

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2738

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Saunders

SUBJECT: Public Health

DATE: April 15, 2003                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill makes technical and clarifying changes to update the public health statutes and conform them to current practice. Other changes are proposed to require criminal history background checks for emergency medical technicians and paramedics, assist the Department of Health (DOH) in carrying out its public health and regulatory mission efficiently, and respond to changing programmatic and funding requirements. The bill:

- Authorizes all state agencies to establish employee wellness programs using existing resources.
- Permits DOH to require by rule Centers for Disease Control and Prevention (CDC) reporting standards.
- Authorizes the Children’s Medical Services (CMS) program to reimburse physicians licensed in other states who provide care to CMS clients under specified circumstances.
- Makes Florida laws consistent with the recent FDA approval of rapid HIV testing technology.
- Eliminates a requirement that bars and lounges have a certified food manager and clarifies that public and private school food services are exempt from having a certified food manager if operated by school employees.
- Continues a \$5 fee on new sewage system construction permits to support onsite sewage treatment and disposal system research, demonstration and training projects.
- Creates the Review Council for Human Subjects in DOH and authorizes the council to charge fees to cover research review costs.
- Permits DOH to reduce tanning facility licensure fees and to impose late fees.
- Requires emergency medical technician and paramedic applicants to be fingerprinted and undergo a statewide and national criminal background check.
- Creates penalties for battery and assault on persons employed by DOH.

This bill amends ss. 17.41, 20.43, 154.01, 381.0011, 381.004, 381.0065, 381.0066, 381.0072, 381.89, 381.90, 383.14, 384.25, 385.204, 391.021, 391.025, 391.029, 391.035, 391.055, 394.9151, 395.404, 401.113, 401.211, 401.27, 401.2701, 401.2715, 404.056, 409.814, 409.91188, 456.025, 456.055, 456.072, 460.406, 463.006, 467.009, 468.302, 468.509, 468.707, 486.031, 486.102, 489.553, 489.554, 490.005, 491.005, 499.003, 499.007, 499.01, 499.0121, and 784.081, F.S.

The bill, creates ss. 216.342, 381.104, 381.86, 391.309, 401.243, and 945.6038, F.S., transfers s. 501.122, F.S., and repeals ss. 381.0098(9), 381.85, 385.103(2)(f), 385.205, 385.209, and 445.033(7), F.S.

## **II. Present Situation:**

### **Division of Disability Determinations**

The Division of Disability Determinations, a 100 percent federally funded program, adjudicates social security disability claims to make administrative medical disability determination based on Social Security Administration (SSA) rules and regulations. Florida has experienced an increasing rate of social security disability claims over the past several years that must be adjudicated by the division. The current requirements of paragraph 216.262(1), F.S., do not allow the division to adjust its staffing level timely to respond to the needs of the citizens of the state that apply for disability.

### **Employee Health and Wellness**

There is currently no statute that generally authorizes agencies and programs to improve and enhance the health and well being of state government employees. Section 944.474, F.S., authorizes the Department of Corrections to develop and implement an employee wellness program.

### **Statewide Research**

Federal regulations require that all research projects involving human subjects and materials of human origin be reviewed and approved by an Institutional Review Board (IRB) before initiation. The Review Council for Human Subjects is the 10-member committee that serves as Florida's IRB. The research studies are submitted to the IRB by DOH, Department of Children and Family Services (DCF), academic entities, and private for-profit companies, such as pharmaceutical companies. Currently, the IRB is not in statute and cannot charge fees to meet expenses.

The Biomedical Research Program was established in s. 216.5602, F.S., and is funded from a set-aside share of the Lawton Chiles Endowment Fund. The proceeds generated from that set-aside share are specifically appropriated each year to the Biomedical Research Program. The Biomedical Research Trust Fund was created in s. 20.435, F.S., to receive those funds within DOH. This trust fund operates separately from the Tobacco Settlement Trust Fund within DOH, which is used for other programs paid through tobacco settlement funds.

## **HIV/AIDS**

The HIV/AIDS Reporting System (HARS) has been used for reporting of HIV and AIDS since 1993. HARS is a collection of computer programs and data files developed by CDC for use by states. HARS simplifies the management and analysis of HIV and AIDS surveillance data. CDC is currently developing a new system, e-HARS (Evaluation-HARS) that will be deployed to ten states funded for the Evaluation of Performance of Integrated HIV/AIDS Surveillance Systems project as well as the nineteen states funded for Behavioral Surveillance and HIV Incidence Studies. E-HARS is an interim system developed to capture the enhanced data needed for these projects. Ultimately, HARS and e-HARS will be replaced by Program Area Modules (PAMS) of the National Electronic Disease Surveillance System (NEDSS).

Confidential HIV infection reporting was implemented in Florida in 1997 and over 26,000 HIV cases have been identified since that time. In December 1999, the Centers for Disease Control and Prevention issued guidelines for national HIV case surveillance, which emphasize the importance of HIV reporting in effectively and accurately monitoring the HIV/AIDS epidemic and recommend that all HIV exposed newborns and infants be reported. Because HIV infection reporting provides better information on populations recently infected with the virus, the Ryan White Care Act will transition over the next few years to the use of HIV data as the basis for funding allocations. This will result in targeting resources to the “front end” of the epidemic and makes it imperative that Florida have reliable and complete data on HIV infection.

Section 381.004 (3)(d), F.S., currently prohibits “the release of positive preliminary HIV test results for the routine identification of HIV-infected individuals or when HIV testing is incidental to the preliminary diagnosis or care of a patient.” However, the Food and Drug Administration has found rapid testing to be effective and recently approved the use of rapid testing technology. The use of rapid testing is specifically recommended by the CDC in its Guidelines on HIV Counseling, Testing, and Referral. It is estimated that 95,000 individuals in Florida are infected with HIV and at least 25 percent are unaware of their infection. Advances in medical treatment for HIV, particularly antiretroviral therapies, make early identification of HIV infection essential.

## **Environmental Health**

County Health Department staff are required by federal law to be certified by the U.S. Environmental Protection Agency (EPA) to conduct lead investigations. The certification fee for most of the CHD staff currently conducting lead-based paint activities was paid under a one-time exemption from the comptroller because they were already performing the function before EPA certification took effect in March 2000; or the fees were paid with grant money from the CDC. Neither of these sources is still available. Most of the currently certified staff must pay the renewal fee for licenses in 2003. Section 154.01, F.S., doesn't currently address lead investigations or the funding for this service.

Section 381.0065, F.S., regulates onsite sewage and disposal systems. In the definition of “permanent nontidal surface water body,” the map that can be used is limited to a specific map produced by the US Geological Survey, although other products have been developed since the

statute was enacted. Subsection (4)(j) contains deadlines for promulgation of rules that have already been adopted.

Section 381.0066.F.S., allows for fee collection for onsite sewage treatment and disposal systems. A research fee of \$5 is to be collected on each new system construction permit issued from 1996 to 2003. The research fee funds research contracts on onsite sewage treatment and disposal systems. Continuation of the research fee is strongly supported by the Technical Review and Advisory Panel, which has representatives from all affected industries and interests.

Section 381.0072, F.S., describes the department's responsibility for food service protection and requires that rules be adopted to regulate minimum sanitation standards and manager certification requirements. The statute exempts public and private schools, hospitals, nursing homes, childcare facilities, and medically related residential facilities from the rules for manager certification.

Section 381.89, F.S., related to tanning facilities includes specific permit fees. These fees would generate more revenue than the department needs to administer this program, conflicting with another portion of the statute that requires the department to collect fees necessary to cover the expenses of administering this section.

Current language in s. 404.056(4), F.S., regarding the time frames for testing and reporting mandatory radon measurements to the department is contradictory and implies all buildings are newly constructed. One statement requires testing within the first year of construction. Another statement requires completion and reporting to the department by July 1 the year the building is opened for occupancy which implies testing and reporting must be completed in 6 months or less. Also, it is not clear what is expected if a building is opened for occupancy just days before July 1 or sometime after July 1. Follow-up measurements must be conducted after 5 years of occupancy but must be reported by July 1 of the 5th year of occupancy, which poses a similar problem.

A new type of medical device has recently been developed that combines nuclear medicine and computed tomography. Because nuclear medicine requires a unique expertise, it is important that the use of these devices be limited to persons who have a nuclear medicine technologist certificate and who have obtained device-specific training on the combination device. However, current language in s. 468.302(3)(g), F.S., prevents the nuclear medicine technologist from using these devices.

Section 489.553, F.S., provides for registration of septic tank contractors. The requirements for master septic tank contractor require at least 3 years of experience but don't specify any limitation on the dates or quality of that work experience. Administrative rules have been adopted that require the three years to directly precede the application date.

Section 489.554, F.S., provides for license renewal for septic tank contractors but provides rule authority only for approval of continuing education and renewal of registrations. It doesn't authorize rules to address late filing of renewal applications, inactive status of registrations, or reactivation of licenses.

### **Florida Health Information Systems Council**

The Florida Health Information Systems Council (FHISC) was created in 1997 and now contains obsolete references to the “Treasurer and State Insurance Commissioner” and “Board of Regents”. Requirements for development and approval of a strategic plan by March 1 of each year are obsolete and inconsistent with the provisions of s. 186.022, F.S., related to the State Technology Office. The Department of Veterans’ Affairs is recognized as a member of the Health and Human Services Domain but is not a designated member of the FHISC.

### **Emergency Medical Services**

Interest earned from awarded Emergency Medical Services (EMS) grant funds must be returned to the department with the grant’s final report. Prior to a recent audit by the department’s Inspector General’s Office, grantees were allowed to expend this interest on grant related budget items.

The department currently initiates and participates in a number of injury prevention specific programs and activities as components of its Injury Control Program, authorized under s. 381.0011(12), F.S. The statute does not specifically identify injury prevention activities. The department has dedicated positions and resources to develop and implement a statewide injury prevention plan; monitor incidence, trends, and costs associated with injury; and participate in state and nationwide initiatives, which target the prevention of injuries to children and rural populations.

Section 401.27, F.S., provides the requirements for the certification and renewal certification of emergency medical technicians and paramedics. Under s. 401.27(3), F.S., all applications for certification or renewal certification of emergency medical technicians and paramedics is made by paper format under oath. Section 401.27(13), F.S., provides authority to adopt standardized emergency medical technician and paramedic patches for use throughout the state. The department, by practice, has delegated the designation of the required patch to each emergency medical services licensee. The section makes no provision for mandatory criminal history background screening of emergency medical technician and paramedic applicants, but DOH requests EMT/paramedic applicants to disclose any criminal convictions on the certification application. The department has adopted an administrative rule that provides that an applicant for certification or recertification as an EMT or paramedic who has been convicted of a felony and has complied with the requirements of ch. 940, F.S., and provides documentation of restoration of his or her civil rights shall be certified if the applicant otherwise meets the certification or recertification requirements and no other basis for denial exists.

Section 401.2715, F.S., establishes requirements for the application and approval of emergency medical technician and paramedic recertification training programs. The section makes no provision for the department to accept national accreditation as a standard of equivalence for proprietary cardiopulmonary resuscitation or advanced cardiac life support courses as required under s. 401.27(4), F.S.

Section 401.414, F.S., restricts the department’s investigation of possible violations of the chapter to those identified in written and signed complaints. This requirement precludes the

department from investigating complaints if the complainant wishes to remain anonymous or when the possible violation is reported in the media.

### **Brain and Spinal Cord Injury Registry**

Legislation was passed in 1999 to transfer the Brain and Spinal Cord Injury Program from the Department of Labor and Employment Security, Division of Vocational Rehabilitation, to the Department of Health effective January 2002. Reference to vocational rehabilitation was not removed from s. 395.404, F.S., to reflect the transfer of the program to the Department of Health or to clarify the reporting requirements for trauma centers and acute care hospitals to the brain and spinal cord injury central registry.

### **Children's Medical Services**

The Department of Health does not receive funds to pay for children above 200% of the federal poverty guidelines. The Department of Health has intervened as amicus curie in a lawsuit between a provider for the Healthy Kids Corporation and the Corporation, in which the trial court entered a preliminary order that potentially includes children of families over 200% of the federal poverty in the CMS Network, contrary to the statute and the limits of federal funding under Title XXI.

### **Pharmacy**

The Federal Food and Drug Administration classifies products as drugs or medical devices. Depending on the intended use of a medical gas, it can carry either designation, but the substance remains the same. Section 499.003(6), F.S., defines compressed medical gas only as a prescription drug.

Section 499.007, F.S., requires that all drugs have the manufacturer or the distributor name on the label, except for prescription drugs which must have the manufacturer name and address on the label. Federal law does not require the name of the manufacturer to be on a prescription drug.

Section 499.01, F.S., prohibits granting permits to health care facilities for drug manufacturers, drug wholesalers, or pharmacy wholesalers.

Existing provisions in Florida law for record retention in s. 499.0121, F.S., require records to be kept for two years from the date of disposition of the drug. A federal rule went into effect in December 2000 that requires similar records to be retained for three years from the date of creation. Florida's record retention provision is actually more effective because it requires a company to hold drugs potentially longer than three years from the date of acquisition. If only the federal provision applied, acquisition records could be destroyed, thus hindering the ability to ascertain the source of prescription drugs.

### **Battery on DOH Workers**

Under current law, when a person commits battery on an employee of the Department of Health (DOH) or on one of its direct service providers, it is up to the victim to decide whether or not

they want to file criminal charges. If they elect to file, they are instructed to go to the state attorney's office.

Staff at A.G. Holley Tuberculosis Hospital have been threatened with razor blades and other contrived weapons, hit in the face, thrown against large objects, and painfully grabbed by patients. A patient who has committed a battery remains at A.G. Holley because it is a misdemeanor and patients cannot be arrested unless the assault is committed in the presence of law enforcement or results in a significant injury.

DOH disease intervention specialists go into homes and high-risk areas to perform contact investigations and take blood specimens. They have been held hostage at gunpoint, threatened with knives, chased with machetes, and physically assaulted on many occasions while fulfilling their public health responsibilities.

DOH environmental health employees perform inspections at work locations and in the field as part of their public health regulatory functions, citing business operators on health violations and sanitary nuisances. These DOH employees have on occasion been verbally and physically assaulted in the performance of their duties.

Prior to the separation of the Department of Health and Rehabilitative Services into multiple agencies, employees of health programs were included under the protections of s. 784.081, F.S., which imposes a higher penalty for assault or battery against certain individuals. When the Department of Health was created, employees were not included under those protections.

### **Correctional Medical Authority**

Medical care is a major source of complaints and litigation from involuntarily confined individuals. The Correctional Medical Authority has specialized expertise and experience in conducting formal reviews of institutional health care. The Sexually Violent Predator Program within the Department of Children and Family Services (DCF) is the custodian of more than 400 persons detained or committed as sexually violent predators under chapter 394, part V, Florida Statutes. The Florida Civil Commitment Center (FCCC), which houses such persons, is a privatized facility operated under DCF contract. DCF is neither staffed nor funded to conduct reviews of health care provided at the FCCC and is seeking a qualified entity to perform annual health care reviews.

### **Obsolete Statutory References**

According to the DOH, there are a number of statutory references that are no longer accurate or pertinent due to changes in governmental structure, reorganization within DOH, passage of time, lack of funds to carry out a program, or changes in technology. Amendments and repeals are necessary to bring the statutes into conformity with actual practice and to help the department carry out its functions.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 17.41(5), F.S., to authorize the transfer of tobacco settlement trust moneys to the Biomedical Research Trust Fund in DOH, thus correcting an oversight that occurred when the statute was enacted.

**Section 2.** Amends s. 20.43, F.S., to establish a Division of Disability Determinations within the department; to change the Division of Emergency Medical Services and Community Health Resources to the Division of Emergency Medical Operations; and to change the Division of Health Awareness and Tobacco to the Division of Health Access and Tobacco. This updates the statutes to accommodate Department of Health restructuring and reflect current practice.

**Section 3.** Amends s. 154.01, F.S., to include investigations of elevated blood lead levels as an example of an environmental health service and to authorize county health departments to expend funds for federally mandated professional certification and renewal fees for staff who conduct lead-based paint activities or lead hazard investigations.

**Section 4.** Creates s. 216.342, F.S., to exempt the positions that are funded by Social Security Administration funds in the United States Trust Fund from the requirements of s. 216.262(1), F.S., which provides for legislative appropriation of an FTE cap and rate. This amendment will allow the Division of Disability Determinations to respond quickly to changes in workload.

**Section 5.** Amends s. 381.0011(12), F.S., to clarify the department's authority to implement and maintain injury prevention activities as a component of the injury control initiatives of the department.

**Section 6.** Amends s. 381.004, F.S., to allow the release of positive preliminary HIV rapid test results. Rapid testing is recommended by CDC and is expected to increase the number of persons identified with HIV at an early stage of the infection, thus improving treatment outcomes. The proposed change will update Florida law to be consistent with CDC recommendations and the FDA approval of rapid testing technology.

**Section 7.** Amends s. 381.0065, F.S., to allow the onsite sewage treatment program to use the most current products derived from United States Geologic Survey (USGS) mapping which include aerial photographs and data products from 1998-2000 mapping as opposed to maps that may date from 1954. This section also deletes an obsolete requirement that DOH hold a rule workshop by September 1, 1996, and advertise rules for a public hearing no later than October 1, 1997. The workshop has been held and the rules advertised and adopted.

**Section 8.** Amends s. 381.0066, F.S., to continue a five dollar fee on new sewage system construction permits to support onsite sewage treatment and disposal system research, demonstration, and training projects.

**Section 9.** Amends s. 381.0072, F.S., to exempt "bars and lounges" from having a certified food manager and clarify that public and private school food services are exempt from having a certified food manager only if operated by school employees. Bars and lounges regulated by the department are limited to the preparation of drinks and the service of food-types that are seldom



implicated in reported foodborne illnesses (non-potentially hazardous foods). If bars and lounges choose to exceed these limitations, the regulatory jurisdiction switches to the Department of Business and Professional Regulation. The additional language to clarify the exemption of public and private schools from manager certification testing requirement is not a major change because private vendors who are awarded contracts to assume the duties of school food service employees must meet similar manager certification requirements under the Department of Business and Professional Regulation.

**Section 10.** Creates s. 381.104, F.S., to authorize all state agencies to establish employee wellness programs using existing resources. Employees may participate in the program for 30 minutes per day, three days per week, which may be counted as work time at the discretion of the agency administration. DOH must provide guidelines to state agency programs to assist in their development. Participating employees in all state agencies must complete and sign a form developed by DOH, and the employer must sign the form to document the days and times the employee will be participating in the wellness program. Each state agency may designate up to one hour per month for the purpose of providing wellness training to its employees.

**Section 11.** Creates s. 381.86, F.S., to establish the Review Council for Human Subjects within the Department of Health to review biomedical and behavioral research on human subjects that is funded or supported by the department. The council is established as the state's institutional review board for compliance with federal requirements and has authority to charge a fee to cover the costs of research review. The fee is waived for degree seeking students in Florida universities. Fees will be deposited in the Administrative Trust Fund and must be used solely to administer the program. The department is authorized to adopt rules related to rule review and compliance with federal requirements.

**Section 12.** Amends s. 381.89, F.S., to authorize DOH to establish late payment fees and reduce tanning facility licensure fees to be consistent with the DOH cost of administering the program. The DOH may prorate the fees quarterly, rather than monthly.

**Section 13.** Amends s. 381.90, F.S., to revise an incorrect statutory reference, revise the membership of the Florida Health Information Systems Council, and change the date for DOH strategic plan submission from March 1 to June 1.

**Section 14.** Amends s. 383.14, F.S., to correct an error that was made when the statute was drafted. Section 383.14 incorrectly uses the term "infant" when the term "newborn" should be used pursuant to the nationally accepted definition of "newborn" and the definition of "newborn" in s. 383.145, F.S.

**Section 15.** Amends s. 384.25, F.S., to delete the reference to the HIV/AIDS Reporting System and give DOH statutory authority to use the latest HIV/AIDS reporting system developed by CDC or an equivalent system. Additional changes eliminate HIV infection reporting exemptions and allow the department to require by rule the reporting of HIV exposed newborns. These changes will ensure that Florida is in compliance with CDC minimum reporting standards and will also prepare Florida for the Ryan White CARE Act transition to HIV data as the basis for funding allocations. Complete and accurate reporting of HIV infection and AIDS will ensure that Florida receives its share of critical HIV/AIDS funding.

**Section 16.** Amends s. 385.204, F.S., to clarify that to the extent funds are available, the department will distribute insulin. In addition, language is deleted which references “kindred diseases.” Diabetes does not have kindred diseases.

**Section 17.** Amends s. 391.021, F.S., to revise the definition of children with special health care needs to conform to current practice. This revision clarifies eligibility to avoid litigation regarding eligibility.

**Section 18.** Amends s. 391.025, F.S., to remove language from the statutes which has been misinterpreted to extend CMS eligibility inappropriately. The removal of this language will serve to avoid litigation.

**Section 19.** Amends s. 391.029, F.S., regarding CMS eligibility to clarify that the CMS program is not an entitlement program, which could serve to avoid litigation.

**Section 20.** Adds a new subsection (4) to s. 391.035, F.S., to enable the CMS program to include physicians licensed in other states in the CMS network, thus reducing travel time and increasing access to physicians for patients in counties near Alabama and Georgia. This will improve quality of care and patient outcomes.

**Section 21.** Amends s. 391.055, F.S., adding a new subsection (4) to require that any newborn found to have an abnormal screening result in the metabolic screening authorized by s. 383.14, F.S., shall be referred to the CMS network. This language ensures that these newborns will receive follow-up services that include confirmatory testing, medical management, or medical referral.

**Section 22.** Creates s. 391.309, F.S., to place into statute language that has been included in the Appropriations Act as proviso language for many years. This language authorizes the department to implement and administer Part C of the federal Individuals with Disabilities Education Act and specifies certain actions and responsibilities of the department.

**Section 23.** Amends s. 394.9151, F.S., to allow DCF to contract with the Correctional Medical Authority for medical surveys in the sexually violent predator facilities operated by DCF.

**Section 24.** Amends s. 395.404, F.S., to clarify circumstances under which trauma centers and acute care hospitals must report to the brain and spinal cord injury central registry.

**Section 25.** Amends s. 401.113, F.S., to clarify that interest generated from awarded Emergency Medical Services Grant funds may be expended by the grantee on approved grant project budget items. Funds that are not expended during the grant period must be returned to the department for use in future grant awards.

**Section 26.** Amends s. 401.211, F.S., to clarify legislative recognition of a comprehensive statewide injury prevention and control program that is integrated with broader community health systems.

**Section 27.** Creates s. 401.243, F.S., to clarify the role of prevention activities within the department's Injury Control Program and describe its responsibilities.

**Section 28.** Amends s. 401.27(3) and (4), F.S., to eliminate the requirement that emergency medical technicians and paramedics submit paper applications and to eliminate the need for an oath, both of which will facilitate the department's efforts to offer an online application process. Section 401.27(5), F.S., is amended to eliminate provisions for a temporary certificate. Section 401.27(13), F.S., is amended to repeal the department's statewide regulation of the design of emergency medical technician and paramedic patches in favor of local emergency medical services provider control.

A new subsection (14) is created to require emergency medical technician and paramedic applicants to undergo a statewide and national criminal background check consistent with other professions regulated by the department. Provision is made to utilize background check information gathered within the previous two years by other state and local agencies to diminish the impact of duplication between agencies. Language is also added to identify specific criminal offenses that preclude certification and establish an exemption from the denial process for applicants with extenuating circumstances related to the offense.

**Section 29.** Amends s. 401.2701, F.S., to require department-approved emergency medical technician and paramedic training programs to provide specific information related to the regulation of emergency medical technicians and paramedics by the department, including the criminal background check requirements.

**Section 30.** Amends s. 401.2715, F.S., to allow the department to accept national accreditation by the Continuing Education Coordinating Board for Emergency Medical Services as a standard of equivalence to proprietary cardiopulmonary resuscitation and advanced cardiac life support courses, as required under s. 401.27(4), F.S., provided the course is taught within the state.

**Section 31.** Amends s. 404.056 (4), F.S., to clarify the time frames for performing mandatory radon testing in public and private buildings. The revisions allow one full year to complete and report both the initial and follow-up radon measurements for new buildings and new facilities inside existing buildings. Eliminates the contradictory completion and reporting times and uniformly provides one year for completion and reporting regardless of when the building received its occupancy or license.

**Section 32.** Amends s. 409.814, F.S., to make it clear that the reference to the Kidcare program for the purposes of this section does not include the CMS's network as listed in s. 409.813, F.S. This clarifies that the CMS program is not required to serve children above 200 percent of federal poverty guidelines. The language states that such children may participate only in the Healthy Kids and Medikids programs.

**Section 33.** Amends s. 409.91188, F.S., relating to specialty prepaid health plans for Medicaid-eligible recipients who have HIV/AIDS. The bill requires, rather than authorizes, AHCA to issue a request for proposals to implement the plan on a statewide basis, rather than on a regional or county basis. The bill deletes the requirement that the health plan be licensed as a health maintenance organization.

**Section 34.** Amends s. 456.072, F.S., to add grounds for discipline of health care practitioners—being terminated from an impaired practitioner program for failure to comply with the terms of the monitoring or treatment contract, without good cause.

**Section 35.** Amends s. 456.025, F.S., to delete the requirement that each board or the Department of Health develop an electronic continuing education tracking system.

**Section 36.** Amends s. 456.055, F.S., which governs payment for chiropractic and podiatric health care, to require that a claim for payment for a service by a health care provider that is submitted to a preferred provider organization, health maintenance organization, or exclusive provider organization must be paid in the same amount to all health care providers regardless of the chapter under which the health care provider is licensed.

**Section 37.** Amends s. 460.406, F.S., to reflect that an organization has changed its name. The “Commission on Recognition of Postsecondary Accreditation” is replaced with the phrase “Council for Higher Education Accreditation or the United States Department of Education” to correctly reference organizations involved in accrediting educational qualifications due to the devolution of the Commission on Recognition of Postsecondary Accreditation.

**Section 38.** Amends s. 463.006, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 39.** Amends s. 467.009, F.S., to update the statutes to correctly reference organizations involved in accrediting educational qualifications due to the devolution of the Commission on Recognition of Postsecondary Accreditation.

**Section 40.** Amends 468.302, F.S., to clarify the limitations on procedures that can be conducted by a nuclear medicine technologist.

**Section 41.** Amends s. 468.509, F.S., to reflect that an organization has changed its name. The phrase "Commission on Recognition of Postsecondary Accreditation" is replaced with the phrase "Council for Higher Education Accreditation" due to the devolution of the Commission on Recognition of Postsecondary Accreditation.

**Section 42.** Amends s. 468.707, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 43.** Amends s. 486.031, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 44.** Amends s. 486.102, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 45.** Amends s. 489.553, F.S., to require that septic tank contractors have three years of qualifying work experience immediately preceding the date of application. This clarifies the existing requirement for three years of experience.

**Section 46.** Amends s. 489.554, F.S., to provide statutory authority to DOH for long existing rules relating to continuing education and registration renewal. The proposed language allows a septic tank contractor to hold his registration in an inactive status and allows a contractor to revert to a lower level contractor status while attending the necessary courses needed to qualify for the higher-level contractor registration.

**Section 47.** Amends s. 490.005, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 48.** Amends s. 491.005, F.S., to replace “Commission on Recognition of Postsecondary Accreditation” with the phrase “Council for Higher Education Accreditation or the United States Department of Education.”

**Section 49.** Amends s. 499.003, F.S., to change the definition of a compressed medical gas to include a gas classified as a medical device in addition to a gas classified as a prescription drug. This new definition eliminates the technical requirement for a company to hold two permits – one as a compressed medical gases manufacturer and another as a medical device manufacturer.

**Section 48.** Amends s. 499.007, F.S., to amend the information required to be printed on the label of a drug or device, which will make the state law consistent with federal law.

**Section 51.** Amends s. 499.01, F.S., to allow the department to issue a prescription drug manufacturer permit to an applicant at the same address as a licensed nuclear pharmacy when the applicant is producing specified drugs that have an extremely short half life, sometimes a few hours. This amendment is necessary to provide greater access for patients and their doctors to a new nuclear pharmaceutical agent, which is capable of detecting breast cancer, for example, months before the cancer would show up on a mammogram. By allowing a nuclear drug manufacturer and nuclear pharmacy to co-locate, it extends the live of the new nuclear pharmaceutical agent so more patients and their doctors can obtain the treatment.

**Section 52.** Amends s. 499.0121, F.S., to provide that records required to be prepared and maintained under the Florida Drug and Cosmetic Act, chapter 499, F.S., must be retained either for two years after disposition of the drug or, in accordance with the new provision in federal law, three years after the date of creation of the records, whichever is longer. Adding the federal language into Florida law will help Florida companies comply with both Florida and federal record retention requirements and avoid slightly different retention schedules.

**Section 53.** Section 501.122, F.S., which governs DOH’s responsibility for the regulation of lasers and other nonionizing radiation, is transferred to chapter 404, F.S. Chapter 404, F.S., includes all radiation programs that the Department of Health has regulatory responsibility for except for the regulation of lasers and other nonionizing radiation. Chapter 501, F.S., governs the Department of Agriculture and Consumer Services.

**Section 54.** Amends s. 784.081, F.S., to increase penalties for battery and assault on persons employed by DOH or its direct service providers. These protections will apply to Environmental Health regulatory staff, A.G. Holley nursing staff, STD investigative staff and all other DOH employees and the employees of DOH's service providers. The increased criminal penalty will authorize law enforcement to take offenders into custody following assault or battery against a DOH employee.

**Section 55.** Creates s. 945.6038, F.S., to provide authority for the Correctional Medical Authority (CMA) to enter into an agreement or contract with DCF for the purpose of conducting an annual medical review of health care provided in their secure confinement and treatment facilities. The designated facility houses persons detained or committed as sexually violent predators under chapter 394, part V, F.S. This will allow the CMA to assist DCF with the review function within existing funding allocations.

**Section 56.** Repeals s. 381.85, F.S., the Florida Biomedical and Social Research Act; s. 381.0098(9), F.S., relating to permits for biomedical waste; s. 385.103(2)(f), F.S., which requires DOH to adopt rules for the community intervention program; s. 385.205, F.S., relating to the care and assistance of persons suffering from chronic renal disease; s. 385.209, F.S., relating to the dissemination of information on cholesterol health risks; and s. 445.033(7), F.S., which exempts evaluations of TANF funds required by the board of directors of Workforce Florida, Inc., from the provisions of s. 381.85, F.S., the Florida Biomedical and Social Research Act, which is also repealed by this section. According to DOH, the statutory language being repealed is obsolete, requires unnecessary rules, or creates programs that are not needed and not funded.

**Section 57.** Establishes an effective date of July 1, 2003.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Health does not anticipate a cost to implement the criminal history background screening requirements for emergency medical technicians and paramedics. It remains to be seen whether sharing background screening information with other state and local agencies would increase or decrease the department's workload. The department is committed to covering its share of these expenses from the Emergency Medical Services Trust Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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