

PUBLIC HEALTH

HB 615 — Federally Qualified Health Centers

by Reps. Bilirakis, Murman, and others (SB 2058 by Senator Silver)

The bill creates a program to provide financial assistance to federally qualified health centers that apply and demonstrate a need for such assistance in order to sustain or expand their provision of primary and preventative health care to low-income Floridians. A seven-member review panel must be established, made up of four persons appointed by the Secretary of the Department of Health and three persons appointed by the chief executive officer of the Florida Association of Community Health Centers, Inc., to review all applications for financial assistance under the program. Criteria for the evaluation of the applications are specified and the panel must determine the weight for scoring and evaluating specified elements. The Department of Health is authorized to contract with the Florida Association of Community Health Centers, Inc., to administer the program and to provide technical assistance to health centers selected to receive assistance.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 36-0; House 106-0

CS/CS/HB 817 — Newborn Infant Screening

by Healthy Communities Council; Health Regulation Committee; and Rep. Sobel and others (CS/CS/SB 2002 by Governmental Oversight & Productivity Committee; Health, Aging & Long-Term Care Committee; and Senators Wasserman Schultz and Saunders)

The bill creates the Infant Screening Programs Task Force within the Division of Children's Medical Services Prevention and Intervention of the Department of Health. Fifteen members are assigned to the task force. The task force is required to conduct comparative research regarding the infant screening programs currently operating in other states, make recommendations regarding the state's newborn infant screening requirements, and develop a newborn infant screening plan tailored to the needs of Florida's population. The task force's research must be completed by August 1, 2002, and its recommendations and plan submitted to the Secretary of the Department of Health, the Governor, and the Legislature by September 1, 2002.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-0; House 116-0

SB 968 — Florida Healthy Kids Corporation/Operating Fund

by Senator Silver

Senate Bill 968 allows the Florida Healthy Kids Corporation to maintain an operating fund equal to no more than 25 percent of annualized operating expenses. The bill requires that upon the dissolution of the Corporation, any remaining cash balances of state funds shall be returned to the state General Revenue Fund, or other state funds consistent with appropriated funding, as provided by law.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 36-0; House 93-26

CS/SB 1262 — Bioterrorism Threats/Department of Health

by Health, Aging & Long-Term Care Committee and Senator Brown-Waite

The bill revises the rulemaking authority of the Department of Health by authorizing the department to require vaccination or quarantine under certain conditions. The bill amends s. 381.00315, F.S., relating to public health advisories, to define “public health advisory” to mean any warning or report giving information to the public about a potential public health threat. A “public health emergency” is defined to mean any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.

The State Health Officer is required to consult with the Governor and to notify the Chief of Domestic Security Initiatives before declaring a public health emergency. A declaration of a public health emergency may continue only for 60 days unless the Governor concurs in the renewal of the declaration.

The bill authorizes the State Health Officer to take specified actions to protect the public health during a declared public health emergency, including: giving shipping priorities for specified drugs; directing the compounding of bulk prescription drugs and specifying the use of such drugs; reactivating the inactive licenses of certain practitioners to provide services during the emergency; and ordering an individual to be examined, tested, vaccinated, treated, or quarantined for certain communicable diseases under specified circumstances. Benefits for volunteers acting under a public health emergency are specified. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

The bill extends immunity from civil liability under the Good Samaritan Act to persons who gratuitously and in good faith render emergency care or treatment in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to

s. 381.00315, F.S. Immunity from civil liability under the Good Samaritan Act is also extended to any licensed hospital, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a public health emergency declared pursuant to s. 381.00315, F.S.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 34-0; House 118-0

CS/SB 1766 — Shaken Baby Syndrome - “Kimberlin West Act of 2002”

by Health, Aging & Long-Term Care Committee and Senators Sullivan and Cowin

The bill requires every hospital, birthing facility, and provider of home birth which has maternity and newborn services to provide parents of a newborn, before they take their newborn home from the hospital or birthing facility, with written information concerning the dangers of shaking infants and young children. The Department of Health must prepare a brochure that describes the dangers of shaking infants and young children, ways to manage the causes that lead a person to shake infants and young children, and ways to reduce the risks that can lead a person to shake infants and young children.

A hospital, birthing facility, or a home-birth provider is not precluded from providing the required information as a part of any other required information. The state or any hospital, birthing facility, or home-birth provider is not civilly liable for failure to give or receive the information required under the bill.

The bill revises provisions relating to the abrogation of privileged communications in cases involving child abuse, abandonment, or neglect. The privileged quality of specified communications shall not constitute grounds for failure to cooperate with law enforcement. The bill also extends to a law enforcement officer the existing authority of the Department of Children and Family Services to petition a court for an order to gain access to specified records relevant to abuse allegations under investigation when any person refuses access to such records.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 35-0; House 114-0

NURSING SHORTAGE SOLUTIONS

CS/CS/CS/HB 519 — Nursing Shortage Solutions/Public School Volunteer Health Care Practitioners

by Lifelong Learning Council; Health & Human Services Appropriations Committee; Colleges & Universities Committee; and Reps. Murman, Fasano, Green, Harrell, and others (CS/SB 1618 by Health, Aging & Long-Term Care Committee and Senators Saunders, Geller, Sanderson, Miller, Cowin, and Lawson)

Nursing Shortage Solution Act

The bill creates the Nursing Shortage Solution Act to make it easier for individuals to enter the nursing profession and for nurses from other states and territories to become licensed to practice nursing in Florida. The bill modifies the repayment provisions of the Nursing Student Loan Forgiveness Program to make them more consistent with the provisions of similar state loan forgiveness programs. The bill removes the provisions requiring a certain percentage of the loan to be retired per year and provides that the Department of Health (DOH) may make loan principal repayments of up to \$4,000 per year for up to a maximum of four years on behalf of selected graduates of accredited or approved nursing programs. All repayments are contingent upon continued proof of employment in a designated facility in this state. The repayments are made directly to the holder of the loan. The state is not responsible for the collection of any interest charges or other remaining balance.

The bill provides for continuity of repayments on behalf of the employee should the designated facilities be changed after repayment has begun. In the event that the designated facilities are changed, a nurse shall continue to be eligible for loan forgiveness as long as he or she continues to work in the facility for which the original loan repayment was made and otherwise meets all conditions of eligibility.

Students receiving a nursing scholarship pursuant to s. 240.4076, F.S., are not eligible to participate in the Nursing Student Loan Forgiveness Program.

The bill simplifies the eligibility provisions of the Nursing Scholarship Program by providing that a scholarship applicant must be enrolled in an approved nursing program leading to the award of an associate degree, a baccalaureate degree, or a graduate degree in nursing. The bill removes the requirement that a student enrolled in the upper division of a baccalaureate program or a graduate degree program be enrolled in a nursing program that upon graduation will qualify the student for a nursing faculty position or as an advanced registered nurse practitioner.

The bill simplifies the repayment provisions of the Nursing Scholarship Program by restructuring the penalty provisions for scholarship recipients who fail to fulfill the obligations of the scholarship. A recipient must repay to DOH, on a schedule determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the

scholarship payment, if the recipient fails to fulfill the obligations of the scholarship under any of the following conditions:

- The recipient does not complete an appropriate program of study.
- The recipient does not become licensed.
- The recipient does not accept employment as a nurse at an approved health care facility.
- The recipient does not complete 12 months of approved employment for each year of scholarship assistance.

The bill creates the Sunshine Workforce Solutions Grant Program to provide grants for middle school exploratory programs and high school nursing programs. Grants are to be provided to school districts on a competitive basis and may be used for instructional equipment, laboratory equipment, supplies, personnel, student services, or other expenses associated with development of a nursing program.

The bill extends the licensure by endorsement option to nurses currently licensed in a territory of the U.S. whose exams and requirements are determined to be substantially equivalent to Florida and to those who have actively practiced nursing in another state, jurisdiction, or territory for two of the preceding three years without having had his or her license acted against.

The bill modifies the provisions governing approval of nursing programs by the Board of Nursing (the Board). An exemption from certain Board rules is provided for any nursing program that maintains accreditation through a nursing accrediting body recognized by the United States Department of Education, provided that the program maintains a student pass rate on the National Clinical Licensure Exam of not less than ten percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing. The Board must review an institution whose passing rate on the National Clinical Licensure Examination falls below the standard established in the bill and may assist an institution in complying with the standard.

The bill amends the grounds for denial of a nursing license or disciplinary action, to add “engaging in acts for which the licensee is not qualified by training or experience” as grounds for those actions.

Public School Volunteer Health Care Practitioner Act

The bill creates the Public School Volunteer Health Care Practitioner Act to provide incentives for health care practitioners to provide their services in the public schools without receiving compensation. The practitioner must be a licensed physician, physician assistant, nurse, pharmacist, optometrist, dentist, dental hygienist, midwife, speech pathologist or physical therapist who has submitted fingerprints, passed a background check and completed all forms and procedures in order to participate in the program.

A participating practitioner will receive a waiver for his or her biennial license renewal fee and 25 hours of continuing education credits. Active practitioners must volunteer at least 80 hours per school year and retired practitioners must volunteer 400 hours per school year to receive the waiver and education credits. School districts may schedule the practitioners at their discretion.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 39-0; House 114-0

CS/SB 1806 — Florida Center for Nursing Trust Fund

by Health, Aging & Long-Term Care Committee and Senator Silver

The bill creates the Florida Center for Nursing Trust Fund to be administered by the Department of Health. Section 464.0195(3), F.S., (as created in CS/SB 1808) requires the Board of Nursing to include on its initial and renewal application forms a question on whether the nurse would voluntarily contribute to the Florida Center for Nursing. Revenues collected from the nurses must be deposited in the Florida Center for Nursing Trust Fund and must be used solely to support and maintain the goals and functions of the Florida Center for Nursing.

This bill exempts the trust fund from service charges imposed under s. 215.20, F.S. This bill provides that any balance in the trust fund at the end of the fiscal year must remain in the trust fund at the end of the year and must be available for carrying out the purposes of the trust fund. In accordance with s. 19(f)(2), Art. III of the State Constitution, the Florida Center for Nursing Trust Fund is scheduled to terminate on July 1, 2006, and must be reviewed prior to that repeal date as provided by s. 215.3206(1) and (2), F.S.

If approved by the Governor, these provisions take effect July 1, 2002, if Senate Bill 1808 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

Vote: Senate 32-0; House 116-0

CS/SB 1808 — The Florida Center for Nursing

by Health, Aging & Long-Term Care Committee and Senator Silver

The bill requires the Board of Nursing to include on its initial and renewal nursing licensure application forms a question on whether the nurse would voluntarily contribute to the Florida Center for Nursing, in addition to paying the license fees imposed on licensure applicants. The bill provides that revenues collected from the nurses must be deposited in the Florida Center for Nursing Trust Fund and must be used solely to support and maintain the goals and functions of the Florida Center for Nursing.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 36-0; House 115-0

MEDICAID

CS/SB 2048 — The Jennifer Knight Medicaid Lung Transplant Act

by Health, Aging & Long-Term Care Committee and Senator Saunders

This bill requires the Agency for Health Care Administration Medicaid program to pay for medically necessary lung transplant services for Medicaid recipients, subject to the availability of funds and subject to any limitations or directions provided for in the General Appropriations Act or ch. 216, F.S. The bill exempts adult lung transplants from the requirement for county contributions to Medicaid for inpatient hospitalization.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 37-0; House 111-0

LONG-TERM CARE

CS/SB 276 — Nursing Homes/Assisted Living Facilities

by Governmental Oversight & Productivity Committee and Senator Crist

This bill revises the membership of the Governor's Panel on Excellence in Long-Term Care and adds three members: one representing the Florida Silver Hair Legislature; one representing the Florida Alliance for Retired Americans; and an elder law attorney appointed by The Florida Bar. In addition, in the revised panel membership, four of the appointees must be consumer advocates for senior citizens who meet criteria specified in the bill. The terms of panel members are staggered, and a member may serve a maximum of two 4-year terms.

The bill amends s. 400.4195, F.S., to delete the specific terms "physician" and "surgeon" from the list of entities for whom patient brokering is prohibited in assisted living facilities (ALF) and replaces those terms with the broader terms "health care practitioner" and "health care facility." The bill permits an ALF to market the facility for a fee or commission based on the volume or value of referrals to the facility, provided that specified conditions apply:

- The facility is not subject to the provisions of 42 U.S.C. s. 1320a-7b (penalties for acts involving federal health care programs);
- Payment to the contract provider is made under a nonexclusive contract;
- The contract provider represents multiple facilities with different owners;

- The employee or contract provider indicates to all clients prior to referral that he or she represents the facility in addition to all other facilities represented by the person or agency; and
- The employee or contract provider is not a health care practitioner in a position to make a referral to an ALF; is not employed by a health care facility or any other organization or agency in a position to make a referral to an a ALF; does not have an ownership interest in an ALF; does not contract with a health care facility, its employees, or other contract providers for access to discharge of disabled persons to an ALF; and cannot offer the client any money or gift as an enticement for services.

The contract provider must undergo a level 2 background screening and must register with the Agency for Health Care Administration (AHCA). If the contract provider does not meet the requirements of the law, AHCA will deny the registration. If a contract provider fails to meet the requirements of the law, AHCA may revoke or suspend the registration or may impose a fine, not to exceed \$1,000 per nonwilling violation up to a total of \$10,000 for all nonwilling violations arising out of the same action. For a knowing and willful violation, the fine may not exceed \$10,000 for each violation and may not exceed \$100,000 for all knowing and willful violations arising out of the same action.

AHCA may adopt rules to implement these requirements.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 36-0; House 116-0

CS/SB 1276 — Health and Human Services Eligibility Access/Consumer Directed Care/Long-Term Care

by Appropriations Committee and Senator Silver

Florida Health and Human Services Eligibility Access System

The bill creates the Florida Health and Human Services Access Act which establishes a framework for phased implementation of improvements in the delivery of state-funded health and human services. The improvements anticipated by the bill relate to better access to information about available services through the development of a statewide information and referral system using the 211 telephone number, a simplified eligibility determination process linked to information and referral services, and development of coordinated care management for families and individuals with multiple needs.

The first phase of implementing these improvements is a pilot project to be conducted by the Agency for Health Care Administration (AHCA) to determine the feasibility of integrating state-funded health care benefit eligibility determination with information and referral services. The

bill establishes a steering committee to guide the implementation of the pilot project, to evaluate the pilot project, and to make recommendations to the Governor and the Legislature regarding expansion of the pilot project, both geographically and to include eligibility determination for other human services. The bill requires the steering committee to also develop a detailed implementation plan for the care-management component of the system, contingent upon success of the pilot project and the appropriation of necessary resources.

The bill authorizes the planning, development, and, subject to appropriations, the implementation of a statewide Florida 211 Network, establishes objectives for the network, and requires information and referral services to be certified by AHCA in order to participate in the network. The bill also provides a mechanism for the revocation of a 211 number from an information and referral provider, if the provider is not certified by AHCA.

Model Integrated Long-Term Care System

The bill amends s. 409.912, F.S., to authorize AHCA to contract with an entity that has been authorized under s. 430.205, F.S., to contract with AHCA and the Department of Elderly Affairs (DOEA) to provide health care and social services on a prepaid or fixed-sum basis to elderly recipients. Such entities are granted an exemption from the requirements of part I of ch. 641, F.S. (requirements for Health Maintenance Organizations), for the first three years of operation. An entity that is backed by the full faith and credit of a county is also allowed an exemption from s. 641.225, F.S. (HMO surplus requirements).

The bill creates a new subsection (6) of s. 430.205, F.S., which directs DOEA and AHCA to develop a model system to transition all state-funded services for elderly individuals over the age of 65 in one of the department's planning and service areas to a managed, integrated long-term-care delivery system under the direction of a single entity. The bill specifies the duties of the model system, which include organizing the system, obtaining contracts for services, monitoring the quality of services provided, determining need and disability for payment purposes, and other activities determined by the department and the agency in order to operate the model system.

AHCA and DOEA are to integrate all funding for services to individuals over the age of 65 into a single per-person, per-month payment rate, and the funding sources to be integrated are specified in the bill. Payments for services provided to the elderly are to be made only through the model delivery system. The entity selected to administer the model system is to develop a comprehensive service delivery system through contracts with providers and may not directly provide services other than intake, assessment, and referral services.

The department is to determine which of its planning and service areas is to be designated as the model area through a request for proposals process and must select the model area and entity to administer the model system based on demonstration of capacity to perform certain functions specified in the bill. Preference is to be given to an existing area agency on aging or community-care-for-the-elderly lead agency that demonstrates the ability to perform the functions.

The bill specifies payment rates and risk-sharing agreements. DOEA and AHCA are authorized to seek federal waivers necessary to implement the model system. The Department of Children and Family Services is to develop a streamlined and simplified eligibility system and outstation Medicaid eligibility determination staff with the administering entity. DOEA is to outstation nursing home preadmission screening staff in the model area for timely assessment of level of need for long-term-care services and is to conduct, or contract for, an evaluation of the pilot project and submit a report to the Governor and Legislature by January 1, 2005, addressing specified issues.

The Office of Long-Term Care Policy

The bill establishes the Office of Long-Term Care Policy in DOEA to evaluate, improve, and coordinate the long-term care service delivery process, and to make recommendations to increase the availability and use of noninstitutional settings. The Director of the Office of Long-Term Care Policy is to be appointed by, and serve at the pleasure of, the Governor and must be under the general supervision of the Secretary of Elderly Affairs. The Office is to have a thirteen-member advisory council, whose chair is to be the Director of the Office of Long-Term Care Policy, to provide assistance and direction to the office and ensure that the appropriate state agencies are properly implementing recommendations from the office. DOEA is to provide administrative support and services to the Office of Long-Term-Care Policy. Each state agency represented on the advisory council is to make at least one employee available to work with the office. All state agencies and universities are to assist the office in carrying out its responsibilities.

The office is to submit to the advisory council, by December 1, 2002, a preliminary report of its policy, legislative and funding recommendations and is to revise and update the report annually and resubmit it to the advisory council by November 1 of each year. The advisory council is to review and recommend changes to the preliminary report and each subsequent annual report within 30 days after the receipt of the preliminary report and recommend suggested changes to the Director of the Office of Long-Term-Care Policy. The office is to submit the final report, and subsequent annual reports, to the Governor and Legislature within 30 days after receipt of any revisions suggested by the advisory council.

The Consumer-Directed Care Program

The bill creates s. 409.221, F.S., the "Florida Consumer-Directed Care Act," which establishes the consumer-directed care program. The bill provides legislative findings regarding community-based care and consumer choice and control in selecting services and providers, and specifies that the intent of the Legislature is to nurture the autonomy of Floridians who have disabilities by providing long-term care services in the least restrictive, appropriate setting and to give such individuals more choices in, and greater control over, the long-term care services they receive.

AHCA is required to establish the consumer-directed care program, and to establish interagency cooperative agreements with and work with DOEA, the Department of Health (DOH), and the Department of Children and Family Services (DCF) to implement and administer the program. The program must allow enrolled persons to choose the providers of services and to direct the delivery of services, to best meet their long-term care needs. The program must operate within the funds appropriated by the Legislature.

Persons who are enrolled in one of the Medicaid home and community-based waiver programs and are able to direct their own care, or to designate an eligible representative, may choose to participate in the program. The bill defines the terms “budget allowance,” “consultant,” “consumer,” “fiscal intermediary,” “provider,” and “representative” for the purposes of s. 409.221, F.S.

Consumers enrolled in the program will be given a monthly budget allowance based on their assessed functional needs and the financial resources of the program. Consumers are to receive the budget allowance directly from an AHCA-approved fiscal intermediary. Each department must develop purchasing guidelines, approved by AHCA, to assist consumers in using the budget allowance to purchase needed, cost-effective services. Enrolled consumers must use the monthly budget allowance only to pay for home and community-based services that meet their long-term care needs and are cost efficient. The bill provides a list of services consumers can purchase, but does not limit the allowable services to those on the list.

The bill describes the roles and responsibilities of the consumers, the agencies involved in the program, and the fiscal intermediary. Consumers must be allowed to choose the providers of services and how services are to be provided. A consumer’s neighbor, friend, spouse, or relative may be a provider. The consumer’s roles and responsibilities are listed and differentiated according to whether the consumer is, or is not, the employer of record.

All persons who render care through the program must comply with the background screening requirements of s. 435.05, F.S. Persons excluded from employment may request an exemption from disqualification. AHCA must reimburse, as allowable, the costs of background screening of caregivers who actually become employed by consumers. A person who has been screened, who is qualified for employment, has not been unemployed more than 180 days following screening and who attests under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening is not required to be re-screened.

AHCA, DOEA, DOH, and DCF may adopt and enforce rules to implement the bill. AHCA is required to ensure compliance with federal regulations and apply for necessary federal waivers or waiver amendments needed to implement the program. AHCA, DOEA, DOH and DCF are required to review and assess the implementation of the program. By January 15 of each year, AHCA must submit a report to the Legislature that includes each department’s review of the program, and contains recommendations for improvements.

Plan to Reduce Nursing Home Bed Days Under Medicaid

The bill requires AHCA, in consultation with DOEA, by December 1, 2002, to submit a plan to reduce the number of nursing home bed days purchased by the state Medicaid program and to replace such nursing home care with care provided in less costly alternative settings. The plan is to include specific statutory and operational changes to achieve the reductions and must include an evaluation of the cost-effectiveness and relative strengths and weaknesses of programs that are alternatives to nursing homes.

Certificate of Need for Nursing Facilities

The bill amends s. 408.034, F.S., modifying the methodology by which AHCA determines need for additional community nursing facility beds. Prior to determining that there is a need for additional community nursing facility beds, AHCA must determine that the need cannot be met through the provision, enhancement, or expansion of home and community-based services. As part of this determination, the agency must examine nursing home placement patterns and demographic patterns of persons entering nursing homes and the effectiveness of existing home and community-based service delivery systems in meeting the long-term care needs of the population. The agency is to recommend changes to the existing home and community-based delivery system to lessen the need for additional nursing home beds.

Medicaid In-Home Physician Services Expansion

The bill amends s. 409.912, F.S., to allow AHCA to contract with an entity on a risk-sharing basis, to provide in-home physician services for the purpose of testing the cost effectiveness of enhanced home-based medical care to Medicaid recipients with degenerative neurological diseases and other diseases or disabling conditions associated with high costs to Medicaid. The program is to be designed to serve very disabled persons and to reduce Medicaid costs for inpatient, outpatient, and emergency services.

The CARES Program

The bill creates a new subsection (13) of s. 409.912, F.S., to add requirements for the CARES nursing facility-preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals who require such care and to ensure that long-term care services are provided in the most appropriate setting and in the most economical manner possible. The program is also to ensure that participants in Medicaid home and community-based services programs meet criteria for those programs consistent with approved federal waivers.

AHCA must operate the CARES program through an interagency agreement with DOEA. Prior to making payment for nursing facility services for a Medicaid recipient, AHCA must verify that the nursing facility preadmission screening program has determined that the person requires nursing facility care and cannot be safely served in community-based programs. The agency is to

submit a report by January 1 of each year to the Legislature and to the Office of Long-Term Care Policy describing the rate of diversion to alternatives, staffing needed to improve the diversion rate, reasons the program is unable to place individuals in less restrictive settings, barriers to appropriate placement, including those due to operations of other agencies or state-funded programs, and statutory changes necessary to ensure that individuals in need of long-term care services receive such care in the least restrictive environment.

The Nursing Home Transition Program

The bill creates s. 430.7031, F.S., establishing the Nursing Home Transition Program to assist individuals in nursing homes to regain independence and to move to less costly settings. DOEA and AHCA are to work together to identify long-stay residents who could be moved out of nursing homes, and to provide services to assist these individuals to move to less expensive and less restrictive care. The two agencies are to modify existing service delivery systems or develop new systems, and are required to offer long-stay residents priority placement in all home and community-based care programs. DOEA and AHCA may seek federal waivers necessary to administer the program.

Provisions Relating to Nursing Homes and Assisted Living Facilities

The bill provides that a lease agreement that is required as a condition of bond financing, required by a health facilities authority, or required by a county or municipality is not a leasehold for the purposes of s. 400.179(5)(d), F.S., and is not subject to the requirement that a leaseholder acquire and maintain a 30-month bond in an amount equal to 3 months' Medicaid payments to the facility.

The bill amends s. 400.141, F.S., to permit a state-designated teaching nursing home and its affiliated assisted living facilities, in lieu of general and professional liability coverage, to demonstrate financial responsibility by means of a dedicated escrow account or irrevocable letter of credit in the amount of \$750,000. These funds are to be used to satisfy a judgment or settlement agreement in a liability action against the facility.

The bill exempts nursing homes and assisted living facilities from certain cosmetology salon requirements when a licensed cosmetologist provides salon services exclusively for facility residents.

Long-Term Care Insurance Standards

The bill authorizes the Department of Insurance to adopt, by rule, those provisions of the National Association of Insurance Commissioners model long-term care insurance regulation that are not in conflict with the Florida Insurance Code.

Changes to Long-Term Care Ombudsman Program

The bill makes changes to the membership, training requirements, and independent status of the Long-Term Care Ombudsman Program. Rather than being administratively housed in DOEA, the program will be administered by the Secretary of DOEA. The State Long-Term Care Ombudsman will be appointed by, and serve at the pleasure of, the Secretary of DOEA, and the secretary will also approve the hiring of local ombudsman council staff. The DOEA will develop, and the secretary will approve, procedures for Long-Term Care Ombudsman Council investigations.

All volunteers and appropriate employees of the Office of the State Long-Term Care Ombudsman must be given 20 hours of initial training and 10 hours of continuing education annually, on subjects specified in the bill. The State Long-Term Care Ombudsman Council must publish quarterly reports of the number and types of complaints received. The maximum number of members on a local long-term care ombudsman council is increased from 30 to 40 members.

The bill repeals s. 400.0066(2) and (3), F.S., which required that DOEA, AHCA, and DCF not interfere in the performance of official duties of ombudsman staff or volunteers, and which delineated administrative support services DOEA would provide for the Ombudsman program. The repeal conforms the section with the transfer of administration of the program to DOEA.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 36-0; House 120-0

SB 1378 — Health Care/Union Organizing

by Senator Meek

Senate Bill 1378 provides that nursing home employees may not participate in any activity related to union organizing during time that is counted toward minimum staffing requirements and that salaries paid by any health care provider to an employee for union organizing may not be an allowable cost for Medicaid cost reporting. Furthermore, the bill provides that any expenses incurred for activities directly relating to influencing employees with respect to unionization are not an allowable cost for Medicaid cost reporting purposes. The bill specifies, however, that its prohibitions do not apply to protected labor activities, such as addressing grievances or negotiating collective bargaining agreements; performing activities required by federal or state law or by a collective bargaining agreement; or normal personnel management communication between employees and employers.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 35-0; House 119-0

HEALTH CARE REGULATION

SB 264 — Drug-free Workplaces

by Senators King and Crist

Senate Bill 264 requires construction contractors, electrical contractors, and alarm system contractors, who contract to perform construction work under state contracts for educational facilities, public property and publicly owned buildings, and state correctional facilities to implement a drug-free workplace program. The bill requires an employer to conduct drug testing of employees and job applicants in order to qualify as having established a drug-free workplace under s. 440.102, F.S.

If approved by the Governor, these provisions take effect October 1, 2002.

Vote: Senate 39-0; House 117-1

SB 604 — Pharmacy

by Senators Saunders and Crist

The bill creates a mechanism for Florida-licensed pharmacies that have the same owner, or that have a written contract specifying the services to be performed, to share pharmacy duties. The bill defines “centralized prescription filling,” requires each pharmacy performing or contracting for the performance of centralized prescription filling to maintain a policy and procedure manual containing specified information, and clarifies that the filling of a prescription by one pharmacy for another pharmacy is not the filling of a transferred prescription or wholesale distribution. The bill requires the Board of Pharmacy to adopt rules to implement the requirements for centralized prescription filling by Florida-licensed pharmacies.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 39-0; House 113-0

CS/CS/SB 640 — Criminal Offenses/Health Care Practitioners; Controlled Substances

by Judiciary Committee; Health, Aging & Long-Term Care Committee; and Senator Burt

The bill provides that in any criminal proceeding against a person who is licensed by the Department of Health to practice a health care profession in Florida, a representative of the department may voluntarily appear and furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote justice or protect the public. The court is authorized to require a representative of the Department of Health to appear if the criminal proceeding relates to the qualifications, functions, or duties of the health care professional.

The bill enhances the penalty applicable to the existing criminal offense for withholding information from a practitioner from whom a person seeks to obtain a controlled substance or a prescription for a controlled substance. Failure to notify a practitioner that the person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days is changed from a first degree misdemeanor to a third degree felony offense. The bill creates third degree felony offenses for a health care practitioner to knowingly assist a person in obtaining a controlled substance through fraud; employ a trick or scheme to assist a person to obtain a controlled substance; prescribe a controlled substance for a fictitious person; or prescribe a controlled substance for purposes of monetary benefit. The bill reclassifies any of these third degree felonies to a second degree felony if the practitioner received \$1,000 or more in payment or if the quantity of the controlled substance prescribed meets the threshold for the offense of drug trafficking.

The bill provides that if a health care practitioner writes a prescription that is not medically necessary, or is in excess of what is medically necessary, that fact may be considered with other competent evidence in determining whether the practitioner knowingly assisted the patient in obtaining a controlled substance through deceptive, untrue, or fraudulent representations. The bill expressly provides that this provision does not create a presumption that the practitioner knowingly assisted the patient in obtaining a controlled substance through deceptive, untrue, or fraudulent representations.

The bill amends the law to revise the offense severity ranking chart in the Criminal Punishment Code to move the offenses for affixing a false or forged label to a package of controlled substances and for withholding information from a practitioner regarding the previous receipt of, or prescription for, a controlled substance from level 1 to level 3. In addition, offenses created in the bill that prohibit a prescribing practitioner from specified acts are ranked as level 3 offenses on the offense severity ranking chart.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 35-0; House 116-1

SB 1028 — Pharmacy/Continuing Education

by Senator Peadar

The bill revises the continuing education requirements for pharmacy license renewal. Any Florida-licensed pharmacist who submits satisfactory proof to the Board of Pharmacy that he or she has participated in not less than 30 hours of continuing professional pharmaceutical education courses approved by the board during the two year license renewal period no longer has to show that he or she participated in no less than 15 hours per year to satisfy the continuing education requirement.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 39-0; House 116-0

HB 1405 — Health Care Practitioner Student Loans and Service Scholarship Obligations

by Health Regulation Committee and Rep. Farkas and others (SB 2298 by Senator Wise)

This bill requires the Department of Health, upon receipt of information that any Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the federal government, to notify the licensed health care practitioner by certified mail that he or she is subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The Department of Health must issue an emergency order suspending the license of any licensed health care practitioner who, after 45 days following the date of mailing from the department, has failed to provide such proof.

The bill revises a ground for discipline for failure to perform any statutory or legal obligation placed upon a licensed health care practitioner to provide that failing to repay a student loan issued or guaranteed by the state or the federal government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation. The minimum disciplinary action imposed must be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to ten percent of the defaulted loan amount.

The Department of Health must obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations. The Department of Health must include statistics in its annual report to the Legislature regarding the number of practitioners in default, along with the results of its investigations and prosecutions, and the amount of fines collected from licensed practitioners for violating the provision of failing to perform a statutory or legal obligation.

If approved by the Governor, these provisions take effect upon becoming law and apply to any loan or scholarship that is in default on or after the effective date.

Vote: Senate 33-2; House 115-0

