August 20, 2003

ADDENDUM

TO THE

INTERIM WORK PLAN

2004 SESSION

COMMITTEE ON BANKING AND INSURANCE

INTERIM PROJECT TITLE:
Implementation of Medical Malpractice Insurance Reforms

DATE DUE: January 1, 2004

PROJECT NUMBER: 2004-163

BACKGROUND and DESCRIPTION:

In the 2003 Special Session D, the Legislature enacted medical malpractice reform legislation that provides for a rate freeze for medical malpractice at the rates approved on or before July 1, 2003, and requires rates for policies issued on or after the effective date of the act (September 15, 2003) to reflect the savings of the act. Insurers must either use the "presumed factor" that reflects the savings of the act as determined by the Office of Insurance Regulation (OIR), or must file and justify use of a different factor, subject to prior approval by OIR. The act's appropriations to OIR include amounts expected to be used to contract with an independent actuarial consultant to assist OIR in determining the presumed factor.

The 2003 legislation also revised the requirements for insurers to file data on closed medical malpractice claims to broaden its applicability to include additional types of insurers (surplus lines, risk retention groups, and self-insurance funds), as well as health care providers for whom an insurance entity is not required to file such information. The act authorizes the Financial Services Commission to adopt rules to require the reporting of additional data on closed claims, as well as the reporting of data on open claims and reserving practices. The OIR is required to annually publish a study and analysis of the closed claims data, the financial reports of medical malpractice insurers, and the rate filings that have been approved.

Other insurance reforms of the act include authorizing medical malpractice self-insurance funds to be licensed; deleting the option for insurers to require arbitration of a rate filing for medical malpractice insurance; prohibiting insurers from including bad faith awards in a rate filing; and requiring notice to policyholders of rate filings proposing a statewide average increase of 25 percent or more.

PROJECT OBJECTIVE(S):

To monitor the determination by OIR of the presumed factor to be used by insurers in rate filings to reflect the savings of the act, including any contract by OIR with an actuarial consultant for this purpose and the findings of such report; to monitor the rate filings made by insurers to reflect the savings of the bill and whether such filings adopt the presumed factor by OIR or use a different factor; to determine which medical malpractice insurers are actively selling new policies; and to report on any lawsuits filed by insurers challenging the rating provisions of the act. The report will also describe the insurance reforms in the medical malpractice act, as compared with the insurance laws of California. The report will also monitor and report on activities of OIR to implement the closed claim reporting requirements, as revised, including rulemaking by the Financial Services Commission to require reports on open claims. The report will also monitor

rulemaking to implement the authority for OIR to license medical malpractice self-insurance trust funds and any applications for licensure that are filed.

METHODOLOGY:

Staff will interview OIR personnel, monitor all rule-development activities; and review OIR consultant contracts and reports related to determination of the expected rate savings of the act; review all medical malpractice rate filings; review any lawsuits challenging the insurance rate provisions; review the insurance laws of California; review all rulemaking activities related to claims reporting and licensure of self-insurance funds; and interview representatives of selected medical malpractice insurers regarding such issues.

COMPREHENSIVE PLANNING

INTERIM PROJECT TITLE:
Strategies to Promote and Encourage Urban Infill and Redevelopment

DATE DUE: December 1, 2003

PROJECT NUMBER: 2004-165

BACKGROUND and DESCRIPTION:

Florida's "Growth Policy Act," contained in sections 163.2511-163.2526, F.S., recognizes the importance of urban infill and redevelopment in supporting fiscally strong urban cores. State and regional entities, as well as local governments, are encouraged to provide incentives for urban infill and redevelopment. An urban infill and redevelopment area, for purposes of the act, is defined in s. 163.2514, F.S.

Section 163.2517, F.S., provides for the designation of urban infill and redevelopment areas based on specific criteria. The Legislature appropriated $2.5 million in fiscal year 2000-01 to implement the Urban Infill and Redevelopment Assistance Program under s. 163.2523, F.S. As a result of this funding, there are 22 local governments that received either a planning or implementation grant for the designation of an urban infill and redevelopment area.

Section 163.2526, F.S., requires the Office of Program Policy Analysis and Government Accountability to review and evaluate, prior to the 2004 Regular Session, the effectiveness of a designated urban infill and redevelopment area in revitalizing and strengthening the urban core. Also, the Legislative Committee on Intergovernmental Relations has an interim project this year relating to urban infill and redevelopment and will identify existing programs and available funding mechanisms, including if there are federal funds available to assist with redevelopment efforts.

As part of the requirements for an urban infill and redevelopment plan under s. 163.2517, F.S., local governments are directed to adopt a package of financial and regulatory incentives. Pursuant to s. 163.2517(3)(j), F.S., such incentives may include a waiver of license and permit fees, exemption from local option sales surtaxes, a waiver of delinquent local taxes to return a property to productive use, expedited permitting, lower transportation impact fees, prioritization of infrastructure spending within the urban infill and redevelopment area, and absorption of developers' concurrency costs.

The incentives for a local government that has adopted a comprehensive plan amendment to incorporate a designated urban infill and redevelopment area includes extending the use of tax increment financing, the authority to issue revenue bonds backed by tax increment financing, and the authority to levy special assessments under s. 163.514, F.S.

Additional incentives to promote urban infill and redevelopment include allowing projects located inside a designated urban and infill redevelopment area to be excepted

from transportation concurrency requirements under certain circumstances and providing that projects in a designated area may qualify as a small scale development amendment that is not subject to the twice per year limitation on local government comprehensive plan amendments.

Notwithstanding the available incentives, many local governments have properties within their urban core that are not being used for infill and redevelopment. This lack of urban infill and redevelopment has resulted in vacant and abandoned buildings, higher unemployment, and a reduced tax base for some areas.

PROJECT OBJECTIVE(S):

The objective of this proposed interim project is to identify appropriate additional strategies to promote and encourage urban infill and redevelopment.

METHODOLOGY:

Committee staff will work with local governments, financial institutions, residential and commercial developers, the Department of Community Affairs, and others knowledgeable about urban issues to determine what additional strategies are necessary to better promote urban infill and redevelopment.

HEALTH, AGING, AND LONG-TERM CARE

INTERIM PROJECT TITLE:
Review of Data on Physician Availability and Patient Access to Physician Services

DATE DUE: January 1, 2004

PROJECT NUMBER: 2004-164

BACKGROUND and DESCRIPTION:

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the Division of Medical Quality Assurance in the Department of Health (DOH). Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., provides for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine.

In addition, to the general regulatory provisions within ch. 456, F.S., the practice acts provide licensing requirements that medical and osteopathic physicians must meet in order to become licensed to practice in Florida. Candidates for licensure and licensure renewal to practice medicine, osteopathic medicine, podiatric medicine, and chiropractic medicine must provide specified information that DOH must compile into practitioner profiles pursuant to ss. 456.039 and 456.041, F.S. Medical and osteopathic physicians must maintain professional liability insurance or other specified financial responsibility to cover potential claims for medical malpractice as a condition of licensure, with specified exemptions. Section 456.038, F.S., requires DOH to give a licensure renewal notification to licensed health care practitioners at least 90 days before the end of the licensure cycle at the practitioner's last known address of record with the department. The Board of Medicine and the Board of Osteopathic Medicine, have adopted by rule, initial licensure applications.

PROJECT OBJECTIVE(S):

This interim project will review the procedures for medical and osteopathic physician licensure and licensure renewal to ascertain what data is gathered by DOH and whether the procedures should be revised to include additional data elements and demographic information regarding the delivery of health care by physicians, such as specialty practice, type of practice setting, location of practice, whether the physician is actively practicing medicine or osteopathic medicine in the state, the means by which a physician is complying with financial responsibility requirements, and other relevant data elements, including a procedure to update and verify such data.

METHODOLOGY:

Staff will review the requirements of physician licensure laws and administrative rules adopted by the applicable boards and DOH. Staff will seek input from DOH, boards, and other interested stakeholders to determine if the laws should be revised to include additional data elements.

HEALTH, AGING, AND LONG-TERM CARE

INTERIM MONITOR PROJECT TITLE:
Implementation of Requirements in CS/SB 2-D Relating to Patient Safety, Health Care Practitioner and Facility Regulation, and Data Collection

DATE DUE: N/A

PROJECT NUMBER: 2004-381

BACKGROUND and DESCRIPTION:

In Committee Substitute for Senate Bill 2-D (ch.2003-416, L.O.F.), which addressed medical incidents, the 2003 Legislature required the Department of Health (DOH) and the Agency for Health Care Administration (AHCA) to implement procedures and conduct studies relating to patient safety, health care practitioner and facility regulation, and data collection. AHCA is responsible for implementing new regulations regarding patient safety in health care facilities, while DOH is responsible for implementing licensure requirements and regulations regarding health care practitioners. New agency duties are assigned to AHCA, DOH and the Division of Administrative Hearings. AHCA is responsible for two studies - one regarding inpatient quality indicators and one regarding the establishment of a statewide Patient Safety Authority. DOH is responsible for studying the current health care practitioner disciplinary process.

PROJECT OBJECTIVE(S):

To monitor: implementation of legislatively-mandated requirements relating to patient safety, health care practitioner and facility regulation, and data collection; and identify any legal challenges filed to the new provisions contained in the bill.

METHODOLOGY:

Staff will consult with representatives of AHCA, DOH, professional regulatory boards, and university patient safety centers as the required quality measures are implemented and the studies conducted. Staff will attend rule development workshops and other meetings conducted by AHCA and DOH relating to implementation of the bill.

JUDICIARY

INTERIM MONITOR PROJECT TITLE:
Study by the Department of Health to see Whether Medical Review Panels Should be Created for use in Presuit Process for Medical Malpractice Claims

DATE DUE: N/A

PROJECT NUMBER: 2004-382

BACKGROUND and DESCRIPTION:

Section 71, ch. 2003-416, L.O.F., directs the Department of Health to study and report to the Legislature as to whether medical review panels should be included as part of the presuit process in medical malpractice litigation. The act directs the department to report on certain issues surrounding the use of medical review panels within the state as well as in other states. The act also directs the department to report on the effectiveness of medical review panels when such panels were used in this state, and the effectiveness of medical review panels in other states. If the department does recommend that medical review panels should be included in the presuit process for medical malpractice claims, then it must provide draft legislation to implement the recommendation. The department is to submit its report to the President of the Senate and the Speaker of the House no later that December 31, 2003.

Medical review panels review a medical malpractice case during the presuit process and make judgments on the merits of the case based on established standards of care. When such panels are used in other states, the panel's report is admissible evidence at trial or for other purposes.

PROJECT OBJECTIVE(S):

Monitor the department's activities in conducting this study.

METHODOLOGY:

Committee staff will monitor the activities of the workgroup established to conduct this study.

JUDICIARY

INTERIM MONITOR PROJECT TITLE:
Implementation of Revisions to Presuit Procedures for Medical Malpractice Claims and Implementation of Changes to Certain Activities in Medical Malpractice Cases Before the Courts

DATE DUE: N/A

PROJECT NUMBER: 2004-383

BACKGROUND and DESCRIPTION:

CS/SB/1st ENG. 2D (ch. 2003-416, L.O.F.) revised presuit procedures in ch. 766, F.S., relating to medical malpractice claims. These revisions address the retention and use of expert witnesses, the availability for discovery of expert witness opinions in the presuit period, and the availability of claimant's physician for the taking of an unsworn statement. This act also addressed certain activities in the period after the filing of an action in court. These revisions include the requirement that the plaintiff file a copy of the complaint with the Agency for Health Care Administration, that certain language be included in any settlement agreement involving a claim of medical malpractice, and that a verdict assessing damages in a medical malpractice case include a specific itemization of the damage award for future losses.

PROJECT OBJECTIVE(S):

To monitor the implementation of those provisions of ch. 2003-416, L.O.F., relating to presuit procedures for medical malpractice claims and certain activities in medical malpractice cases.

METHODOLOGY:

Committee staff will contact the Florida Bar, Trial Lawyers Section, and the Florida Academy of Trial Lawyers to query those organizations regarding the application of the changes in ch. 766, F.S., relating to presuit procedures, to claims filed after the effective date of this bill. Committee staff will also query these organizations concerning the implementation of changes to the suit activities. Finally, committee staff will also identify other parties, if necessary, to query regarding the implementation of these change.