutes, is amended to read:

24 456.072 Grounds for discipline; penalties;
25 enforcement.--

26 (1) The following acts shall constitute grounds for
27 which the disciplinary actions specified in subsection (2) may
28 be taken:

29 (v) Failing to comply with the requirements for
30 profiling ~~and credentialing~~, including, but not limited to,
31 failing to provide initial information, failing to timely

1 provide updated information, or making misleading, untrue,
2 deceptive, or fraudulent representations on a profile;
3 ~~credentialing~~, or initial or renewal licensure application.

4 Section 42. Subsection (2) of section 456.077, Florida
5 Statutes, is amended to read:

6 456.077 Authority to issue citations.--

7 (2) The board, or the department if there is no board,
8 shall adopt rules designating violations for which a citation
9 may be issued. Such rules shall designate as citation
10 violations those violations for which there is no substantial
11 threat to the public health, safety, and welfare. Violations
12 for which a citation may be issued shall include violations of
13 continuing education requirements; failure to timely pay
14 required fees and fines; failure to comply with the
15 requirements of ss. 381.026 and 381.0261 regarding the
16 dissemination of information regarding patient rights; failure
17 to comply with advertising requirements; failure to timely
18 update practitioner profile ~~and credentialing~~ files; failure
19 to display signs, licenses, and permits; failure to have
20 required reference books available; and all other violations
21 that do not pose a direct and serious threat to the health and
22 safety of the patient.

23 Section 43. Subsection (3) of section 458.309, Florida
24 Statutes, is amended to read:

25 458.309 Authority to make rules.--

26 (3) All physicians who perform level 2 procedures
27 lasting more than 5 minutes and all level 3 surgical
28 procedures in an office setting must register the office with
29 the department unless that office is licensed as a facility
30 pursuant to chapter 395. Each office that is required under
31 this subsection to be registered must be ~~The department shall~~

1 ~~inspect the physician's office annually unless the office is~~
2 accredited by a nationally recognized accrediting agency
3 approved by the Board of Medicine by rule or an accrediting
4 organization ~~subsequently~~ approved by the Board of Medicine by
5 rule. Each office registered but not accredited as required
6 by this subsection must achieve full and unconditional
7 accreditation no later than July 1, 2003, and must maintain
8 unconditional accreditation as long as procedures described in
9 this subsection that require the office to be registered and
10 accredited are performed. Accreditation reports shall be
11 submitted to the department. The actual costs for registration
12 and ~~inspection or~~ accreditation shall be paid by the person
13 seeking to register and operate the office setting in which
14 office surgery is performed. The board may adopt rules
15 pursuant to ss. 120.536(1) and 120.54 to implement this
16 subsection.

17 Section 44. Subsection (2) of section 459.005, Florida
18 Statutes, is amended to read:

19 459.005 Rulemaking authority.--

20 (2) All osteopathic physicians who perform level 2
21 procedures lasting more than 5 minutes and all level 3
22 surgical procedures in an office setting must register the
23 office with the department unless that office is licensed as a
24 facility pursuant to chapter 395. Each office that is
25 required under this subsection to be registered must be ~~The~~
26 ~~department shall inspect the physician's office annually~~
27 ~~unless the office is~~ accredited by a nationally recognized
28 accrediting agency approved by the Board of Medicine or the
29 Board of Osteopathic Medicine by rule or an accrediting
30 organization ~~subsequently~~ approved by the Board of Medicine or
31 the Board of Osteopathic Medicine by rule. Each office

1 registered but not accredited as required by this subsection
2 must achieve full and unconditional accreditation no later
3 than July 1, 2003, and must maintain unconditional
4 accreditation as long as procedures described in this
5 subsection that require the office to be registered and
6 accredited are performed. Accreditation reports shall be
7 submitted to the department. The actual costs for
8 registration ~~and inspection~~ or accreditation shall be paid by
9 the person seeking to register and operate the office setting
10 in which office surgery is performed. The Board of
11 Osteopathic Medicine may adopt rules pursuant to ss.
12 120.536(1) and 120.54 to implement this subsection.

13 Section 45. Subsections (11) and (12) are added to
14 section 456.004, Florida Statutes, to read:

15 456.004 Department; powers and duties.--The
16 department, for the professions under its jurisdiction, shall:

17 (11) Require objective performance measures for all
18 bureaus, units, boards, contracted entities, and board
19 executive directors that reflect the expected quality and
20 quantity of services.

21 (12) Consider all board requests to use private
22 vendors for particular regulatory functions. In considering a
23 board request, the department shall conduct an analysis to
24 determine if the function could be appropriately and
25 successfully performed by a private entity at a lower cost or
26 with improved efficiency. If after reviewing the department's
27 analysis the board desires to contract with a vendor for a
28 particular regulatory function and the board has a positive
29 cash balance, the department shall enter into a contract for
30 the service. The contract shall include objective performance
31 measures that reflect the expected quality and quantity of the

1 service and shall include a provision that terminates the
2 contract if the service falls below expected levels. For
3 purposes of this subsection, a "regulatory function" shall be
4 defined to include licensure, licensure renewal, examination,
5 complaint analysis, investigation, or prosecution.

6 Section 46. Subsection (1) of section 456.009, Florida
7 Statutes, is amended to read:

8 456.009 Legal and investigative services.--

9 (1) The department shall provide board counsel for
10 boards within the department by contracting with the
11 Department of Legal Affairs, by retaining private counsel
12 pursuant to s. 287.059, or by providing department staff
13 counsel. The primary responsibility of board counsel shall be
14 to represent the interests of the citizens of the state. A
15 board shall provide for the periodic review and evaluation of
16 the services provided by its board counsel. Fees and costs of
17 such counsel shall be paid from a trust fund used by the
18 department to implement this chapter, subject to the
19 provisions of s. 456.025. All contracts for independent
20 counsel shall provide for periodic review and evaluation by
21 the board and the department of services provided. All legal
22 and investigative services shall be reviewed by the department
23 annually to determine if such services are meeting the
24 performance measures specified in law and in the contract. All
25 contracts for legal and investigative services must include
26 objective performance measures that reflect the expected
27 quality and quantity of the contracted services.

28 Section 47. Subsection (6) is added to section
29 456.011, Florida Statutes, to read:

30 456.011 Boards; organization; meetings; compensation
31 and travel expenses.--

1 (6) Meetings of board committees, including probable
2 cause panels, shall be conducted electronically unless held
3 concurrently with, or on the day immediately before or after,
4 a regularly scheduled in-person board meeting. However, if a
5 particular committee meeting is expected to last more than 5
6 hours and cannot be held before or after the in-person board
7 meeting, the chair of the committee may request special
8 permission from the director of the Division of Medical
9 Quality Assurance to hold an in-person committee meeting. The
10 meeting shall be held in Tallahassee unless the chair of the
11 committee determines that another location is necessary due to
12 the subject matter to be discussed at the meeting and the
13 director authorizes the additional costs, if any.

14 Section 48. Subsection (11) is added to section
15 456.026, Florida Statutes, to read:

16 456.026 Annual report concerning finances,
17 administrative complaints, disciplinary actions, and
18 recommendations.--The department is directed to prepare and
19 submit a report to the President of the Senate and the Speaker
20 of the House of Representatives by November 1 of each year. In
21 addition to finances and any other information the Legislature
22 may require, the report shall include statistics and relevant
23 information, profession by profession, detailing:

24 (11) The performance measures for all bureaus, units,
25 boards, and contracted entities required by the department to
26 reflect the expected quality and quantity of services, and a
27 description of any effort to improve the performance of such
28 services.

29 Section 49. Section 458.3093, Florida Statutes, is
30 created to read:

31

1 458.3093 Licensure credentials verification.--All
2 applicants for initial physician licensure pursuant to this
3 chapter must submit their credentials to the Federation of
4 State Medical Boards. Effective January 1, 2003, the board
5 and the department shall only consider applications for
6 initial physician licensure pursuant to this chapter that have
7 been verified by the Federation of State Medical Boards
8 Credentials Verification Service or an equivalent program
9 approved by the board.

10 Section 50. Section 459.0053, Florida Statutes, is
11 created to read:

12 459.0053 Licensure credentials verification.--All
13 applicants for initial osteopathic physician licensure
14 pursuant to this chapter must submit their credentials to the
15 Federation of State Medical Boards. Effective January 1,
16 2003, the board and the department shall only consider
17 applications for initial osteopathic physician licensure
18 pursuant to this chapter that have been verified by the
19 Federation of State Medical Boards Credentials Verification
20 Service, the American Osteopathic Association, or an
21 equivalent program approved by the board.

22 Section 51. Paragraph (t) of subsection (1) of section
23 458.331, Florida Statutes, is amended to read:

24 458.331 Grounds for disciplinary action; action by the
25 board and department.--

26 (1) The following acts constitute grounds for denial
27 of a license or disciplinary action, as specified in s.
28 456.072(2):

29 (t) Gross or repeated malpractice or the failure to
30 practice medicine with that level of care, skill, and
31 treatment which is recognized by a reasonably prudent similar

1 physician as being acceptable under similar conditions and
2 circumstances. The board shall give great weight to the
3 provisions of s. 766.102 when enforcing this paragraph. As
4 used in this paragraph, "repeated malpractice" includes, but
5 is not limited to, three or more claims for medical
6 malpractice within the previous 5-year period resulting in
7 indemnities being paid in excess of \$50,000~~\$25,000~~ each to
8 the claimant in a judgment or settlement and which incidents
9 involved negligent conduct by the physician. As used in this
10 paragraph, "gross malpractice" or "the failure to practice
11 medicine with that level of care, skill, and treatment which
12 is recognized by a reasonably prudent similar physician as
13 being acceptable under similar conditions and circumstances,"
14 shall not be construed so as to require more than one
15 instance, event, or act. Nothing in this paragraph shall be
16 construed to require that a physician be incompetent to
17 practice medicine in order to be disciplined pursuant to this
18 paragraph.

19 Section 52. Paragraph (x) of subsection (1) of section
20 459.015, Florida Statutes, is amended to read:

21 459.015 Grounds for disciplinary action; action by the
22 board and department.--

23 (1) The following acts constitute grounds for denial
24 of a license or disciplinary action, as specified in s.
25 456.072(2):

26 (x) Gross or repeated malpractice or the failure to
27 practice osteopathic medicine with that level of care, skill,
28 and treatment which is recognized by a reasonably prudent
29 similar osteopathic physician as being acceptable under
30 similar conditions and circumstances. The board shall give
31 great weight to the provisions of s. 766.102 when enforcing

1 this paragraph. As used in this paragraph, "repeated
2 malpractice" includes, but is not limited to, three or more
3 claims for medical malpractice within the previous 5-year
4 period resulting in indemnities being paid in excess of
5 \$50,000~~\$25,000~~ each to the claimant in a judgment or
6 settlement and which incidents involved negligent conduct by
7 the osteopathic physician. As used in this paragraph, "gross
8 malpractice" or "the failure to practice osteopathic medicine
9 with that level of care, skill, and treatment which is
10 recognized by a reasonably prudent similar osteopathic
11 physician as being acceptable under similar conditions and
12 circumstances" shall not be construed so as to require more
13 than one instance, event, or act. Nothing in this paragraph
14 shall be construed to require that an osteopathic physician be
15 incompetent to practice osteopathic medicine in order to be
16 disciplined pursuant to this paragraph. A recommended order
17 by an administrative law judge or a final order of the board
18 finding a violation under this paragraph shall specify whether
19 the licensee was found to have committed "gross malpractice,"
20 "repeated malpractice," or "failure to practice osteopathic
21 medicine with that level of care, skill, and treatment which
22 is recognized as being acceptable under similar conditions and
23 circumstances," or any combination thereof, and any
24 publication by the board shall so specify.

25 Section 53. Subsection (1) of section 627.912, Florida
26 Statutes, is amended to read:

27 627.912 Professional liability claims and actions;
28 reports by insurers.--

29 (1) Each self-insurer authorized under s. 627.357 and
30 each insurer or joint underwriting association providing
31 professional liability insurance to a practitioner of medicine

1 licensed under chapter 458, to a practitioner of osteopathic
2 medicine licensed under chapter 459, to a podiatric physician
3 licensed under chapter 461, to a dentist licensed under
4 chapter 466, to a hospital licensed under chapter 395, to a
5 crisis stabilization unit licensed under part IV of chapter
6 394, to a health maintenance organization certificated under
7 part I of chapter 641, to clinics included in chapter 390, to
8 an ambulatory surgical center as defined in s. 395.002, or to
9 a member of The Florida Bar shall report in duplicate to the
10 Department of Insurance any claim or action for damages for
11 personal injuries claimed to have been caused by error,
12 omission, or negligence in the performance of such insured's
13 professional services or based on a claimed performance of
14 professional services without consent, if the claim resulted
15 in:

- 16 (a) A final judgment in any amount.
17 (b) A settlement in any amount.
18

19 Reports shall be filed with the Department of Insurance ~~and,~~
20 If the insured party is licensed under chapter 458, chapter
21 459, or chapter 461, ~~or chapter 466,~~ with the Department of
22 Health, and the final judgment or settlement was in an amount
23 exceeding \$50,000, the report shall also be filed with the
24 Department of Health. If the insured is licensed under chapter
25 466 and the final judgment or settlement was in an amount
26 exceeding \$25,000, the report shall also be filed with the
27 Department of Health. Reports must be filed no later than 30
28 days following the occurrence of any event listed in this
29 subsection ~~paragraph (a) or paragraph (b).~~ The Department of
30 Health shall review each report and determine whether any of
31 the incidents that resulted in the claim potentially involved

1 conduct by the licensee that is subject to disciplinary
2 action, in which case the provisions of s. 456.073 shall
3 apply. The Department of Health, as part of the annual report
4 required by s. 456.026, shall publish annual statistics,
5 without identifying licensees, on the reports it receives,
6 including final action taken on such reports by the Department
7 of Health or the appropriate regulatory board.

8 Section 54. Subsections (14) and (15) are added to
9 section 456.073, Florida Statutes, to read:

10 456.073 Disciplinary proceedings.--Disciplinary
11 proceedings for each board shall be within the jurisdiction of
12 the department.

13 (14) When the probable cause panel determines that
14 probable cause exists that a violation of law occurred but
15 decides to issue a letter of guidance in lieu of finding
16 probable cause as a result of mitigating circumstances, the
17 subject shall be required to pay the actual costs of the
18 investigation and prosecution of the case within 30 days after
19 the execution of the closing order. If the subject fails to
20 pay the costs within 30 days, the case shall be reopened and
21 the department shall file an administrative complaint against
22 the subject based on the underlying case. No additional
23 charges may be added as a result of the subject failing to pay
24 the costs. The issuance of a letter of guidance and the
25 assessment of costs under this subsection shall not be
26 considered discipline, nor shall it be considered a final
27 order of discipline.

28 (15) All cases in which no probable cause is found
29 shall be closed within 14 days following the probable cause
30 panel meeting at which such determination was made. The
31 department shall mail a copy of the closing order to the

1 subject within 14 days after such probable cause panel
2 meeting.

3 Section 55. The Office of Program Policy Analysis and
4 Governmental Accountability shall review the investigative
5 field office structure and organization of the Agency for
6 Health Care Administration to determine the feasibility of
7 eliminating all or some field offices, the feasibility of
8 combining field offices, and the feasibility of requiring
9 field inspectors and investigators to telecommute from home in
10 lieu of paying for office space. The review shall include all
11 agency programs that have field offices, including health
12 practitioner regulation even if health practitioner regulation
13 is transferred to the Department of Health. The review shall
14 be completed and a report issued to the President of the
15 Senate and the Speaker of the House of Representatives no
16 later than January 1, 2003.

17 Section 56. Subsection (1) of section 456.025, Florida
18 Statutes, is amended to read:

19 456.025 Fees; receipts; disposition.--

20 (1) It is the intent of the Legislature that all costs
21 of regulating health care professions and practitioners shall
22 be borne solely by licensees and licensure applicants. It is
23 also the intent of the Legislature that fees should be
24 reasonable and not serve as a barrier to licensure. Moreover,
25 it is the intent of the Legislature that the department
26 operate as efficiently as possible and regularly report to the
27 Legislature additional methods to streamline operational
28 costs. Therefore, the boards in consultation with the
29 department, or the department if there is no board, shall, by
30 rule, set renewal fees which:

31

1 (a) Shall be based on revenue projections prepared
2 using generally accepted accounting procedures;

3 (b) Shall be adequate to cover all expenses relating
4 to that board identified in the department's long-range policy
5 plan, as required by s. 456.005;

6 (c) Shall be reasonable, fair, and not serve as a
7 barrier to licensure;

8 (d) Shall be based on potential earnings from working
9 under the scope of the license;

10 (e) Shall be similar to fees imposed on similar
11 licensure types; and

12 ~~(f) Shall not be more than 10 percent greater than the~~
13 ~~fee imposed for the previous biennium;~~

14 ~~(g) Shall not be more than 10 percent greater than the~~
15 ~~actual cost to regulate that profession for the previous~~
16 ~~biennium; and~~

17 ~~(f)(h)~~ Shall be subject to challenge pursuant to
18 chapter 120.

19 Section 57. Section 456.0165, Florida Statutes, is
20 created to read:

21 456.0165 Examination location.--A college, university,
22 or vocational school in this state may serve as the host
23 school for a health care practitioner licensure examination.
24 However, the college, university, or vocational school may not
25 charge the department for rent, space, reusable equipment,
26 utilities, or janitorial services. The college, university,
27 or vocational school may only charge the department the actual
28 cost of nonreusable supplies provided by the school at the
29 request of the department.

30 Section 58. Effective July 1, 2002, all licensure and
31 licensure renewal fees for professions within the Division of

1 Medical Quality Assurance shall be set at the profession's
2 statutory fee cap or at a level equal to at least 85 percent
3 of the actual per licensee cost to regulate that profession,
4 whichever is less. Effective July 1, 2005, all licensure and
5 licensure renewal fees shall be set at the profession's
6 statutory fee cap or at a level equal to 100 percent of the
7 actual per licensee cost to regulate that profession,
8 whichever is less.

9 Section 59. Subsection (6) of section 468.301, Florida
10 Statutes, is amended to read:

11 468.301 Definitions.--As used in this part, the term:

12 (6) "Direct supervision" means supervision and control
13 by a licensed practitioner who assumes legal liability for the
14 services rendered ~~by the basic X-ray machine operator or~~
15 ~~basic X-ray machine operator-podiatric medicine, which~~
16 Supervision requires the physical presence of the licensed
17 practitioner for consultation and direction ~~of the actions of~~
18 ~~the basic X-ray machine operator or basic X-ray machine~~
19 ~~operator-podiatric medicine.~~

20 Section 60. Paragraph (g) of subsection (3) and
21 paragraph (c) of subsection (6) of section 468.302, Florida
22 Statutes, are amended to read:

23 468.302 Use of radiation; identification of certified
24 persons; limitations; exceptions.--

25 (3)

26 (g) A person holding a certificate as a nuclear
27 medicine technologist may only:

28 1. Conduct in vivo and in vitro measurements of
29 radioactivity and administer radiopharmaceuticals to human
30 beings for diagnostic and therapeutic purposes.

31

1 2. Administer X radiation from a combination nuclear
2 medicine-computed tomography device if that radiation is
3 administered as an integral part of a nuclear medicine
4 procedure that uses an automated computed tomography protocol
5 and the person has received device-specific training on the
6 combination device.

7
8 However, the authority of a nuclear medicine technologist
9 under this paragraph excludes radioimmunoassay and other
10 clinical laboratory testing regulated pursuant to chapter 483.

11 (6) Requirement for certification does not apply to:

12 (c) A person who is a registered nurse licensed under
13 part I of chapter 464, a respiratory therapist licensed under
14 part V of chapter 468, or a cardiovascular technologist or
15 cardiopulmonary technologist with active certification as a
16 registered cardiovascular invasive specialist from a
17 nationally recognized credentialing organization, or future
18 equivalent should such credentialing be subsequently modified,
19 each of whom is trained and skilled in invasive cardiovascular
20 cardiopulmonary technology, including the radiologic
21 technology duties associated with such procedures, and who
22 provides invasive cardiovascular ~~cardiopulmonary~~ technology
23 services at the direction, and under the direct supervision,
24 of a licensed practitioner. A person requesting this exemption
25 must have successfully completed a didactic and clinical
26 training program in the following areas before performing
27 radiologic technology duties under the direct supervision of a
28 licensed practitioner:

29 1. Principles of X-ray production and equipment
30 operation.

31 2. Biological effects of radiation.

- 1 3. Radiation exposure and monitoring.
2 4. Radiation safety and protection.
3 5. Evaluation of radiographic equipment and
4 accessories.
5 6. Radiographic exposure and technique factors.
6 7. Film processing.
7 8. Image quality assurance.
8 9. Patient positioning.
9 10. Administration and complications of contrast
10 media.
11 11. Specific fluoroscopic and digital X-ray imaging
12 procedures related to invasive cardiovascular technology.
13 Section 61. Section 468.352, Florida Statutes, is
14 amended to read:
15 (Substantial rewording of section. See
16 s. 468.352, F.S., for present text.)
17 468.352 Definitions.--As used in this part the term:
18 (1) "Board" means the Board of Respiratory Care.
19 (2) "Certified respiratory therapist" means any person
20 licensed pursuant to this part who is certified by the
21 National Board for Respiratory Care or its successor, who is
22 employed to deliver respiratory care services, under the order
23 of a physician licensed pursuant to chapter 458 or chapter
24 459, in accordance with protocols established by a hospital or
25 other health care provider or the board, and who functions in
26 situations of unsupervised patient contact requiring
27 individual judgment.
28 (3) "Critical care" means care given to a patient in
29 any setting involving a life-threatening emergency.
30 (4) "Department" means the Department of Health.
31

1 (5) "Direct supervision" means practicing under the
2 direction of a licensed, registered, or certified respiratory
3 therapist who is physically on the premises and readily
4 available, as defined by the board.

5 (6) "Physician supervision" means supervision and
6 control by a physician licensed under chapter 458 or chapter
7 459 who assumes the legal liability for the services rendered
8 by the personnel employed in his or her office. Except in the
9 case of an emergency, physician supervision requires the easy
10 availability of the physician within the office or the
11 physical presence of the physician for consultation and
12 direction of the actions of the persons who deliver
13 respiratory care services.

14 (7) "Practice of respiratory care" or "respiratory
15 therapy" means the allied health specialty associated with the
16 cardiopulmonary system that is practiced under the orders of a
17 physician licensed under chapter 458 or chapter 459 and in
18 accordance with protocols, policies, and procedures
19 established by a hospital or other health care provider or the
20 board, including the assessment, diagnostic evaluation,
21 treatment, management, control, rehabilitation, education, and
22 care of patients.

23 (8) "Registered respiratory therapist" means any
24 person licensed under this part who is registered by the
25 National Board for Respiratory Care or its successor, and who
26 is employed to deliver respiratory care services under the
27 order of a physician licensed under chapter 458 or chapter
28 459, in accordance with protocols established by a hospital or
29 other health care provider or the board, and who functions in
30 situations of unsupervised patient contact requiring
31 individual judgment.

1 (9) "Respiratory care practitioner" means any person
2 licensed under this part who is employed to deliver
3 respiratory care services, under direct supervision, pursuant
4 to the order of a physician licensed under chapter 458 or
5 chapter 459.

6 (10) "Respiratory care services" includes:

7 (a) Evaluation and disease management.

8 (b) Diagnostic and therapeutic use of respiratory
9 equipment, devices, or medical gas.

10 (c) Administration of drugs, as duly ordered or
11 prescribed by a physician licensed under chapter 458 or
12 chapter 459 and in accordance with protocols, policies, and
13 procedures established by a hospital or other health care
14 provider or the board.

15 (d) Initiation, management, and maintenance of
16 equipment to assist and support ventilation and respiration.

17 (e) Diagnostic procedures, research, and therapeutic
18 treatment and procedures, including measurement of ventilatory
19 volumes, pressures, and flows; specimen collection and
20 analysis of blood for gas transport and acid/base
21 determinations; pulmonary-function testing; and other related
22 physiological monitoring of cardiopulmonary systems.

23 (f) Cardiopulmonary rehabilitation.

24 (g) Cardiopulmonary resuscitation, advanced cardiac
25 life support, neonatal resuscitation, and pediatric advanced
26 life support, or equivalent functions.

27 (h) Insertion and maintenance of artificial airways
28 and intravascular catheters.

29 (i) Performing sleep-disorder studies.

30 (j) Education of patients, families, the public, or
31 other health care providers, including disease process and

1 management programs and smoking prevention and cessation
2 programs.
3 (k) Initiation and management of hyperbaric oxygen.
4 Section 62. Section 468.355, Florida Statutes, is
5 amended to read:
6 (Substantial rewording of section. See
7 s. 468.355, F.S., for present text.)
8 468.355 Licensure requirements.--To be eligible for
9 licensure by the board, an applicant must be certified as a
10 "Certified Respiratory Therapist" or be registered as a
11 "Registered Respiratory Therapist" by the National Board for
12 Respiratory Care, or its successor.
13 Section 63. Section 468.368, Florida Statutes, is
14 amended to read:
15 (Substantial rewording of section. See
16 s. 468.368, F.S., for present text.)
17 468.368 Exemptions.--This part may not be construed to
18 prevent or restrict the practice, service, or activities of:
19 (1) Any person licensed in this state by any other law
20 from engaging in the profession or occupation for which he or
21 she is licensed.
22 (2) Any legally qualified person in the state or
23 another state or territory who is employed by the United
24 States Government or any agency thereof while such person is
25 discharging his or her official duties.
26 (3) A friend or family member who is providing
27 respiratory care services to an ill person and who does not
28 represent himself or herself to be a respiratory care
29 practitioner or respiratory therapist.
30
31

1 (4) An individual providing respiratory care services
2 in an emergency who does not represent himself or herself as a
3 respiratory care practitioner or respiratory therapist.

4 (5) Any individual employed to deliver, assemble, set
5 up, or test equipment for use in a home, upon the order of a
6 physician licensed pursuant to chapter 458 or chapter 459.
7 This subsection does not, however, authorize the practice of
8 respiratory care without a license.

9 (6) Any individual credentialed by the Board of
10 Registered Polysomnographic Technologists, as a registered
11 polysomnographic technologist, as related to the diagnosis and
12 evaluation of treatment for sleep disorders.

13 (7) Any individual certified or registered as a
14 pulmonary function technologist who is credentialed by the
15 National Board for Respiratory Care from performing
16 cardiopulmonary diagnostic studies.

17 (8) Any student who is enrolled in an accredited
18 respiratory care program approved by the board, while
19 performing respiratory care as an integral part of a required
20 course.

21 (9) The delivery of incidental respiratory care to
22 noninstitutionalized persons by surrogate family members who
23 do not represent themselves as registered or certified
24 respiratory care therapists.

25 (10) Any individual credentialed by the Underseas
26 Hyperbaric Society in hyperbaric medicine or its equivalent as
27 determined by the board, while performing related duties. This
28 subsection does not, however, authorize the practice of
29 respiratory care without a license.

30 Section 64. Sections 468.356 and 468.357, Florida
31 Statutes, are repealed.

1 Section 65. Beginning July 1, 2003, application forms
2 for initial licensure and licensure renewal for the
3 professions regulated by the Department of Health, Division of
4 Medical Quality Assurance, shall be submitted electronically
5 through the World Wide Web. The department shall issue the
6 license or renew a license if the licensee provides
7 satisfactory evidence that all conditions and requirements of
8 licensure or renewal have been met, including, but not limited
9 to, the payment of fees, the completion of required continuing
10 education coursework, and, if applicable, the maintenance of
11 financial responsibility. This section shall not be construed
12 to reduce or eliminate any requirement set forth in chapter
13 456, Florida Statutes, or the applicable practice act.

14 Section 66. (1) Effective July 1, 2004, and each July
15 1 thereafter, the fee caps established in the following
16 sections are increased by 2.5 percent: ss. 456.025, 457.105,
17 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319,
18 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165,
19 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006,
20 463.007, 464.008, 464.009, 464.012, 464.019, 465.007,
21 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276,
22 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125,
23 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735,
24 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55,
25 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008,
26 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085,
27 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051,
28 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008,
29 491.0085, and 491.0145, Florida Statutes.

30 (2) The increases in fees provided in this section are
31 in addition to any other change in the fees which are enacted

1 into law. The actual amount of a fee shall be rounded to the
2 nearest dollar.

3 Section 67. Sections 381.0602, 381.6021, 381.6022,
4 381.6023, 381.6024, and 381.6026, Florida Statutes, are
5 renumbered as sections 765.53, 765.541, 765.542, 765.544,
6 765.545, and 765.547, Florida Statutes, respectively.

7 Section 68. Section 381.60225, Florida Statutes, is
8 renumbered as section 765.543, Florida Statutes, and
9 subsection (2) of said section is amended to read:

10 765.543 ~~381.60225~~ Background screening.--

11 (2) An organ procurement organization, tissue bank, or
12 eye bank certified by the Agency for Health Care
13 Administration in accordance with ss. 381.6021 and 765.542
14 ~~381.6022~~ is not subject to the requirements of this section if
15 the entity has no direct patient care responsibilities and
16 does not bill patients or insurers directly for services under
17 the Medicare or Medicaid programs, or for privately insured
18 services.

19 Section 69. Section 381.6025, Florida Statutes, is
20 renumbered as section 765.546, Florida Statutes, and amended
21 to read:

22 765.546 ~~381.6025~~ Physician supervision of cadaveric
23 organ and tissue procurement coordinators.--Organ procurement
24 organizations, tissue banks, and eye banks may employ
25 coordinators, who are registered nurses, physician's
26 assistants, or other medically trained personnel who meet the
27 relevant standards for organ procurement organizations, tissue
28 banks, or eye banks as adopted by the Agency for Health Care
29 Administration under s. 765.541 ~~381.6021~~, to assist in the
30 medical management of organ donors or in the surgical
31 procurement of cadaveric organs, tissues, or eyes for

1 transplantation or research. A coordinator who assists in the
2 medical management of organ donors or in the surgical
3 procurement of cadaveric organs, tissues, or eyes for
4 transplantation or research must do so under the direction and
5 supervision of a licensed physician medical director pursuant
6 to rules and guidelines to be adopted by the Agency for Health
7 Care Administration. With the exception of organ procurement
8 surgery, this supervision may be indirect supervision. For
9 purposes of this section, the term "indirect supervision"
10 means that the medical director is responsible for the medical
11 actions of the coordinator, that the coordinator is operating
12 under protocols expressly approved by the medical director,
13 and that the medical director or his or her physician designee
14 is always available, in person or by telephone, to provide
15 medical direction, consultation, and advice in cases of organ,
16 tissue, and eye donation and procurement. Although indirect
17 supervision is authorized under this section, direct physician
18 supervision is to be encouraged when appropriate.

19 Section 70. Subsection (2) of section 395.2050,
20 Florida Statutes, is amended to read:

21 395.2050 Routine inquiry for organ and tissue
22 donation; certification for procurement activities.--

23 (2) Every hospital licensed under this chapter that is
24 engaged in the procurement of organs, tissues, or eyes shall
25 comply with the certification requirements of ss.

26 765.541-765.547 ~~381.6021-381.6026~~.

27 Section 71. Paragraph (e) of subsection (2) of section
28 409.815, Florida Statutes, is amended to read:

29 409.815 Health benefits coverage; limitations.--

30 (2) BENCHMARK BENEFITS.--In order for health benefits
31 coverage to qualify for premium assistance payments for an

1 eligible child under ss. 409.810-409.820, the health benefits
2 coverage, except for coverage under Medicaid and Medikids,
3 must include the following minimum benefits, as medically
4 necessary.

5 (e) Organ transplantation services.--Covered services
6 include pretransplant, transplant, and postdischarge services
7 and treatment of complications after transplantation for
8 transplants deemed necessary and appropriate within the
9 guidelines set by the Organ Transplant Advisory Council under
10 s. 765.53 ~~381.0602~~ or the Bone Marrow Transplant Advisory
11 Panel under s. 627.4236.

12 Section 72. Subsection (2) of section 765.5216,
13 Florida Statutes, is amended to read:

14 765.5216 Organ and tissue donor education panel.--

15 (2) There is created within the Agency for Health Care
16 Administration a statewide organ and tissue donor education
17 panel, consisting of 12 members, to represent the interests of
18 the public with regard to increasing the number of organ and
19 tissue donors within the state. The panel and the Organ and
20 Tissue Procurement and Transplantation Advisory Board
21 established in s. 765.544 ~~381.6023~~ shall jointly develop,
22 subject to the approval of the Agency for Health Care
23 Administration, education initiatives pursuant to s. 732.9215,
24 which the agency shall implement. The membership must be
25 balanced with respect to gender, ethnicity, and other
26 demographic characteristics so that the appointees reflect the
27 diversity of the population of this state. The panel members
28 must include:

29 (a) A representative from the Agency for Health Care
30 Administration, who shall serve as chairperson of the panel.

31

- 1 (b) A representative from a Florida licensed organ
2 procurement organization.
- 3 (c) A representative from a Florida licensed tissue
4 bank.
- 5 (d) A representative from a Florida licensed eye bank.
- 6 (e) A representative from a Florida licensed hospital.
- 7 (f) A representative from the Division of Driver
8 Licenses of the Department of Highway Safety and Motor
9 Vehicles, who possesses experience and knowledge in dealing
10 with the public.
- 11 (g) A representative from the family of an organ,
12 tissue, or eye donor.
- 13 (h) A representative who has been the recipient of a
14 transplanted organ, tissue, or eye, or is a family member of a
15 recipient.
- 16 (i) A representative who is a minority person as
17 defined in s. 381.81.
- 18 (j) A representative from a professional association
19 or public relations or advertising organization.
- 20 (k) A representative from a community service club or
21 organization.
- 22 (l) A representative from the Department of Education.
23 Section 73. Subsection (5) of section 765.522, Florida
24 Statutes, is amended to read:
- 25 765.522 Duty of certain hospital administrators;
26 liability of hospital administrators, organ procurement
27 organizations, eye banks, and tissue banks.--
- 28 (5) There shall be no civil or criminal liability
29 against any organ procurement organization, eye bank, or
30 tissue bank certified under s. 765.542 ~~381.6022~~, or against
31 any hospital or hospital administrator or designee, when

1 complying with the provisions of this part and the rules of
2 the Agency for Health Care Administration or when, in the
3 exercise of reasonable care, a request for organ donation is
4 inappropriate and the gift is not made according to this part
5 and the rules of the Agency for Health Care Administration.

6 Section 74. Section 765.539, Florida Statutes, is
7 created to read:

8 765.539 Organizations engaged in the practice of
9 cadaveric organ and tissue procurement; pooling of cells or
10 tissues prohibited.--Organizations engaged in the practice of
11 cadaveric organ and tissue procurement in this state are
12 prohibited from allowing human cells or tissues from two or
13 more donors to be pooled during retrieval, processing,
14 preservation, or storage. For purposes of this section,
15 "pooled" means placed in physical contact or processed in any
16 way which allows any fluids, cells, or tissues to be
17 commingled in any way between two or more donors.

18 Section 75. Except as otherwise provided herein, this
19 act shall take effect July 1, 2002.

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