STORAGE NAME: h2125z.hcs ****FINAL ACTION****
DATE: June 14, 1999 ****SEE FINAL ACTION STATUS SECTION****

HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL ANALYSIS

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

RELATING TO: Department of Health

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

COMPANION BILL(S): CS/SB 2220 (similar); See also CS/HB 1, HB 699, HB 981, CS/HB 1927, HB 2231, CS/SB 2360, CS/SB 2554, CS/HB 319, HB 687, HB 797, HB 965, HB 1073, HB 1431, CS/HB 1467, HB 1703, HB 1847, HB 1881, HB 2031, and HB 2239.

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) HEALTH CARE SERVICES YEAS 16 NAYS 1
(2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
(3) GOVERNMENTAL RULES & REGULATIONS (W/D)
(4) HEALTH & HUMAN SERVICES APPROPRIATIONS (W/D)

I. FINAL ACTION STATUS:

06/18/99 Approved by Governor; Chapter No. 99-397; See also CS/HB 1 (Ch. 99-377), HB 699 (Ch. 99-349), HB 981 (Ch. 99-183), CS/HB 1927 (Ch. 99-393), HB 2231 (Ch. 99-356), CS/SB 2360 (Ch. 99-332), CS/SB 2554 (Ch. 99-275)

II. SUMMARY:

This bill includes provisions designed to improve efficiency of public health programs within the Department of Health (DOH). The bill: removes language that prevents certain individuals from receiving their HIV test results; clarifies requirements relating to HIV tests on deceased persons; amends language relating to public and private water systems; authorizes nursing homes to purchase medical oxygen; provides for clinical trials to be conducted on the use of the drug Secretin by nonprofit providers; revises the membership and duties of the Health Information Systems Council; permits DOH to become an accrediting entity of the National Environmental Laboratory Accreditation program; permits DOH to increase certain examination costs; changes the time of biennial renewal for certified radiologic technicians; provides names for three DOH buildings; repeals certain obsolete provisions; makes clarifying amendments to ch. 499, F.S.; allows DOH to use excess money for the improvement of health facilities at A.G. Holley State Hospital; and authorizes an advisory board. The bill also: revises DOH authority relating to vital records; encourages DOH to foster the provision of trauma care and serve as a catalyst for improvements in trauma care and updating the state trauma system planning process; and establishes statutory authority for DOH rules relating to Emergency Medical Services.

With regard to the Agency for Health Care Administration (AHCA), the bill: provides for issuance of Medicaid identification numbers to certain children; makes technical changes relating to Medicaid eligibility in the CMS program; provides for a phase-in of Medicaid capitated payments to CMS; permits DOH and AHCA to share certain confidential Medicaid information; enables AHCA to pursue a certified match program relating to Healthy Start funding and federal matching funds if necessary; amends Medicaid third-party liability language to require health insurers and HMOs to develop certain tape matches; creates the "Medicaid Estate Recovery Act;" deletes the requirement that one of the four Medicaid provider service network demonstration projects be conducted in Orange County; authorizes AHCA to withhold payments based on evidence of fraud associated with the delivery of Medicaid goods or services; deletes limitations that the agency may only reduce payments up to certain amounts when an overpayment exceeds $75,000; provides for prompt payment of withheld payments to providers once withholding disputes are settled; specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers; repeals obsolete provisions relating to Medicaid alternative service networks; and requires AHCA to enter into agreements with the not-for-profit organizations based in this state for the purpose of providing vision screening.

Relating to medical quality assurance, the bill clarifies language relating to credentialing to provide for the standardized credentialing process for health care practitioners licensed under chapter 458, 459, 460, or 461, F.S., and amends provisions relating to various health care practitioners regulated by DOH including: general provisions; acupuncture; medicine; osteopathic medicine; chiropractic medicine; podiatric medicine; nursing; pharmacy; dentistry; speech-language pathology & audiology; respiratory therapy; athletic trainer; orthotics, prosthetics, & pedorthics; certified nursing assistants; electrolysis; clinical laboratories; clinical laboratory personnel; medical physicists; opticians; fitting/dispensing of hearing aids; physical therapy; psychology; clinical social work, marriage & family therapy, & mental health counseling. The bill also sets requirements for the reports of adverse incidents from office surgery.

In addition, the bill: requires HMOs and provider fiscal intermediaries to include detailed explanation of services for payments to providers; establishes certain requirements for compressed air used for recreational sport diving; and sets public records and public meeting requirements for area agencies on aging within the Department of Elderly Affairs.

The bill creates the following task forces and study groups: the Minority HIV & AIDS Task Force; the Task Force on Telehealth; a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund; an AHCA study of clinical laboratory services for kidney dialysis patients; and a task force on the study of collaborative drug therapy management.

The effective date of this bill is July 1, 1999, except as otherwise expressly provided.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Department of Health

General Public Health Provisions

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

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

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

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

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

Section 120.80(15), F.S., 1998 Supp., provides that notwithstanding s. 120.57(1)(a), F.S., a formal hearing may not be conducted by the Secretary of Health, the director of the Agency for Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to regulations of any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance. When DOH was still a part of HRS, a process was established that allowed the agency to conduct its own administrative hearings in matters concerning the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Children's Medical Services (CMS) program, and exemption from disqualification review for certified nurse assistants. DOH no longer has the authority to continue this process.

Private and Public Water Systems

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

Chapter 64E-8, Florida Administrative Code, requires that owners of water systems connecting one or two residences only meet well setback from potential sources of contamination. Owners of water systems connecting three or four residences must meet the setback requirement, and also obtain a

construction permit and provide satisfactory bacteria, nitrate, and lead analytical results. There is no reference made to a single rental residence.

Testing for Human Immunodeficiency Virus (HIV)

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

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

Health Information Systems Council

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

Vital Records

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

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

government or the United States government for official purposes upon approval of the department or upon order of any court of competent jurisdiction.

Section 382.0255, F.S., provides that the department is entitled to certain fees for the processing, filing, and retrieving of vital records and registrations. Previously, a portion of these fees was deposited in the Crimes Against Children Trust Fund administered by the Department of Law Enforcement. This trust fund, however, was eliminated on July 1, 1995, and the funds that were being deposited in this trust fund are now transferred to general revenue rather than to Vital Statistics.

Florida Drug and Cosmetic Act

Chapter 499, Part I, F.S., relates to the Florida Drug and Cosmetic Act. Its purposes are to: safeguard the public health and promote the public welfare by protecting the public from injury by product use and by merchandising deceit involving drugs, devices, and cosmetics; provide uniform legislation to be administered as far as practical in conformity with the provisions of, and regulations issued under the authority of the Federal Food, Drug, and Cosmetic Act and the portion of the Federal Trade Commission Act which prohibits false advertising of drugs, devices, and cosmetics; and promote uniformity of state and federal laws, and their administration and enforcement, throughout the United States.

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

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

Section 499.012, F.S., provides for "wholesale distribution" of prescription drugs to persons other than a consumer or patient, with a number of exceptions identified. A few of the listed exceptions include the following: purchases by a hospital or other health care entity that is a member of a group purchasing organization; the sale or trade of a prescription drug by a charitable organization; the sale or trade of prescription drugs among hospitals of common ownership; the sale or trade of prescription drugs among federal, state, or local governmental health care entities that are under common control; transfers between retail pharmacies to alleviate a temporary shortage; and the purchase of a prescription drug by an emergency medical director for use by emergency medical providers acting pursuant to ch. 401, F.S.

In s. 31, ch. 98-151, Laws of Florida, changes were made to the numbering of s. 499.012, and the Department of Health was granted authority to adopt rules governing the recordkeeping, storage, and handling with respect to each of the distributions of prescription drugs specified in subparagraphs (1)(a)1., 2., 4., and 5., of this section as revised. These identified subparagraphs cover the same basic "wholesale distribution" of prescription drug exceptions identified above (prior to the 1998 changes).

The rules authorized in the 1998 change have been adopted and became effective January 26, 1999. According to the department, substantially similar authorization has been granted through rulemaking for the governmental sale or transfer of prescription drugs to any entity eligible to purchase such drugs at public health prices pursuant to s. 602 of Public Law No. 102-585 for a contract provider or its subcontractor for eligible patients under certain conditions. The rule provides for the issuance of a restricted distributor's permit to monitor this activity. Also, the rule does not prohibit prescription drugs transferred under this authority from being billed to Medicaid.

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

AIDS/HIV

- National Data & Background

The U.S. Department of Health and Human Services (HHS) reports that AIDS is a leading cause of death for all persons 25 to 44 years of age. The Centers for Disease Control and Prevention (CDC) estimates that there are 650,000 to 900,000 Americans living with HIV infection. HHS further identifies that AIDS has disproportionately affected minority populations. Racial and ethnic minorities constitute approximately 25 percent of the total U.S. population, yet account for nearly 54 percent of all AIDS cases. While the epidemic is decreasing in some populations, the number of new AIDS cases among blacks is now greater than the number of new AIDS cases among whites.

According to the HHS, there are several different HIV epidemics occurring in the U.S. Although the number of AIDS diagnoses among gay and bisexual men has decreased among white men since 1989, the number of AIDS diagnoses among heterosexual black men has increased. In addition, AIDS cases and new infections related to injecting drug use appear to be increasingly concentrated in minorities; of these cases, almost 75 percent were among minority populations (56 percent black and 20 percent Hispanic). Of the cases reported among women and children, more than 75 percent are among racial and ethnic minorities.

Additionally, HHS reports that during 1995 and 1996, AIDS death rates declined by 23 percent for the total U.S. population. AIDS death rates declined by 13 percent for blacks and 20 percent for Hispanics. HHS contributes the mortality disparities to late identification of the disease and lack of health insurance to pay for drug therapies.

HHS identifies that inadequate recognition of risk, detection of infection, and referral to follow-up care are major issues for high-risk populations. About one-third of persons who are at risk of HIV/AIDS have never been tested.

- Florida Data & Background

According to the Department of Health, Florida has the third highest number of reported AIDS cases and the second highest number of reported pediatric AIDS cases in the nation. As of January 1999, there were 70,881 Floridians over age 13 with AIDS. Further review of the statistics reveal that approximately 59 percent of the reported AIDS cases occur among blacks, Hispanics, and other minority groups. There are a total of 31,822 black persons and a total of 10,796 Hispanic persons with AIDS in Florida.

The Department of Health reports that from July 1997 to January 1999, there were 9,675 reported HIV cases. Seventy-five percent of these cases occurred among blacks, Hispanics, and other minority groups; 5,643 black persons and 1,401 Hispanic persons are reported to have HIV. Black women who are heterosexually infected with HIV are the fastest growing group of infected persons.

Furthermore, members of the black community tend to develop AIDS within one month of being diagnosed with HIV. Commensurate with national data outlined above, the Department of Health identifies that the black community fails to receive early testing for HIV and subsequent life-prolonging treatment for this condition.

The Florida Department of Health estimates the medical and related costs for a person infected with HIV can reach $175,000 over the person's lifetime. At the same time, studies reveal that sustained, comprehensive prevention efforts can have a significant impact on slowing the course of the HIV/AIDS epidemic.

Autism

- The Disease

Autism is a complex neurodevelopmental disability affecting communication, social functioning, and adaptive behavior. It is estimated that autism occurs in about 15 of every 10,000 births nationwide. The Center for Autism and Related Disabilities in Florida notes that autism occurs by itself, with mental retardation, or with other health problems such as epilepsy, viral infections, or changes in a person's growth rate or metabolism. According to the National Institute of Child Health and Human Development, autism is a major pediatric health issue in the United States, with associated health care costs exceeding $13 billion per year. The cause of autism is unknown. According to the National Institute of Mental Health, it is generally accepted that autism is caused by abnormalities in brain structures or functions.

Section 393.063(3), F.S., 1998 Supplement, defines autism as "a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests." Individuals with autism, regardless of severity of impairments and the presence of coexisting conditions, do share some common needs. Difficulties with speech and language necessitate varying degrees of speech therapy. Occupational and physical therapy may also be helpful in improving social and functional abilities. Intensive behavioral programs, varying in intensity and structure based on individual need, are universally recognized as essential in assisting people with autism with developing critical social and functional skills. Finally, early intervention is important for children. Interventions that occur during this critical period in a child's development have been documented to significantly increase a child's skills and capacities for life-long learning.

According to the National Institute of Mental Health (NIMH), a number of treatment approaches have evolved in the decades since autism was first identified, including developmental and behaviorist approaches. Developmental approaches provide consistency and structure along with appropriate levels of stimulation. Behaviorist training involves time-intensive, highly structured, repetitive sequences in which a child is given a command and rewarded each time he responds correctly. By using this approach for up to 40 hours a week, some children may be brought to the point of near-normal behavior. Others are much less responsive to the treatment. However, some researchers and therapists believe that less intensive treatments, particularly those begun early in a child's life, may be more efficient and just as effective. Presently, NIMH is funding several types of behaviorist treatment approaches to help determine the best time for treatment to start, the optimum treatment intensity and duration, and the most effective methods to reach both high and low functioning children.

- Secretin

According to the National Institutes of Health, Secretin is a gastrointestinal peptide hormone that controls digestion. The primary action of Secretin is to increase the volume and bicarbonate content of secreted pancreatic juices. The United States Food and Drug Administration has approved Secretin for single dose use in diagnosing gastrointestinal problems such as impaired pancreatic function or gastric problems such as ulcers in adults. The use of Secretin for any other purpose may be considered a use for which the United States Food and Drug Administration has not issued formal approval; such use is commonly referred to as "off-label" use of a drug.

Little research has been published on the use of Secretin as a treatment for children with autism. A recent study of three children with autism and gastro-intestinal problems titled "Improved social and language skills after Secretin administration in patients with autistic spectrum disorders" (Horvath K, et al. published in the *Journal of the Association for Academic Minority Physicians* 1998; 9: 9-15) indicated that after Secretin infusion, the children's gastro-intestinal problems improved and the children became more sociable and communicative. On October 7, 1998, *Dateline NBC* reported that an autistic child, Parker Beck, who had suffered constant diarrhea and vomiting for almost two years and who was given Secretin while being treated for the gastro-intestinal problems, had improved communicative skills. According to the director of the Autism Research Institute, unofficially, about 200 children have received Secretin and more than half of the children have

shown some positive response. The Autism Research Institute preliminary survey on the use of Secretin to treat autism indicated that there is little data as to what is the best dosage and optimal schedule of administration of Secretin for treatment of autism.

The National Institutes of Health encourages human and animal research including genetic, neuroanatomic, neurophysiologic, immunologic, neurochemical, and neuropsychologic studies to shed light on the etiology and pathophysiology of autism and studies of effective behavioral and psychopharmacologic interventions. The National Institutes of Health does not currently have a formal position on the therapeutic use of Secretin in the treatment of autism. The National Institute of Child Health and Human Development invites qualified applicants to submit applications for research funding to explore the safety, efficacy, and mechanism of action of Secretin as an effective treatment for autism or gastro-intestinal disorders associated with autism.

- Protection of Human Subjects

The United States Department of Health and Human Services has established regulations (Protection of Human Subjects, 45 Code of Federal Regulations part 46) to establish a federal policy for the protection of human subjects. The federal policy for the protection of human subjects applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by any federal department or agency which takes appropriate action to make the policy applicable to such research. Under the federal regulation for the protection of human subjects, institutional review boards must review and have authority to approve, require modifications in, or disapprove all research activities. Federally sanctioned institutional review boards use the following criteria for approval of research: risks to subjects are minimized by the use of procedures which are consistent with sound research design; risks to subjects are reasonable in relation to anticipated benefits; selection of subjects is equitable; informed consent will be sought from each prospective subject or the subject's legally authorized representative; informed consent is appropriately documented; when appropriate, the research plan makes adequate provision for monitoring data to ensure the safety of subjects; and when appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

- Children's Medical Services

Under the authority of chapters 383 and 391, F.S., the Children's Medical Services (CMS) Office of the Department of Health provides a comprehensive system of care ranging from prevention services to long-term care services for financially-eligible high-risk pregnant women, sick or low birthweight newborns, and children with chronically handicapping or potentially handicapping conditions. Prevention services are available through statewide programs such as infant metabolic screening, infant hearing screening, and poison control centers. Prevention services also include the statewide Regional Perinatal Intensive Care Centers (RPICC) Program, which provides specialized services to high-risk pregnant women and newborns. Early intervention services are available throughout the state for infants and toddlers who are at risk for developmental delay. These services are provided by local agencies and Developmental Evaluation and Intervention programs. To administer the Children's Medical Services Program, the Department of Health has among its powers, duties, and responsibilities the charge "to sponsor or promote grants for projects, programs, education, or research in the field of medical needs of children, with an emphasis on early diagnosis and treatment" (s. 391.026(7), F.S., 1998 Supplement).

Emergency Medical Services

Chapter 401, F.S., relates to Medical Telecommunications and Transportation. Part I addresses Emergency Telecommunication Systems, Part II is known as the "Florida Emergency Medical Services Grant Act," and Part III is cited as the "Raymond H. Alexander, M.D., Emergency Transportation Services Act."

Section 401.25, F.S., establishes the licensing and operational requirements for emergency medical service licensees. Current law requires basic or advanced life support service licensure, submission of an application and relevant documents, payment of fees, licensure requirements, authority to suspend or revoke a license, license expiration dates, requirements for renewal, and an option for counties to adopt by ordinance reasonable standards. The Department of Health reports that the current law has the following shortcomings:

- lacks time frames, other than the expiration date of a license, for the timely submission of licensure renewal applications;
- does not address medical direction as a condition of licensure;
- does not address trauma transport protocol as a condition of licensure. This limits the department's ability to provide oversight in the coordination of trauma transports; and
- lacks explicit rule authority for the department to administer the requirements of the section.

Section 401.27, F.S., relates to the certification/recertification requirements for emergency medical technicians and paramedics. In addition, s. 401.27(1), F.S., provides staffing requirements for basic life support vehicles, but fails to include requirements for advanced life support vehicles. Requirements for staffing of permitted vehicles are currently established in rule. Repeal of the rule effective July 1, 1999, pursuant to the revised Administrative Procedure Act (APA), will leave the department without authority to establish staffing requirements. Rule authority is not provided to the department to administer the section.

Section 401.30, F.S., establishes records requirements for emergency medical service licensees. The section provides for the confidentiality of patient records and appropriate limited release of these records without the consent of the patient. The section permits release of the emergency medical service licensee's patient records to the treating hospital, but does not provide an explicit requirement to deliver such copy to the hospital. Requirements for delivery of patient records by licensees to receiving hospitals are currently established in rules. Repeal of the rule effective July 1, 1999, pursuant to the APA, leaves the department without authority to require licensees to provide emergency medical services patients' records to receiving hospitals.

Chapter 401, F.S., does not clearly define the department's role in the regulation of entities that provide emergency medical technician and paramedic certification and recertification education. Requirements for the regulation of education programs are currently established in rules. Repeal of the rule effective July 1, 1999, pursuant to the APA, leaves the department without authority to regulate emergency medical technician and paramedic education programs.

There is currently no provision in law authorizing the department to administer oaths, take depositions, or issue subpoenas in its investigations or proceedings. Lack of such authority hinders the department in obtaining evidence during investigations.

Although there is a provision in chapter 401, F.S., for emergency medical service licensees to share patient information with receiving hospitals, there is no provision for hospitals to share information with the licensee without the consent of the patient. Emergency medical service licensees lack the definitive diagnoses of patient's conditions which can be used in quality management programs to improve the care and treatment provided to the public.

Agency for Health Care Administration and Medicaid

Medicaid Estate Recovery

In August 1993, Congress passed the Omnibus Budget Reconciliation Act (OBRA 93) which, in part, requires state Medicaid agencies to establish and maintain estate recovery programs. The act requires states to recover the cost of medical assistance correctly paid on behalf of an eligible recipient who had reached age 55 prior to receiving services. OBRA 93 allows states to recover the costs of such benefits after the death of the recipient and after the death of the surviving spouse, dependent minor, or adult or minor handicapped children meeting the Social Security Administration definition of handicapped, if any. The Agency for Health Care Administration is responsible for identifying the estates of former Medicaid recipients and recovering any funds the estate might owe the state as reimbursement for Medicaid expenditures made on behalf of the decedent. Under the provisions of Article X, Section 4, of the Florida Constitution, the homestead of the individual is exempt from estate recovery.

Medicaid's estate recovery efforts operate under the general provisions relating to public assistance. While specifying Medicaid estate recovery provisions in law, the Legislature has taken steps in the past to enhance the state's estate recovery efforts. For example, ch. 98-191, L.O.F., amended s. 198.30, F.S., relating to estate recovery, to require that circuit judges provide to AHCA a copy of a

monthly report containing the estate information of all decedents whose wills have been or will be probated before the court judge. This 1998 measure also amended s. 414.28, F.S., relating to public assistance debts, to raise public assistance recovery debts from Class 7 (debts acquired after death) to Class 3 (debts and taxes with preferences under federal law).

The primary source of information for estate recoveries comes from monthly Clerk of Court reports that are to detail every estate that was opened in that county during that month. Letters of Administration submitted by personal representatives or attorneys also serve as leads for the recoveries, but are inconsistently provided to AHCA. When a lead is received, research is conducted to determine if the individual was a Medicaid recipient and meets all the criteria for an estate recovery. Once the information has been verified, the recipient's claim history is reviewed to determine a lien amount to file against the estate. This lien amount may be amended as Medicaid providers file additional claims on the recipient.

The Agency for Health Care Administration contracted with a private attorney to conduct the state's Estate Recovery Program from January 1994 until December 1995. The agency competitively procured a contractor to conduct the estate recovery program and, in June 1996, AHCA awarded the contract to Public Consulting Group. The contract expired in April, 1999; however the agency plans to exercise one of its renewal options to extend the contract through October 31, 1999. The estate recovery program has been very successful in recoveries. Collection figures based on state fiscal years are as follows:

Year	Collection Amount
1995	$1,175,590
1996	$3,955,840
1997	$3,511,365
1998	$6,024,165

Section 733.212, F.S., relates to notices of administration and the filing of claims against estates of decedents. Such notice requirements currently do not involve any notice to AHCA for estates of decedents who may have been Medicaid recipients.

Medicaid Third-Party Liability

Section 409.910, F.S., 1998 Supplement, is the "Medicaid Third-Party Liability Act," under which AHCA is to seek to recover the cost of goods and services delivered to a Medicaid recipient when another third party may be responsible for such costs of services. Subsection (20) of this section requires insurers and health maintenance organizations (HMOs) to "provide such records and information as are necessary to accomplish the purpose of this section, unless such requirement results in an unreasonable burden." Additionally, this subsection requires AHCA and the Insurance Commissioner to enter a cooperative agreement for requesting and obtaining information from insurers and HMOs for purposes of the subsection, including the adoption of rules for implementing the cooperative agreement. Even though this authority for a cooperative agreement has been in statute for several years, no such agreement exists.

Medicaid Program Integrity/Fraud and Abuse

More than $1 trillion is spent on health care each year in the United States. The proportion of annual health care expenditures lost to fraud and abuse remains unknown because such losses are not systematically measured. Conventional wisdom, supported by relatively recent Medicare studies undertaken by multiple federal agencies, estimates that losses to fraud and abuse may exceed 10 percent of annual health care spending. Given this degree of fraudulent activity, Florida has taken a number of steps in the past few years to avoid and detect fraud and abuse in the Medicaid program. As a result of initiatives on the part of AHCA, the Legislature, the Attorney General's Medicaid Fraud Control Unit, and the Grand Jury convened by the Statewide Prosecutor, much has been accomplished to keep "bad" providers out of the Medicaid program. What remains to be reviewed is how to make sure that the remaining "good" providers are not unnecessarily burdened by program integrity reviews within the Medicaid program, while at the same time guarding against any provider abuses of the program.

Section 409.913, F.S., provides for the oversight of the integrity of the Florida Medicaid program. Staff of Medicaid Program Integrity developed and use statistical methodologies to identify providers who exhibit aberrant billing patterns, conduct investigations and audits of these providers, calculate provider overpayments, initiate recovery of overpayments in instances of provider abuse, recommend administrative sanctions for providers who have abused or defrauded Medicaid, and refer cases of suspected fraud to the Medicaid Fraud Control Unit in the Attorney General's Office.

Medicaid Healthy Start Waiver Authorization

Section 1 of ch. 98-288, L.O.F., directed AHCA, working in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, to seek a federal waiver to secure federal Medicaid matching funds for Healthy Start services. Section 52 of the 1998 act also amended s. 409.906, F.S., to create a new subsection (11) which authorized Healthy Start services as an optional Medicaid service, pursuant to a waiver of federal requirements relating to amount, duration, and scope of services. The intent of these revisions was to use existing state and local funds to draw down matching federal Medicaid funding for Healthy Start's continuum of risk-appropriate medical and psychological services. The Agency for Health Care Administration has applied for the waiver, and is still awaiting final federal approval of the waiver.

Medicaid Provider Service Network Demonstration Projects

Section 10 of ch. 97-260, L.O.F., and s. 15 of ch. 97-263, L.O.F., codified as s. 409.912(3)(d), F.S., provided authorization for the Agency for Health Care Administration to conduct no more than 4 provider service network demonstration projects, with the stipulation that one of the projects be conducted in Orange County. After releasing its Invitation to Negotiate, AHCA had only one bidder from Orange County. During the course of negotiations, this sole bidder decided not to participate in the demonstration project. The Orange County stipulation in the statute precludes AHCA from going elsewhere for a demonstration project.

Public Medical Assistance Trust Fund

Chapter 395, F.S., relates to hospital licensing and regulation. Part IV of ch. 395, F.S., relates to the Public Medical Assistance Trust Fund. Section 395.701, F.S., 1998 Supplement, imposes an assessment of 1.5 percent on the net operating revenue for each hospital, as determined by AHCA, based on the actual audited data of the hospital as reported to AHCA.

Section 395.7015, F.S., 1998 Supplement, imposes an annual assessment of 1.5 percent on the net operating revenues of certain health care entities. The assessment is imposed on the following entities: ambulatory surgical centers and mobile surgical facilities licensed under s. 395.003, F.S.; clinical laboratories licensed under s. 483.091, F.S. (with certain exclusions); freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22, F.S., and rules 10D-91.902, 10D-91.903, and 10D-91.904 of the Florida Administrative Code; and diagnostic-imaging centers that provide specialized services for the identification or determination of diseases through examinations, and also provide sophisticated radiological services rendered by physicians licensed under s. 458.311, 458.313, 458.317, 459.006, 459.007, or 459.0075, F.S.

Chapter 98-192, L.O.F., provided an exemption from the assessment on hospital net operating revenues for outpatient radiation therapy services provided by a hospital, and provided for the elimination of the assessment on freestanding radiation therapy centers. The exemption and elimination were made contingent upon AHCA receiving written confirmation from the federal Health Care Financing Administration (HCFA) that the changes would not adversely affect the use of the remaining assessments as state matches for the Medicaid program. On July 7, 1998, AHCA submitted a letter to HCFA requesting that they confirm that the provisions of chapter 98-192, L.O.F., would have no impact on the permissibility under federal rules of the remaining assessments. On December 17, 1998, HCFA requested additional information from the agency. The agency is evaluating HCFA's request to determine how best to obtain the data that the agency does not now have, or how to otherwise approximate the requested information. Because HCFA confirmation has not been received, the assessments are still in place.

All assessments collected under ss. 395.701 and 395.7015, F.S., 1998 Supplement, are deposited into the Public Medical Assistance Trust Fund. The assessments, combined with the projected revenues from cigarette taxes and interest earnings, are fully utilized each year in the General Appropriations Act.

The Social Services Estimating Conference met on February 16, 1999, and adopted the following estimates for the Public Medical Assistance Trust Fund for FY 1999-2000:

Estimated revenues:	
Assessments on hospitals	$253,300,000
Assessments on other health care entities	19,200,000
Cigarette tax distribution to PMATF	118,300,000
Interest	3,000,000
Total estimated revenues	$393,800,000
Estimated expenditures:	
Hospital inpatient services	$393,600,000
Administration	200,000
Total estimated expenditures	$393,800,000
Estimated ending cash balance	$0

Patient's Rights and Services Provided by Health Care Practitioners and Facilities

Section 381.0261, F.S., deals with the Florida Patient's Bill of Rights. It provides for a health care practitioner or a health care facility to provide, upon request by a patient, a summary of their rights, pursuant to this section. Currently, the responsibility for enforcement of these provisions rests with the Agency for Health Care Administration. The Department of Health's Division of Medical Quality Assurance has no enforcement responsibility for these requirements with health care practitioners.

Health Care Practitioners

General Provisions -- Chapter 455, F.S.

Chapter 455, part II, F.S., is the administrative chapter that applies to all medical "health care practitioners" contained in the Division of Medical Quality Assurance (MQA) within the Department of Health.

The present status of various sections of ch. 455, F.S., is as follows:

455.501 - Provides a list of all the various medical professions. However, through oversight and because various professions have been added to the Division without being added to the section, the following "health care practitioners" are not included: certified nursing assistants; midwives; nursing home administrators; athletic trainers; orthotists; prosthetists and pedorthetists; electrologists; clinical laboratory personnel; or medical physicists. While all these professions are regulated under MQA, because they are not listed in this definition, technically none of the provisions of ch. 455 currently apply to these professions.

455.564 - Provides authority to grant continuing education credits for attending risk management courses, disciplinary portions of board meetings; and establishes that volunteer expert witnesses or members of probable cause panels are limited to the four boards named in this section (medical, osteopathic, chiropractic, and podiatric). Other boards in MQA have requested this authority.

455.565 - Establishes information required for licensure. Currently it is unclear as to whether practitioners (medical, osteopathic, chiropractic, and podiatric) are to report the year they began practicing in Florida or the year they began practice in any jurisdiction. Information on hospital discipline of a health care practitioner is currently required to be included in the practitioner profile report prepared by the Department of Health.

455.567 - Allows the department or boards to refuse to license applicants for examination or licensure if they have committed an act of sexual misconduct or had a license in another jurisdiction revoked or surrendered based on a violation of sexual misconduct. However, this section does not have a definition for sexual misconduct which has made it difficult to implement.

455.574 - Sets department requirements for examination services. Examination services do not have the authority to restrict a candidate's access to only the incorrect answers when the candidate asks for a review of his or her score. This causes security and confidentiality problems.

455.587 - MQA does not currently have the authority to charge a fee to recoup its costs when printing a duplicate wall certificate or a wall certificate for a practitioner licensed prior to July 1, 1998.

455. 604 - Licensees under part X, ch. 468 (dietetics and nutrition), are not currently required to complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome for licensure renewal.

455.607 - Licensed athletic trainers are not currently required to complete a course on human immunodeficiency virus and acquired immune deficiency syndrome for licensure renewal.

455.624 - MQA has been unsuccessful in prosecuting cases against licensees because they lack authority "as grounds for discipline" in the following situations: failure to provide patients with information about their patient rights and how to file a complaint; attempting to engage or engaging a patient or a client in verbal or physical sexual activity; failure to comply with the requirements of profiling and credentialing; failure to report within 30 days a conviction or adjudication of a crime in any jurisdiction; or improperly using information gained from police accident reports.

Also, the present cap of a $5,000 fine per count for violations of ch. 455 is not felt to be punitive enough in some disciplinary situations.

455.654 - Sets requirements for financial arrangements between referring health care providers and providers of health care services. Defines a health care provider as any one licensed under chs. 458, 459, 460, 461, 463, or 466. Provides a number of exceptions (12) to the definition of referrals, such as services: by a radiologist for an MRI; by a physician specializing in radiation therapy services; by a provider for diagnostic laboratory services related to renal dialysis; and by a nephrologist for renal dialysis services and supplies.

455.667 - Provides for the ownership and control of patient records. In certain instances, the department may obtain patient records and insurance records if a complaint has been filed alleging inadequate medical care based on termination of insurance. In the course of its investigations, the department has determined that the patient's billing records are needed to determine if fraud has been committed. However, the department has had difficulty obtaining these records in the past. The keeper of the records maintains that the department is only entitled to patient records, and that billing records are not part of these records.

455.687 - Provides for immediate suspension of license for certain health care practitioners. The department states that it currently has no authority to suspend, on an emergency basis, the license of any practitioner who tests positive on a drug screen conducted for purposes of employment.

455.694 - Provides requirements for financial responsibility for a selected number of professions (acupuncture, dentistry, advanced registered nurse practitioner, and chiropractic and podiatric medicine). Midwives are not currently required to comply with financial responsibility laws.
In addition, business establishments licensed under the various MQA chapters currently are not required to meet the same conditions as practitioners in maintaining active status licenses or held to the same disciplinary standards.

Acupuncture - Chapter 457, F.S.

Currently, there is no approval process, registration, or regulation of visiting faculty who wish to teach, demonstrate, or lecture in the arena of professional acupuncture education. Many other professions currently have provisions for faculty permits or licenses.

Medicine - Chapter 458, F.S.

Current law requires all applicants for testing to apply to the Board of Medicine. However, as of January 1, 1999, all medical examinations will be given by the Federation of State Medical Boards and the applications are to be submitted to the Federation and not the various states. Also, effective January 1, 2000, only applicants for licensure who have passed all parts of the USMLE examination will be accepted for licensure. The examination requirement section of the Medical Practice Act needs conforming to the existing requirements of national medical examinations and removal of obsolete language.

The endorsement requirement section in ch. 458 needs conformation to the current requirements of the national medical examinations and contains obsolete language. Effective January 1, 2000, only applicants for licensure who have passed all parts of the USMLE examination will be accepted for licensure by endorsement.

Current law, as it relates to the issuance of temporary licenses, provides that each time a licensee wants to move between areas of critical need, the licensee must make an application to the Board of Medicine for approval. There has been an expressed need for portability of a temporary certificate for practice in areas of critical need instead of requiring re-licensure whenever a practitioner moves from one locale to another.

Current law requires a full application and review process before a licensee with an active license may convert it to a limited license (part-time/retirement). There is a need for a simple conversion of a full license to a limited license under certain conditions without a lengthy re-application and certification process.

The Board of Medicine does not currently have the authority to discipline a licensee for failure to comply with the law regarding patient rights. Also, the current cap is a $5,000 fine per count for disciplinary offenses. This has been in effect for a long period and it is felt by the board that the cap of a $5,000 fine per count for disciplinary offenses is not punitive enough for some situations, such as cases of egregious fraud.

There is currently no statutory time limit on a temporary license issued to a physician assistant under ch. 458. Also, the current law requires a practical examination as a component of the licensure examination for physician assistants.

Osteopathic Medicine - Chapter 459, F.S.

The current definition of the “practice of medicine” does not encompass making or approving a diagnosis, treatment plan, operation, procedure, or prescription as the medical director of an institution, program, health plan, or insurer. The Board of Osteopathic Medicine maintains there is no accountability to the board under its standards by these individuals for the practice of medicine. The definition is silent as to whether the practice of osteopathic medicine includes coverage decisions for purposes of insurance benefits.

Current law requires a full application and review process before a licensee with an active license may convert it to a limited license (part-time/retirement). There is a need for a simple conversion of a full license to a limited license under certain conditions without a lengthy re-application and certification process.

The Board of Osteopathic Medicine does not currently have the authority to discipline a licensee for failure to comply with the law regarding patient rights. Also, the current cap is a $5,000 fine per count for disciplinary offenses. This has been in effect for a long period and it is felt that the cap of a $5,000 fine per count for disciplinary offenses is not punitive enough for some situations, such as cases of egregious fraud.

Chiropractic Medicine - Chapter 460, F.S.

Presently, a requirement exists for chiropractic licensure candidates to complete a post graduate internship. In the past, the Board of Chiropractic Medicine had established rules for the qualifications and procedures of a supervising physician. However, these rules were determined to

exceed the board's authority. The board is of the opinion that the law should be changed to grant them the authority to establish rules for the qualifications and procedures of a supervising physician.

Also, the board may not fine a licensee more than $2,000 per count in any disciplinary case, even in such cases as egregious fraud.

Podiatric Medicine - Chapter 461, F.S.

Currently, podiatric X-ray assistants are not regulated under the Board of Podiatric Medicine. They are certified under the provisions of a different chapter of law and by a different division of the Department of Health. There are no requirements or practice guidelines specified in the Podiatric Medicine Practice Act for the use of X-ray machines by podiatric X-ray assistants. They are currently certified under ch. 468, part IV, F.S., relating to radiologic technology. Section 468.307, F.S., does not contain any provision for the department to establish by rule a subcategory of a certificate limiting the holder to a specific procedure or specified type of equipment.

The licensure requirements for podiatric medicine presently does not have any provisions to require that an applicant has been actively training, teaching, or practicing within a certain time frame before licensure. There is no definition of "active practice of podiatric medicine." In some instances, this prevents the board from denying licensure to an applicant who has been out of active practice for many years.

Also, the Board of Podiatric Medicine does not have authority to discipline licensees who violate the patient's rights law. The board can not impose more than a $1,000 fine per count for disciplinary offenses, no matter how serious the violation.

Nursing - Chapter 464, F. S.

There is currently no limit on the number of times an applicant may take the nursing licensure examination or authority for the board to establish by rule, guidelines or conditions for re-training in the event of failure.

The definition of the "practice of nursing" does not encompass those individuals who may be enrolled in remedial courses in order to be approved for examination.

Pharmacy - Chapter 465, F.S.

Chapter 465, F.S., regulates the practice of pharmacy. The Board of Pharmacy is currently composed of nine members. Two of the members are consumer members and the remaining seven members are pharmacists.

Section 465.003(12), F.S., defines the "practice of pharmacy" as including "compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug and consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders." The phrase also includes "any other act, service, operation, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients."

While pharmacists are authorized to dispense medications and consult with patients regarding their medications, they are not authorized to evaluate and monitor the patient's health as it relates to drug therapy and assist the patient in the management of their drug therapy. A pharmacist does not have authority to diagnose and treat patients, or to alter the prescriber's directions.

Present regulations allow pharmacists to order and evaluate laboratory tests in nursing homes and long-term care facilities.

Section 465.016, F.S., provides various grounds for disciplinary actions against a pharmacist. One ground for disciplinary action is placing in the stock of a pharmacy any part of a prescription which is

returned by a patient; however, an exception is made for a hospital, nursing home, or extended care facility in which unit-dose medication is dispensed to patients and the medication meets certain requirements.

There is currently no definition in the pharmacy statute for a “data communication device” as used in a pharmacy setting.

The return of unit-dose prescriptions in institutions does not currently encompass pharmacies located in correctional facilities. Also, the Pharmacy Practice Act does not make provision for disciplining licensees who do not protect the confidentiality of patients’ records. The board may not fine more than $1,000 per disciplinary offense, no matter how serious the violation.

Also, the present law is unclear as to who owns the records maintained in a pharmacy and does not specify the conditions under which those records may be released by a patient to other parties. There is no prohibition on the use of records obtained through data communication devices, and no explicit ground for disciplining a pharmacist for unauthorized release of a patient’s records.

Dentistry - Chapter 466, F.S.

Work orders for use by unlicensed personnel to perform dental laboratory services are now required to be on a form approved by the department. This form must be supplied to the dentists by the department at a cost not to exceed that of printing and handling.

The current definition of the “practice of dentistry” does not encompass making or approving a diagnosis, treatment plan, operation, procedure, or prescription. The definition is silent as to whether the practice of dentistry includes coverage decisions for purposes of insurance benefits.

Speech-Language Pathology & Audiology - Chapter 468, Part I, F.S.

Currently, there are two avenues for licensure. One avenue is to meet the requirements of the practice act. The second avenue, or exception, is through the Department of Education, which expires on January 1, 2000. After this date, there will only be one licensure procedure, which will provide for uniform licensure.

The current law only requires a master’s degree with a major emphasis in speech-language pathology. However, the University of Florida has a program that does not offer a master’s degree, only a doctoral degree. There is currently confusion as to whether the University of Florida program will comply with the letter of the law.

Also, the board may certify certain persons who meet specific criteria as a speech-language pathology assistant, or as an audiology assistant. While it is not clear, the Department of Education has requested that the statutory language reflect the reality that these applicants must obtain a bachelor’s degree.

Dietitians & Nutritionists - Chapter 468, Part X, F.S.

The practice act for dietitians and nutritionists does not currently define sexual misconduct. This makes it extremely difficult to prosecute a licensee for a violation.

Athletic Trainers - Chapter 468, Part XIII, F.S.

There is currently a Council of Athletic Training composed of seven members reporting to the department. Four of the council members are required to be athletic trainers, one member a physician licensed under ch. 460, F.S., one member a physician licensed under either chapter 458 or 459, F.S., and one consumer member. The council is to advise and assist the department in regulating this profession.

Orthotics, Prosthetics, & Pedorthics - Chapter 468, Part XIV, F.S.

A new Board of Orthotics and Prosthetics was created in 1997, to regulate this profession. A March 1, 1998, date was provided to grandfather in certain professionals who were currently practicing or in

the process of becoming certified to practice this profession. Provision was provided to either issue a license or a provisional license based on the qualifications of these individuals.

Electrolysis - Chapter 478, F.S.

Electrolysis has an advisory council that makes recommendations to the Board of Medicine which actually regulates this profession. Electrolysis or electrology means the permanent removal of hair using needle type epilation devices that are registered with the United States Food and Drug Administration. These devices are used pursuant to protocols approved by the council and the board. Recently, new types of devices have become available that no longer fit the above definition. The board wants to change s. 478.42, F.S., to reflect this new type of equipment and clarify the approved equipment that may be used in the practice of electrology.

Clinical Laboratories - Chapter 483, Part I, F.S.

Clinical laboratories are regulated by the Agency for Health Care Administration. Section 483.041, F.S., provides definitions for clinical laboratories, but the definition of clinical laboratory services is not provided in much detail. An expansion of this definition would benefit regulation of this service.

Clinical Laboratory Personnel - Chapter 483, Part III, F.S.

Clinical laboratory personnel are regulated by the Department of Health. They are classified as health care practitioners. Sections 483.800 through 483.828, F.S., provide for the regulation of clinical laboratory personnel. A number of the provisions for applications and renewal fees for laboratory training need clarification. The Board of Clinical Laboratory Personnel needs rule-making authority to designate approved certification examinations. The annual registration of clinical laboratory trainees is onerous and unnecessary according to the department. The current requirements for public health laboratory scientists restrict the number of applicants that may qualify for licensure as laboratory scientists in public health.

Also, the board does not have rule-making authority to impose remedial training on failed applicants.

State requirements for licensure of laboratory directors do not necessarily conform to federal standards. In addition, the board lacks the authority to discipline for criminal convictions under the same provisions as other boards in MQA. Much of the language in s. 483.825, F.S., relating to grounds for disciplinary action, does not conform to provisions similar to those of other regulatory boards.

Medical Physicists - Chapter 483, Part IV, F.S.

Medical physicists have been regulated by the state for approximately four years. The law that initially provided for their regulation could not be implemented because of several technical difficulties. It was recently discovered that s. 483.901, F.S., provides for the department to issue a temporary license for an indefinite period. The department needs to delete the authority to issue a temporary license for an indefinite time period.

Opticians - Chapter 484, Part I, F.S.

Currently, s. 484.007, F.S., provides no guidance as to the experience required prior to an optician being able to supervise an optician trainee. Without any guidance, a newly licensed optician can supervise trainees immediately. The board is of the opinion that additional experience is necessary prior to the supervision of a trainee.

Fitting/Dispensing of Hearing Aids - Chapter 484, Part II, F.S.

Current statutes provide a 30-day trial period in which a hearing aid may be returned for a full refund. However, there are many instances reported where the refund is not made in a prompt manner. It has been suggested that the period for a refund should mirror language that speech-language pathology and audiology have in their practice act. It requires a refund within 30 days of the return or attempted return of the hearing aid.

Physical Therapy - Chapter 486, F.S.

Currently, the Board of Physical Therapy issues a temporary license as a physical therapist or for a physical therapist assistant. Because the board has recently changed to computer-based testing, there is no longer a need to issue temporary licenses.

Psychology - Chapter 490, F.S.

To become licensed as a psychologist in Florida, an applicant must meet various requirements which include graduation from a school with a psychology program accredited by an agency recognized and approved by the United States Department of Education. These requirements applied to education received prior to July 1, 1999. However, a provision was passed last year which provided that an applicant could submit to the board prior to July 1, 2001, that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education. The comparability was to be determined by the board.

Also, a psychologist licensed in another state may become licensed in Florida by endorsement provided the requirements in the other state were substantially equivalent to those of Florida, or the psychologist is a diplomate in good standing with the American Board of Professional Psychology, Inc.

Clinical Social Work, Marriage & Family Therapy, & Mental Health Counseling - Chapter 491, F.S.

The current statute provides that effective January 1, 1998, any individual who intends to practice in Florida to satisfy postgraduate or post-master's level experience requirements, must register (with the board) as an intern in the profession for which the individual is seeking licensure prior to beginning such experience. Also, such individual must be certified by the board as having met certain other requirements.

Section 491.0045, F.S., provides certain educational requirements for clinical social workers, mental health counselors, and marriage and family therapists.

Section 491.0046, F.S., provides that any individual who has satisfied the clinical experience requirements and is applying for licensure by examination or endorsement intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida must have a provisional license while satisfying the examination requirements. The provisional license must be obtained prior to beginning practice.

Subsection (4) of s. 491.005, F.S., as passed last year, changes the educational requirements for licensure as a mental health counselor effective January 1, 2001. The board needs rule promulgation authority for administering the new requirements for licensure of mental health counselors.

Pursuant to the requirements of s. 491.0085, F.S., the board is now required to give laws and rules examinations four times a year. The law does not currently allow the providers of laws and rules courses to test licensees upon completion of the courses.

The exemptions contained in s. 491.014, F.S., provides that a nonlicensed person may perform services authorized in this chapter no more than 5 days in any month, and no more than 15 days in any calendar year.

Medical Practice/Telemedicine

- National Interests

According to the *U.S. Department of Commerce Report to Congress on Telemedicine* published January 31, 1997, there has been a tremendous expansion in the number and scope of "telemedicine" projects in the last decade. The report recognizes that telemedicine offers the potential to provide health services across vast distances; however, health professionals must be licensed and regulated at the state level. Currently, each state has established a Medical Practice

Act that defines the process and procedures for granting licensure, renewing the license, and regulating the medical practice within the state.

The report delineates that historically, interstate physician-to-physician communications have not been subject to licensing requirements. These communications can take a variety of forms, including: the mailing of x-rays; clinical histories and pathological and laboratory specimens for evaluation and interpretation; and oral or written inquiries to another out-of-state physician involved in the patient's care or in the form of a specific consultative request to a physician with specific expertise. In these interstate communications, the consulted physician or other health care professional is regarded either as practicing medicine only in his or her home state or is exempt from licensure under the "consultation exception" in the patient's state.

The report identifies that, until recently, few states have addressed issues concerning out-of-state physicians who provide patient health care via electronic communications. Like the state medical practice acts on which they are based, the text of specific telemedicine provisions varies significantly from state to state.

In 1996, the Federation of State Medical Boards (FSMB) produced "A Model Act to Regulate Practice of Telemedicine by Other Means Across State Lines." This report contains legislative language to create a secondary or limited license for telemedicine purposes. Three states, Alabama, Tennessee, and Texas, have enacted legislation consistent with FSMB's philosophy. The American Medical Association (AMA) has opposed the model act produced by FSMB and called for a resolution requiring "full and unrestricted license" in each state for "those who wish to regularly practice telemedicine in that state."

In the past several years, several other states including, Kansas, Nevada, California, Connecticut, Indiana, Oklahoma, and South Dakota have enacted regulations or legislation governing licensure of out-of-state telemedicine health professionals. All of these states, except California, have adopted the AMA's resolution and require an out-of-state physician to obtain a full and unrestricted license before consulting directly with patients in the state.

- Interstate Commerce

The U.S. Supreme Court has long recognized that states, pursuant to their police powers under Article X of the Constitution, have the authority to regulate their own activities of legitimate local concern, including the regulation of health professionals. However, the Commerce Clause of the Constitution under Article I, prohibits states from erecting barriers against interstate trade. The *U.S. Department of Commerce Report to Congress on Telemedicine* addresses the fact that although the practice of medicine has traditionally been local in nature, the advent of telemedicine automatically introduces a distance independent variable that is, by definition, neither local nor traditional. Further, the report concludes that if asked to examine a restrictive state licensure law, the courts must balance the objective of the state law against the burden on interstate commerce. Twenty-two courts have upheld state statutes requiring out-of-state entities to obtain a license to engage in the practice of medicine within the state's borders. In these situations, the court found that the burden of obtaining a license was outweighed by the need to protect important state interest.

- Florida

Medical doctors, or allopathic physicians, seeking to practice medicine in Florida must apply for state licensure. The Department of Health, Board of Medicine is the regulatory agent administering the Medical Practice Act found in chapter 458, F.S. The Board of Medicine maintains that "practicing in this state" relates to the location of the patient. Any physician located and licensed in any jurisdiction other than Florida, who has the primary responsibility for the care or diagnosis of a patient residing in Florida, is subject to Florida licensure. Section 458.303, F.S., exempts physicians who are lawfully licensed in another jurisdiction and providing consultation to a Florida physician. This constitutes Florida's "consultation exemption".

Rule 64B8-2.001(8), Florida Administrative Code, defines "consultation" as: an examination of a patient, taking a history and physical, reviewing laboratory tests and x-rays, and making recommendations to a Florida licensed physician with regard to the diagnosis and treatment of a

patient. However, “consultation” does not include the performance of any medical procedure or rendering of treatment to a patient.

In 1995, the Legislature passed s. 458.3255, F.S., which states “... only a physician licensed in this state or otherwise authorized to practice medicine in this state may order, from a person outside this state, electronic-communications diagnostic-imaging or treatment services for a person located in this state.” The Board of Medicine maintains that this section does not specify that the out-of-state practitioner providing electronic-communications diagnostic imaging or treatment services must be licensed in Florida. Accordingly, as long as the physician ordering the tests and sending them out of the state for interpretation is a Florida licensed physician, the practice complies with existing law.

For instance, the physician(s) for a large company in South Florida currently have a large number, if not all, of their radiologic images sent out of state to be read by physicians located at a University in California. This practice currently complies with existing law. According to the DOH, no documented cases or major problems have occurred because of this arrangement.

Section 458.327, F.S., establishes that the practice of medicine without a license in Florida is a third degree felony. The Department of Health has established an office that handles investigations of unlicensed activity cases and coordinates prosecutorial actions with the State Attorney.

In 1998, the Department of Health created a Task Force on Telemedicine. The task force is examining regulatory issues, technological issues, and access to care issues relating to telemedicine. The task force first met on December 11, 1998, and anticipates completing its work by late 1999, concluding with a report to the Secretary of the Department of Health and including recommendations for legislative action for the year 2000 session.

Nurse Practice Act/Telehealth Services

The term “telehealth” is not defined in the Nurse Practice Act, nor is it currently used anywhere in the act. The American Nurses Association (ANA) distinguishes telecommunications technologies in providing health care services as being broader than the discipline or practice of medicine. As such, “telehealth” encompasses telemedicine, telenursing, and teleradiology. The mechanisms of telecommunication used include telephones, computers, interactive video, and teleconferencing. ANA recognizes that while the application of this new technology offers the possibility of significant benefits to the health of individuals, it is also important to address the concerns and problems attendant to this technologic advancement.

An area of controversy on the subject of telehealth relates to the question of where the service is considered to take place. Is the delivery of health care construed as an activity that takes place at the location of the patient or at the location of the health care practitioner (doctor, nurse, etc.) providing the advice, instruction, or consultation? The answer to this question is significant because of at least two factors. One factor is that Medicare uses the location of the service (the “pricing locality”) as a partial determinate of the amount it will pay. The second relates to health care practitioner licensure requirements. The licensure of health care practitioners is accomplished on a state-by-state basis. Generally speaking, a person must be licensed in any state in which he or she practices and a person licensed in another state is not allowed to practice in Florida unless he or she is also licensed in Florida.

On the other hand, persons who live in Florida have a reasonable and legal option to travel to another state and seek treatment options and services of health care professionals licensed in that state. For obvious reasons, the consulted health care practitioner is not required to obtain a Florida license based upon seeing a Florida patient. Therefore, should the provision of telehealth services be considered to take place as if: (1) the out-of-state practitioner has traveled to the in-state patient to deliver the services, or (2) the in-state patient has traveled to the out-of-state practitioner to receive the services?

There are significant legal implications in health care service transactions between the patient and the practitioner. If the services are considered to take place where the patient is located, essentially all telehealth services by out-of-state health care professionals would be severely constricted since it is not practical for a health care professional to be licensed in multiple states.

The Board of Nursing has previously taken the position that care occurs where the patient is, not where the practitioner is. However, there is no evidence that the Department of Health has attempted to prosecute any of the health care professionals who engage in the out-of-state provision of telecommunicated health care services.

Health Care Practitioners/Adverse Incident Reports

Currently, there is no requirement for physicians licensed pursuant to chapter 458 or 459, F.S., to file reports of adverse incidents that occur during surgery performed in their offices. However, s. 395.0198, F.S., requires the reporting of all adverse incidents that occur in facilities licensed pursuant to ch. 395 (mainly hospitals and ambulatory surgery centers). The report is filed with the Agency for Health Care Administration with the information available to the Department of Health to determine if disciplinary action is required against a licensee of the department.

Adverse incidents are described as an incident which results in one of the following: death of a patient; brain or spinal damage; performance of a surgical procedure on the wrong patient; performance of a wrong-site surgical procedure; performance of a wrong surgical procedure; and performance of a medically unnecessary procedure, to identify a few of the named procedures.

These reports that are filed are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, of the State Constitution. In addition, the information is not discoverable or admissible in a civil or administrative action, unless the action is a disciplinary proceeding by the department or appropriate regulatory board.

Section 119.07(1), Florida Statutes, and section 24(a), Article I of the State Constitution, provide for public access to any records produced or obtained by a government agency. However, the Legislature is authorized to provide by general law for the exemption of certain records. The general law exempting the records must state with specificity the public necessity justifying the exemption.

The justification for the exemption is the fact that the Legislature found that these exemptions are a public necessity, and that it would be an invasion of a patient's privacy for such personal, sensitive information contained in these reports to be publicly available. Also, the fact that an investigation is being conducted, would deter the collection and reporting of this information to the department. This would prevent the agency or department and the appropriate regulatory boards from effectively carrying out their responsibility to protect the health, safety, and welfare of the public. The Legislature has consistently and repeatedly acknowledged the public necessity of these types of exemptions.

The need for the Board of Medicine to adopt more stringent rules relating to office surgery has recently become a topic of concern. The board first adopted rules relating to office surgery in 1994. In the past two years, the board has become increasingly concerned about public safety issues relating to office surgery as reflected by the number of physician cases involving patient disfigurement and deaths related to plastic surgery and other procedures.

The Ft. Lauderdale Sun Sentinel published a series of investigative reports from November 29 through December 4, 1998, about deaths and complications resulting from plastic surgery. The Sun Sentinel reported that at least 34 people have died in Florida after plastic surgery performed in physicians' offices, surgery centers, or hospitals since 1986. Many of the cases reported did not reach the board for potential disciplinary action because current regulations for office-based surgery do not require a report of all serious injuries like is required for hospitals or ambulatory surgery centers licensed under ch. 395. Therefore, the board does not become aware of the physician's unsafe practice unless a patient files a complaint, a hospital files a report, or a notice of malpractice litigation is submitted sometimes years after the event. According to the Department of Health, the absence of injury reports and mandatory inspections or accreditation compromises the board's ability to take rapid action to prevent avoidable patient injuries and protect the general public.

Authority for the Board of Medicine to adopt rules requiring the registration and inspection of physicians' offices used for office surgery is currently under review. The Department of Health and the Board of Medicine maintain that the board has such authority. The statute cited for the rulemaking authority was passed in 1998 (s. 458.331(1)(v), F.S.). A notice of a proposed rule change was published on January 22, 1999, in the Florida Administrative Weekly. While the board's

position is that it has rulemaking authority to address this issue, staff of the Joint Administrative Procedures Committee has questioned the board's authority. The board has requested legislation clarifying this rulemaking authority to reaffirm the Legislature's intention that the board adopt the necessary rules to ensure adequate standards of care for office-based surgery.

Standardized Credentialing of Health Care Practitioners

Prior to 1998 Legislative Session - There was no standardized credentialing process for health care practitioners licensed under chapters 458, 459, 460, or 461, Florida Statutes (medical, osteopathic medicine, chiropractic medicine, and podiatric medicine physicians, respectively). There were approximately 50,000 physicians licensed in those four professions. The majority, approximately 40,000, were licensed medical physicians.

Those four professions were the primary health care practitioners involved in the duplication resulting from the current multiple credentialing process required by the various health care entities (hospitals, managed care groups, health insurance groups, and other third-party health care payers). The duplication involved in credentialing and recredentialing was unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. There was no one group to receive and verify the core credentials of a physician. A health care practitioner's core credentials data was collected, validated, maintained, and stored by each health care entity for which the practitioner applied for practice privileges.

The 1997 Legislature recognized that health care practitioner credentialing activities had increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. To expedite a standardized credentialing system and eliminate duplication, the Legislature, in chapter 97-261, Laws of Florida, provided for the appointment of a special task force by the Secretary of the Department of Health to study the issue and report back to the 1998 Legislature.

The task force reviewed the issues and made its final report in January, 1998. The following is a summary of their recommendations:

- A standardized system for collecting and verifying core credentials of health care practitioners through a certified credentials verification entity should be established.

- Data on individual practitioners should be centrally stored with only one entity. Each entity must meet national standards and be certified by national accrediting organizations. Monitoring procedures should be in place to ensure quality control and maintain continuity in the credentials verification process.

- Health care entities should be held harmless and should not be liable if they rely on data obtained from a certified credentials verification entity.

- Core credentials data should be collected only once by a certified credentials verification entity. However, a health care entity may obtain additional information if required by the entity's credentialing process.

- All efforts should be made in the legislation to minimize costs to health care practitioners as well as to health care entities.

- Credentials verification entities should be required to establish procedures to ensure primary source verification of core credentials, whenever possible. Exceptions should be allowed only in accordance with standards outlined by national accrediting organizations.

- Health care practitioners should have an opportunity to review the core credentials data before it is stored in the data bank of an entity.

- The credentials verification entity must collect the core credentials data on a standardized form. The data must be updated whenever the practitioner's status changes; otherwise at least quarterly.

Chapter 97-273 relating to physician profiling provided for the Department of Health to gather much of the core credentialing data. It provided for the department to compile certain information submitted in a physician profile of each licensee and to make those profiles available to the public. The profiles were to be developed for the following four practitioners: medical, osteopathic, chiropractic, and podiatric physicians. The profiles were mailed out by the department in February, 1999, and were to be returned to the department by April 15, 1999, and compiled and available to the public over the Internet beginning July 1, 1999. However, prior to release of the profile over the Internet, the department is required to allow the practitioner 30 days to review and make factual corrections. In 2000, the department is to recommend other professions, if any, that should be added to the profiling requirements of s. 455.565, F.S.

Applicants for licensure or relicensure in the four professions are required to submit a set of fingerprints and pay certain fees. Applicants for relicensure are not required to submit a set of fingerprints until after January 1, 2000. The department must submit the fingerprints to the Department of Law Enforcement for a national criminal background check (includes FBI). Failure to comply, within 30 days of notice of noncompliance, may result in a citation and a fine of up to $50 for each day of noncompliance.

The department was authorized to issue emergency orders suspending the license of a medical or osteopathic physician who failed to comply with certain financial responsibility requirements of the appropriate chapter.

The 1997 law provided that liability actions and information in the possession of the department relating to bankruptcy proceedings of specified practitioners are public records. The department was required to make this information available upon request. Insurers were required to report professional liability claims and actions. The time frame for reporting was 45 days.

1998 Legislative Action - As a result of the Task Force report, the Legislature passed HB 4515 (ch. 98-226, Laws of Florida). HB 4515 provided for standardized credentialing of physicians licensed under chapter 458, 459, 460, or 461, F.S. (medicine, osteopathic medicine, chiropractic medicine, and podiatric medicine, respectively). Provision was made for other health care practitioners to participate provided they meet the profiling requirements of s. 455.565, F.S. **The effective date of this law is July 1, 1999.**

The 1998 law provided a statement of intent about the current duplication in credentialing and how it was unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. It further provided for the establishment of a mandatory credentials verification program. Definitions were provided for implementation of a standardized program with standardized forms.

Once a health care practitioner's core credentials data was collected and validated by a "credentials verification entity" (CVE), the health care practitioner was not required to resubmit this initial data when applying for practice privileges with health care entities. Timely updating of this information, no less than quarterly, was required. A CVE was required to be certified by a quality assurance program from one of several national accreditation organizations. The practitioner may select a "designated" CVE responsible for responding to all inquiries about said practitioner. A health care entity may use either the designated CVE or the Department of Health to obtain current credentials data on a practitioner applying for privileges with such entity. This law required the Department of Health to become a credentials verification entity and to meet the quality standards required for private CVEs. Any additional information required by such entity may be collected from a primary source, or the designated CVE. The department, in consultation with a thirteen-member advisory council, was to develop standard forms for the reporting of initial data for credentialing and periodic updating for recredentialing purposes.

Under current law, a health care entity is held harmless and is not liable if it relies on data obtained from a CVE or the department as a CVE. All CVEs, other than the department, are required to maintain liability insurance coverage. Any CVE that does business in Florida must be certified and registered with the department.

At the time of passage, the total potential savings to the private sector were not available. However, according to several health care entities, the savings were to be substantial.

July 1, 1998, to present - During the summer of 1998, and up to approximately November 1, 1998, the department attempted to implement the provisions of HB 4515. Several meetings were held with the Credentials Advisory Council, and the department held numerous meetings with the various groups involved in credentialing health care practitioners. However, it became evident to the department that they could not meet all of the requirements to be a fully certified CVE since the national certification program was not designed for a state agency.

With that policy decision being made, the health care industry (mostly hospitals and HMOs) decided they wanted to continue with their current credentialing process with as few changes as possible. It was decided that the department would serve as a central depository of all health care practitioner's core data, and any corrections, updates, or modifications. The data maintained by the department would in most instances be unverified data, and it would be the responsibility of each health care entity to electronically obtain the information from the department, and the responsibility of the primary source to verify the data the way they had done in the past.

The principle difference is that each health care practitioner will no longer be required to submit the same core data to every health care entity that wanted it. Once the data is available from the department, a health care practitioner will no longer be required to supply it to all of the entities with whom they have a relationship. The average health care practitioner maintains a relationship with an estimated 25 health care entities.

Once that decision was reached, the department began working with a consultant to assist them in developing a system that would meet these requirements in a timely fashion. According to the department, a prototype of this system will be available July 1,1999, and the system will be fully operational by December 31, 1999. As of this date, the various health care entities around the state will be able to electronically obtain all of the necessary data on Florida's approximately 50,000 health care practitioners.

Miscellaneous Issues

The Administrative Procedure Act and Agency Rulemaking Authority

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

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

Recreational Sport Diving

According to the Professional Association of Diving Instructors, three individuals have died in the United States in the past nine years from unsafe compressed air. Air compressors for divers may be found at dive shops, marinas, on dive boats, and at some bait shops. It is estimated that 500 compressed air vendors are located in Florida. Compressed air is not presently required to be sampled and analyzed. Three laboratories nationwide, including one in Florida, are presently the

only laboratories certified for this type of testing. The Department of Health's laboratory does not provide the services required for this type of analysis.

The Professional Association of Diving Instructors (PADI) currently requires its twenty-five Five Star facilities in Florida to test compressed air quarterly. Beginning in January of 2000, PADI will begin voluntary testing of compressed air nationwide in all affiliated shops.

Fiscal Intermediary Services - Sections 626.883 and 641.316, F. S.

Effective January 1, 1999, all fiscal intermediaries were required to meet certain bond requirements and register with the Department of Insurance. The current requirements for a fiscal intermediary do not include any provisions relating to an explanation of benefits for payments to a health care provider. These payments are usually the result of contracts with health maintenance organizations.

Clinical Laboratory Services for Kidney Dialysis Patients

Currently, vertically integrated corporate entities that have dialysis clinics also have clinical laboratories that perform laboratory procedures on dialysis patients concomitant to the dialysis services. There are differing opinions regarding whether such arrangements should be allowed to operate this way, or whether there should be a divestiture of one service from the other within a single corporate entity. The Florida Legislature has not made a public policy decision regarding this issue. There are no data as to the extent to which this dual function is occurring, and what benefit or detriment may exist for dialysis patients from such arrangements.

Under current law, a nephrologist, when referring for renal dialysis services and supplies, is included as one of a limited number of practitioners and services that are exempt from the prohibition against self-referral in s. 455.654, F.S., the "Patient Self-Referral Act of 1992." The same is the case for a health care provider for diagnostic clinical laboratory services where such services are directly related to renal dialysis. Such services are supposedly exempted because of the highly specialized nature of the services and the limited number of providers of such services.

Department of Elderly Affairs/Area Agencies on Aging

Section 20.41, F.S. provides that, as mandated by the Older Americans Act, the Department of Elderly Affairs shall designate and contract with area agencies on aging in each of the department's eleven planning and service areas. Area agencies on aging have responsibility for development of plans for all aging issues in each of the planning and service areas and are to ensure a coordinated and integrated provision of long-term care services to the elderly, as well as ensure the provision of prevention and early intervention services. In addition, the role of area agencies on aging is to administer: the federally funded Older Americans Act program; the Emergency Home Energy Assistance for the Elderly Program (EHEAEP): the state funded Community Care for the Elderly (CCE); the Alzheimer's Disease Initiative (ADI); and the Home Care for the Elderly (HCE) programs. Area agencies on aging have not been subject to public records and public meeting requirements.

B. EFFECT OF PROPOSED CHANGES:

Department of Health

General Public Health Provisisions

This bill will improve efficiency of public health programs within the Department of Health. The bill will: clarify language regarding the use of incentives and promotional items in disease prevention and health education; revise the list of divisions that are authorized to exist in the department; update career service exemptions; permit the department to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning the Special Supplemental Food Program for Women, Infants, and Children (WIC) and Children's Medical Services (CMS); clarify co-payment requirements relating to primary care challenge grants; authorize the department to purchase automobiles for use by county health departments; remove any responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; correct the name of the WIC program to conform to federal law; revise the

membership of the Diabetes Advisory Council; and remove language requiring the department to reimburse hospitals for the cost of furnishing data for the cancer registry.

The bill will also: remove language that prevents the preliminary HIV test results of a mother who has just given birth from being released to the mother at the time of delivery; clarify requirements relating to the performance of HIV tests on deceased persons; give the department authority to adopt rules relating to inspection of certain group care facilities; give the department authority to adopt rules relating to family planning; provide a definition for “multi-family water system”; revise the definition of “private water system”; authorize nursing homes to purchase medical oxygen; revise the membership of the Health Information Systems Council; require the council to establish a review process for agency health-related data collection and maintenance; permit the Department of Health to become an accrediting entity of the National Environmental Laboratory Accreditation program; permit the Department of Health to pass on an increase in examination costs that the American Registry of Radiologic Technologist will make on January 1, 2000; change the time of biennial renewal to the birth month of the certified radiologic technician from December 31; provide names for three Department of Health buildings; repeal obsolete and unnecessary provisions relating to the submission of Healthy Communities plans and transportation of radioactive materials; allow the department to use excess money for the improvement of health facilities at, and authorize the department to establish an advisory body for, the A.G. Holley State Hospital.

Vital Statistics

The bill will revise department authority relating to vital records; provide the department with authority to adopt rules for the requirement of notarized documents; remove language relating to reproduction and destruction of records and the disclosure of certain Social Security numbers; and clarify procedures and modify reporting requirements relating to birth records.

Autism/Secretin

The Division of Children’s Medical Services of the Department of Health will be directed to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism, and require the nonprofit provider to report its findings to the Division of Children’s Medical Services, the President of the Senate, the Speaker of the House of Representatives, and other appropriate bodies.

An amount of $50,000 is appropriated to the Division of Children’s Medical Services of the Department of Health from the General Revenue Fund for the purpose of implementing this program.

Chapter 499--Drug, Cosmetics, and Household Products

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

Trauma Care and Planning

Legislative findings and intent are provided that state that there has been a lack of timely access to trauma care due to the state’s fragmented trauma system and that there is a necessity to plan for and establish an inclusive system which would incorporate and coordinate all providers who have resources to meet the needs of trauma victims. Additional findings relate to: coordinating the trauma-related activities of several state agencies; planning a statewide system; and the benefit of establishing interagency teams and agreements to develop guidelines, standards, and rules. Leadership responsibility for this activity is given to the Department of Health. Specific duties and issues which the multiple agencies must address are provided. Medical directors of emergency

medical services providers are required to have medical accountability for the trauma victim during an inter-facility transfer.

The department is encouraged to foster the provision of trauma care and serve as a catalyst for improvements in trauma care, including the promotion of trauma centers and agencies in each trauma region and updating the state trauma system plan by December, 2000, and every five years thereafter.

The definitions of local and regional trauma agencies is deleted. A definition is provided for trauma agency, which may be established and operated by one or more counties. A definition of "trauma alert victim" is provided. The definition of "trauma victim" is modified to include injuries due to burns and to remove "life-threatening" as a condition of being defined as a trauma victim. The frequency for submission of trauma agency plans is decreased from annually to every five years. Requirements for the department to approve or disapprove plans within specified time frames are eliminated. Requirements for public hearings with adequate notice and the requirement that trauma agencies submit written notice to the department 90 days prior to ceasing operation are removed.

Requirements of periodic revision by the Legislature of county trauma service area assignments based on recommendations made in local or regional trauma plans will be deleted. The bill requires the department to assume this review and assignment function, and requires the department to take into consideration regional recommendations and the recommendations made as a part of the state trauma plan in the review and assignment function. The review is to take place in the year 2000 and every five years thereafter.

Level I and Level II trauma centers will be required to each have the capability of treating a minimum of 1,000 and 500 trauma patients annually, respectively, with injury severity scores of nine or greater.

Emergency Medical Services providers will be required to transport trauma alert victims to hospitals approved as trauma centers, except as provided in local or regional trauma protocols or, if no local or regional trauma protocol is in effect, as provided for in a provider's departmentally approved trauma protocol, and that trauma alert victims be identified through the use of a trauma scoring system.

Emergency Medical Services

Statutory authority for specific sections of chapter 64-E, Florida Administrative Code, will be established. Statutory authority will be provided for current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient's prehospital medical record to the hospital that receives the patient.

The Minority HIV and AIDS Task Force

The bill establishes the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to strengthen HIV and AIDS prevention and treatment programs in minority communities. The Secretary of the Department of Health will appoint at least 15 persons to the task force. Membership will include, but not be limited to: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; members of the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The task force is required to report research findings and recommendations to the Legislature by February 1, 2001. The task force will be abolished by July 1, 2001.

The bill also directs the Department of Health to develop and implement a statewide HIV and AIDS minority prevention campaign. Elements of the campaign are to consist of: television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach intended to reach minorities at risk of HIV infection.

The bill establishes four additional positions within the Department of Health. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment efforts. The statewide coordinator will report findings, conclusions, and

recommendations directly to the chief of the Bureau of HIV and AIDS within the Department of Health. In conjunction with the Minority HIV and AIDS Task Force and the Department of Health, the minority statewide coordinator will conduct a Black Leadership Conference on HIV and AIDS to convene by January 2000.

The bill provides an appropriation of $250,000 from the General Revenue Fund for carrying out the provisions of the Minority HIV and AIDS Task Force.

Agency for Health Care Administration and Medicaid

General Provisions

The Department of Children and Family Services and the Agency for Health Care Administration are required to develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid identification number to be used for billing purposes and for monitoring of care for the child beginning with the child's date of birth. Technical changes relating to eligibility for the Medicaid service package in the CMS program are made. A phase-in of Medicaid capitated payments to CMS is provided. The Department of Health and the Agency for Health Care Administration are given the ability to share confidential information when it is needed for Medicaid reimbursement purposes. Language is provided to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver request. The section of statute relating to Medicaid third-party liability is amended to require health insurers and health maintenance organizations to develop the capability for tape matches for purposes of Medicaid file matches, using the Medicare standard billing format, to determine if Medicaid recipients might have any applicable insurance coverage. The "Medicaid Estate Recovery Act," is created which codifies into statute Medicaid's estate recovery process. The bill: amends the section of statute relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing, to delete the requirement that one of the four demonstration projects be conducted in Orange County; authorizes the Agency for Health Care Administration to withhold payments in whole or in part based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services; deletes existing limitations that the agency may only reduce payments up to ten percent of amounts owed, or up to $25,000 per month when an overpayment by the agency exceeds $75,000; provides for prompt payment of withheld payments to providers once withholding disputes are settled; creates a new section of statute that specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers; and repeals obsolete and unnecessary provisions relating to Medicaid alternative service networks. The Agency for Health Care Administration will be required to enter into agreements with the not-for-profit organizations based in this state for the purpose of providing vision screening.

Public Medical Assistance Trust Fund

The bill will provide for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include: the need for any statute updates; whether current assessments are equitably imposed; and whether exemption from or inclusions within the assessments are justified. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

Regulation of Health Care Practitioners

HB 1467 was amended onto HB 2125 to include provisions relating to various health care practitioners regulated by the Department of Health.

General Provisions - Chapter 455, F.S.

A uniform definition for sexual misconduct and its prohibition will be established. The opportunity for regulatory boards to discipline practitioners for certain violations will be expanded (including failing

to comply with the requirements of profiling and credentialing, testing positive for drugs or illegal drugs without a legitimate medical reason for such drug, and failing to inform patients about their rights). The bill will clarify that business establishments regulated by the Division of Medical Quality Assurance (MQA) are required to maintain an active business license. Information on hospital discipline of a health care practitioner from the practitioner profile report prepared by the Department of Health will be removed. The definitions in s. 455.667, F.S., will be expanded to provide that, in certain instances, the department may obtain patient records, billing records, and insurance records without patient consent if a complaint has been filed alleging inadequate medical care, fraud, kickbacks, etc., and certain conditions are met. Midwives will be required to meet the financial requirements contained in s. 455.694, F.S. Language will be provided establishing that there is no presumption that a blood-borne infection is a job-related injury, and that any person injured as a result of a willful violation of section 455.561, F.S., relating to disclosure of confidential information, shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Acupuncture - Chapter 457, F.S.

Acupuncture teaching permits will be provided and faculty from other countries and states will be permitted to teach in schools in Florida, for a period of up to 12 months, without a Florida license. Prescriptive rights will be defined to mean the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Medicine - Chapter 458, F.S.

The bill will authorize individuals possessing temporary licenses to practice in areas of critical need to work for approved employers in any area of critical need without getting approval for each area; establish authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increase the board's administrative fine cap for practice act violations from a maximum of $5,000 per violation to $10,000; extend the examination period for certain foreign physicians; and authorize the Department of Health to charge foreign licensed examinees a fee not to exceed 25% for the costs of the first exam and a fee not to exceed 75% of the actual costs for subsequent exams.

Osteopathic Medicine - Chapter 459, F.S.

The bill will authorize individuals possessing temporary licenses to practice in areas of critical need to work for approved employers in any area of critical need without getting approval for each area; establish authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increase the board's administrative fine cap for practice act violations from a maximum of $5,000 per violation to $10,000; and add authority to impose an administrative fine for a violation of a patient's rights.

Chiropractic Medicine - Chapter 460, F.S.

Chiropractic students enrolled in an accredited chiropractic college and participating in a community-based internship under direct supervision of a credentialed doctor of chiropractic medicine will be exempt from the provisions of ch. 460, F.S. Additionally: community-based internship will be defined; the board will be authorized to establish, by rule, qualifications for serving as a supervising chiropractic physician and procedures for approving a supervisor; the board's administrative fine cap for practice act violations will be increased from a maximum of $2,000 per violation to $10,000; the requirement for a post graduate internship for chiropractic licensure candidate will be deleted; and an undergraduate, "community-based" internship will be permitted.

Podiatric Medicine - Chapter 461, F.S.

A definition of the "practice of podiatric medicine" will be provided that includes the active practice of not less than two years of the four years prior to application. A certified podiatric X-ray assistant will be defined as a person employed under the direct supervision of a licensed podiatric physician to perform specific radiologic functions. The board will be directed to adopt rules to implement this program and provisions for the operation of X-ray machines by podiatric X-ray assistants will be

adopted. The board's administrative fine cap for practice act violations will be increased from a maximum of $1,000 per violation to $10,000.

Nursing - Chapter 464, F.S.

The number of times an applicant is permitted to take the examination will be limited and remedial training approved by the board will be required prior to subsequent examinations. In addition, no provisions of this chapter will be construed to prohibit the practice of nursing by individuals enrolled in board-approved remedial courses and certain uses of the title "Nurse" will be considered misdemeanors of the first degree.

Pharmacy - Chapter 465, F.S.

The bill will define "data communication device" as an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway; prohibit the use of records obtained through data communication devices; provide for the return of unit-dose prescriptions in institutions to include pharmacies located in correctional facilities; explicitly provide that a pharmacist may be disciplined for unauthorized release of a patient's records; increase the board's administrative fine cap for practice act violations from a maximum of $1,000 per violation to $5,000.

Dentistry - Chapter 466, F.S.

The bill will clarify that written work order forms are no longer required to be furnished by the department. Dentists will be required to obtain their own forms, which must be approved by the board.

Speech-Language Pathology & Audiology - Chapter 468, Part I, F.S.

The bill clarifies that a master's degree or a doctoral degree with a major emphasis in speech-language pathology qualifies for licensure and requires a bachelor's degree for all speech-language pathology or audiology assistants.

Respiratory Therapy - Chapter 468, Part V, F.S.

The bill creates the Board of Respiratory Care in place of the Advisory Council of Respiratory Care. It also revises membership of the board, establishes that board in this part refers to the Board of Respiratory Care rather than the Board of Medicine, and provides that the board may adopt rules to administer this part.

Athletic Trainer - Chapter 468, Part XIII, F.S.

The bill converts the Council of Athletic Training composed of seven members reporting to the department to a Board of Athletic Training composed of nine members. It requires five of the council members to be athletic trainers, one member to be a physician licensed under ch. 460, one to be a physician licensed under either chapter 458 or 459, and two members to be consumers; and provides for staggered terms. The board shall maintain its headquarters in Tallahassee. All council member terms are terminated on July 1, 1999. Council members may be considered for appointment to the new board.

Orthotics, Prosthetics, & Pedorthics - Chapter 468, Part XIV, F.S.

The bill provides a "grandfather" provision for certain professionals. Applicants who successfully completed, prior to March 1, 1998, at least half of the examination requirements for national certification, and completed the remaining portion prior to July 1, 1998, are "grandfathered" in and considered as nationally certified by March 1, 1998.

Certified Nursing Assistants - Chapter 468, Part XV

House Bill 2031 was added to HB 2125 to create part XV, chapter 468, F.S., to require the Department of Health to regulate the practice of certified nursing assistants in Florida. The bill

provides requirements for certification. Additionally, the department is authorized to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of prohibited acts specified in the bill.

Furthermore, the bill: authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Family Services; requires each employer of certified nursing assistants to submit to the Department of Health a list of names and Social Security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial; provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public; and authorizes the department to adopt rules for the implementation of part XV, chapter 468, F.S.

Electrolysis - Chapter 478, F.S.

The bill clarifies the definition of electrolysis to mean the permanent removal of hair by destroying the hair-producing cells using equipment and devices approved by the Board of Medicine and cleared by and registered with the U.S. Food and Drug Administration.

Clinical Laboratories - Chapter 483, Part I, F.S.

The bill expands the definition in s. 483.041, F.S., for clinical laboratories, by including specific services that are provided, and authorizes a clinical laboratory to accept an order from an out-of-state practitioner as long as the patient resides in the same state.

Clinical Laboratory Personnel - Chapter 483, Part III, F.S.

The bill revises several sections of law relating to this profession, mainly to conform clinical laboratory director qualifications to federal regulation, and strengthens and conforms grounds for disciplinary action to mirror provisions in other practice acts of professions regulated by MQA.

Medical Physicists - Chapter 483, Part IV, F.S.

The bill removes the provision for the issuance of a temporary license which is no longer necessary because the department is able to process applications in a timely manner.

Opticians - Chapter 484, Part I, F.S.

The bill provides that a licensed optician must have been licensed for at least one year prior to being able to supervise an apprentice.

Fitting/Dispensing of Hearing Aids - Chapter 484, Part II, F.S.

The bill provides that the period for a refund mirrors language that is in the Speech-Language Pathology and Audiology Practice Act, and requires a refund within 30 days of the return or attempted return of the hearing aid. Increases the penalty for the unlicensed practice of the profession from a second-degree misdemeanor to a third-degree felony.

Physical Therapy - Chapter 486, F.S.

The bill provides that a physical therapist may refer patients to or consult with licensed Advanced Registered Nurse Practitioners (ARNP), and revises several sections of statutes to repeal temporary license status.

Psychology - Chapter 490, F.S.

The bill: amends a provision passed last year which provided that the date an applicant could submit to the board from prior to July 1, 2001, to August 31, 2001, and that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education; changes comparability from that determined by the board, to providing a certificate of comparability provided by the program director of an accredited doctoral-level psychology program; provides that a psychologist with a doctoral degree in psychology, and who has at least 20 years of experience as a licensee in any jurisdiction of the United States within 25 years preceding the date of application, may be licensed in Florida; and provides that a patient's psychological report may be released to an employer or insurance carrier.

Clinical Social Work, Marriage & Family Therapy, & Mental Health Counseling - Chapter 491, F.S.

The bill provides that applicants who register as interns on or before December 31, 2001, and meet the education requirements in effect on December 31, 2000, are deemed to have met the educational requirements for licensure and clarifies that an applicant may be issued a duel license and charged a fee.

Credentialing

The Department of Health will no longer be identified as a credentialing verification entity (CVE) for all health care practitioners in the state. The department is designated as a depository for mostly unverified core credentials data and responsible for corrections, updates, or modifications to such data. Core credentials data will be electronically available to any health care entity that is authorized access to the data by the health care practitioner. Access to the new system without prior approval of the health care practitioner is prohibited.

The definition of "core credentials data" is changed to accommodate the needs of the health care entities. A CVE will be changed to "credentials verification organization" (CVO), which is the common name used in the industry.

All practitioners will be required to provide "core credentials data" and corrections, updates, or modifications to such data to the department instead of a designated CVO. However, a health care practitioner may still designate a CVO for the same purpose. A designated CVO must meet the time frames established for a practitioner or face license suspension. Also, a designated CVO is prohibited from releasing any information without prior approval of the practitioner.

The time period for reporting certain incidents will be changed from within 30 days to within 45 days to coincide with the requirements of profile reporting. Rather than file two reports (profile and credentials update), a credentials report is redesigned to comply with the requirements of a profile report.

Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any practitioner if the information is available from the department. This does not restrict requesting additional information not included in the department's file.

A CVO must maintain liability insurance to meet certification or accreditation requirements.

No health care entity or CVO is liable if information/data was obtained directly from the department.

Reports of Adverse Incidents/Office Surgery

House Bill 1847 was amended onto HB 2125 to: establish that effective January 1, 2000, medical and osteopathic physicians must file reports of adverse incidents that occur in their offices within 15 days after the occurrence of the adverse incident; provide that adverse incidents include incidents

resulting in the death of a patient, brain or spinal damage, performance of a surgical procedure on the wrong patient, performance of a wrong-site surgical procedure, and performance of a wrong surgical procedure; require the report to be filed with the Department of Health, which determines whether disciplinary action is required against a licensee; and provide that if disciplinary action is necessary, it will be administered by the board which licensed the health care practitioner.

In addition, the Board of Medicine is granted rulemaking authority relating to standards of practice for office surgery and the department is authorized to require registration and inspection of offices where levels two and three office surgery is performed. The department will inspect the offices annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization approved by the appropriate board.

Task Force on Telehealth

CS/HB 965 was amended onto HB 2125 and establishes the Task Force on Telehealth. The Secretary of the Department of Health is directed to appoint the members of this task force, with a membership to include representatives from the affected medical and allied health professions and other health care industries.

The task force will review and research the various health care telecommunications and electronic communications providing health care information. In addition, the task force will identify laws, regulations, and reimbursement practices relating to telehealth practices.

The bill directs the task force to submit a report of findings and recommendations to the Legislature and Governor by January 1, 2000.

Task Force for the Study of Collaborative Drug Therapy Management

A 10-member Task Force for the Study of Collaborative Drug Therapy Management will be created within the Department of Health in order to determine the states in which collaborative drug therapy management has been enacted by law or administrative rule and summarize the content of all such laws and rules; receive testimony from interested parties and identifying the extent to which collaborative drug therapy management is currently being practiced in this state and other states; and determine the efficacy of collaborative drug therapy management in improving health care outcomes of patients.

Miscellaneous

Department of Elderly Affairs

The bill provides that area agencies on aging within the Department of Elderly Affairs are subject to ch. 119, F.S., relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

Clinical Laboratory Services For Kidney Dialysis Patients

The bill requires the Agency for Health Care Administration, in conjunction with other agencies, to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in Florida. The study shall include: an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients; financial arrangements among kidney dialysis centers, their medical directors, and any business relationships and affiliations with clinical laboratories; any self-referral to clinical laboratory services for dialysis patients in Florida; and the average annual revenue for dialysis patients for clinical laboratory services for the past ten years. The agency shall report back to the President of the Senate, Speaker of the House of Representatives, and chairs of the appropriate substantive committees of the Legislature on its findings no later than February 1, 2000.

Recreational Sport Diving

The bill requires the Department of Health to establish maximum levels of contaminants in compressed air used for recreational sport diving based on levels of contaminants allowed by the Grade “E” Recreational Diving Standards of the Compressed Gas Association. It: requires

compressed air vendors to collect a sample of air from their equipment and submit it to a laboratory certified by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation; authorizes the department to issue certificates stating when vendors submitting samples meet the standards established by the department; provides that civil penalties are not to exceed $500 for violations of the provisions of the bill; establishes that persons violating the provisions are liable for any damages resulting from the violation; and provides for exemptions from this legislation for any government entity using a governmentally owned compressed air source for work-related activities, for any person providing compressed air for their own use, and for foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

Fiscal Intermediary Services - Sections 626.883 and 641.316, F. S.

The bill provides that all health care provider and health maintenance organization fiscal intermediaries are required to include a detailed explanation of services for payments to a health care provider.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

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

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

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

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

No.

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

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

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

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 20.41, 20.43, 39.303, 110.205, 120.80, 154.504, 232.435, 287.155, 372.6672, 381.0022, 381.004, 381.0051, 381.006, 381.0061, 381.0062, 381.026, 381.0261, 381.731, 381.90, 382.003, 382.004, 382.008, 382.013, 382.015, 382.016, 382.019, 382.025, 382.0255, 383.011, 383.14, 383.307, 385.202, 385.203, 391.021, 391.028, 391.0315, 391.221, 391.222, 391.223, 392.69, 395.40, 395.401, 395.402, 395.4045, 400.211, 401.25, 401.27, 401.2701, 401.2715, 401.30, 401.35, 404.20, 409.906, 409.910, 409.9101, 409.912, 409.9125, 409.9126, 409.913, 409.9131, 455.501, 455.507, 455.521, 455.557, 455.564, 455.565, 455.5651, 455.567, 455.574, 455.587, 455.601, 455.604, 455.607, 455.624, 455.651, 455.664, 455.667, 455.687, 455.694, 455.712, 457.102, 458.307, 458.309, 458.311, 458.3115, 458.3124, 458.313, 458.315, 458.3165, 458.317, 458.331, 458.347, 458.351, 459.005, 459.0075, 459.015, 459.026, 460.402, 460.403, 460.406, 460.413, 460.4165, 460.4166, 461.003, 461.006, 461.007, 461.013, 461.0135, 464.008, 464.016, 464.022, 465.003, 465.014, 465.015, 465.016, 465.019, 465.0196, 466.021, 468.1155, 468.1215, 468.304, 468.306, 468.307, 468.309, 468.352, 468.353, 468.354, 468.355, 468.357, 468.364, 468.365, 468.506, 468.701, 468.703, 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, 468.805, 468.806, 468.812, 468.821, 468.822, 468.823, 468.824, 468.825, 468.826, 468.827, 468.828, 478.42, 483.041, 483.803, 483.807, 483.809, 483.812, 483.813, 483.821, 483.824, 483.825, 483.901, 484.007, 484.0512, 484.053, 484.056, 486.041, 486.081, 486.103, 486.107, 490.005, 490.006, 490.0085, 491.0045, 491.0046, 491.005, 491.006, 491.0085, 491.014, 499.003, 499.005, 499.007, 499.012, 499.028, 499.069, 626.883, 641.261, 641.316, 641.411, 733.212, 742.10. The bill also amends various chapter laws and creates several undesignated sections of law.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Requires the Department of Children and Family Services and the Agency for Health Care Admninistration to, by October 1, 1999, develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid identification number that shall be used for billing purposes and for monitoring of care for the child beginning with the child's date of birth.

Section 2. Amends s. 20.43, F.S., 1998 Supplement, relating to the Department of Health. The following subsections are amended:

Subsection (3) is amended to add the Division of Children's Medical Services Network, Division of Emergency Medical Services and Community Health Resources, Division of Children's Medical

Services Prevention and Intervention, Division of Information Resource Management, and the Division of Health Awareness and Tobacco to the list of divisions that are authorized to exist in the Department of Health. The Division of Children's Medical Services and the Division of Local Health Planning, Education, and Workforce Development are removed from the authorized list of divisions.

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

Section 3. Amends s. 110.205, F.S., relating to career service exemptions, to update language regarding the establishment of exempt positions that now pertains to the Department of Health and Rehabilitative Services to conform to the creation of the Department of Health and the Department of Children and Family Services, and to include the positions of Assistant County Health Department Director and County Health Department Financial Administrator to the list of exempt positions**.**

Section 4. Amends s. 120.80, F.S., 1998 Supplement, relating to exceptions and special requirements of the Department of Health, to allow the Department of Health to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning the Special Supplemental Nutrition Program for Women, Infants and Children, Children's Medical Services programs, Child Care Food Program, and exemption from disqualification reviews for certified nurse assistants.

Section 5. Amends s. 154.504, F.S., 1998 Supplement, relating to eligibility and benefits for primary care challenge grant programs, to permit providers to enter into contracts pursuant to s. 766.1115, F.S., provided co-payments are not used as compensation for services to health care providers.

Section 6. Amends s. 287.155, F.S., relating to the purchase of motor vehicles by certain agencies, to authorize the Department of Health to purchase automobiles, trucks, and other automotive equipment for use by county health departments, subject to the approval of the Department of Management Services.

Section 7. Amends s. 372.6672, F.S., 1998 Supplement, relating to alligator management and trapping program implementation, to delete the Department of Health and Rehabilitative Services from any responsibility regarding alligator management and trapping.

Section 8. Amends s. 381.004, F.S., 1998 Supplement, relating to testing for human immunodeficiency virus, to remove language that prevents the preliminary HIV test results of a mother from being released to the mother at the time of delivery, and to clarify requirements for the performance of HIV tests on deceased persons.

Section 9. Amends s. 381.0051, F.S., relating to family planning, to give the Department of Health the authority to adopt rules for family planning services.

Section 10. Amends s. 381.006, F.S., relating to environmental health, to provide the department with rulemaking authority relating to the health inspection of certain group care facilities.

Section 11. Amends s. 381.0061, F.S., relating to administrative fines, to authorize the department to impose fines for violations relating to group care facility inspections conducted as authorized under s. 381.006 (16), F.S.

Section 12. Amends s. 381.0062, F.S., 1998 Supplement, relating to water systems. The following subsections of this section are amended:

Subsection (2) is amended to provide that "multi-family water system" means a water system that provides piped water for three to four residences, one of which may be a rental residence, and to clarify the definition of "private water system" to mean a water system that provides piped water for one or two residences, one of which may be a rental residence.

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

Section 13. Amends s. 381.90, F.S., relating to the Health Information Systems Council. The following subsections of this section are amended:

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

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

Section 14. Amends s. 382.003, F.S., relating to powers and duties of the Department of Health, to remove the word “rescinding” in relation to the department’s rule authority regarding vital records, and to provide the department with the authority to adopt rules for forms, documents, and information submitted under oath.

Section 15. Amends s. 382.004, F.S., relating to reproduction and destruction of records, to remove unnecessary language.

Section 16. Amends s. 382.008, F.S.,1998 Supplement, relating to death and fetal death registration, to remove language relating to the limited disclosure of Social Security numbers, which is in conflict with federal law.

Section 17. Amends s. 382.013, F.S., 1998 Supplement, relating to birth registration. The following subsections of this section are amended:

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

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

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

Section 18. Amends s. 382.015, F.S., relating to new certificates of live birth, to replace the terms “court certified copy” with “certified copy” and “court decree” with “court order,” and to delete language addressing the administrative acknowledgment of paternity. A technical change to delete unnecessary language is also made.

Section 19. Amends s. 382.016, F.S., relating to amendment of records. Subsections (3), (4), and (5) are created to add to s. 382.016, F.S., the language similar to that removed from s. 382.015(2), F.S., by the previous section, relating to paternity, substitution of birth certificates, and paternity-related court orders.

Section 20. Amends s. 382.019, F.S., relating to delayed registration and administrative procedures, to clarify that after receipt of an application the department may file a delayed registration, and to clarify when the department may dismiss an inactive application.

Section 21. Amends s. 382.025, F.S., relating to certified copies of vital records. The following subsections of this section are amended:

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

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

Section 22. Amends s. 382.0255, F.S., relating to the fee for a certification of a birth record, to permit the department to retain fees collected by Vital Statistics for birth certificates rather than transferring the fees to the General Revenue Fund.

Section 23. Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors, to change the name of the WIC program from the Special Supplemental Food Program for Women, Infants, and Children, to the Special Supplemental Nutrition Program for Women, Infants, and Children, to conform with federal law.

Section 24. Amends s. 385.202, F.S., relating to the statewide cancer registry, to remove language that requires the department to reimburse hospitals for the cost of furnishing data for the cancer registry.

Section 25. Amends s. 385.203, F.S., relating to the Diabetes Advisory Council, to revise the membership requirements of the council, and the scope of the council's activities.

Section 26. Amends s. 391.028, F.S., 1998 Supplement, relating to administration of the Children's Medical Services program, to give the Director of Children's Medical Services authority to appoint division directors subject to the approval of the secretary, and to remove "division" from the title of director.

Section 27. Amends s. 391.0315, F.S., 1998 Supplement, relating to benefits, to clarify that benefits provided under the CMS program for children with special health care needs shall be the same benefits provided to children in ss. 409.905 and 409.906, F.S., relating to Medicaid.

Section 28. Amends s. 392.69, F.S., relating to appropriations, sinking, and maintenance trust funds, to allow the department to use excess money, notwithstanding s. 216.292(5)(b), F.S., for the improvement of health facilities at A.G. Holley State Hospital, and to authorize the department to establish an advisory board to review and make recommendations relating to patient care at A.G. Holley State Hospital. Members of the advisory board shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members are to serve without remuneration, but per diem and travel expenses may be reimbursed as provided in s. 112. 061, F.S.

Section 29. Amends s. 401.25, F.S., relating to the licensure of a basic life support (BLS) or an advanced life support (ALS) emergency medical service, to grant to the Department of Health specific authority for its administrative rule (64E-2003, F.A.C.) that imposes minimum staffing requirements. A BLS service vehicle must be staffed by at least two persons: a certified emergency medical technician, certified paramedic, or licensed physician and one ambulance driver. An ALS service vehicle must be staffed by at least two persons: a certified paramedic or licensed physician and one who is a certified emergency medical technician, certified paramedic, or licensed physician who meets requirements of s. 401.281, F.S., as a driver. The person with the highest medical certifications must be in charge of patient care.

Section 30. Amends s. 401.27, F.S., relating to standards and certification of emergency medical services personnel, to grant the Department of Health specific authority for its administrative rule (64E-2.008 and 64E-2.009, F.A.C.) that requires applicants for emergency medical technician or paramedic certification and recertification to apply under oath to the department on forms provided by the department.

Section 31. Creates s. 401.2701, F.S., relating to emergency medical services training programs. The following subsections are created:

Subsection (1) provides that any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall: submit a completed application on a form provided by the department which includes certain required information; and receive a scheduled site visit from the department to the applicant's institution. Such site visit shall be conducted within 30 days after notification to the institution that the application was accepted. During the site visit, the department must determine the applicant's compliance with the certain criteria.

Subsection (2) provides that, after completion of the site visit, the department shall prepare a report which shall be provided to the institution. Upon completion of the report, the application shall be deemed complete and the provisions of s. 120.60, F.S., shall apply.

Subsection (3) provides that, if the program is approved, the department must issue the institution a 2-year certificate of approval as an emergency medical technician training program or a paramedic training program. If the application is denied, the department must notify the applicant of any areas of strength, areas needing improvement, and any suggested means of improvement of the program. Notification requirements and time frames are established.

Subsection (4) requires approved emergency medical services training programs to maintain records and reports that are available to the department, upon written request. Requirements for records are established.

Subsection (5) requires each approved program to notify the department within 30 days of any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical examination of evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum, and issue a certificate of completion to program graduates within 14 days of completion.

Section 32. Creates s. 401.2715, F.S., relating to recertification training of emergency medical technicians and paramedics. The following subsections are created:

Subsection (1) requires the department to establish by rule criteria for all emergency medical technician and paramedic recertification training. Requirements for such rules are established.

Subsection (2) permits any individual, institution, school, corporation, or governmental entity to conduct emergency medical technician or paramedic recertification training upon application to the department and payment of a nonrefundable fee to be deposited into the Emergency Medical Services Trust Fund. Exempts institutions conducting department-approved educational programs as provided in this chapter and licensed ambulance services from the application process and payment of fees. Directs the department to adopt rules for the application and payment of a fee not to exceed the actual cost of administering this approval process.

Subsection (3) requires certified emergency medical technicians and paramedics to provide proof of completion of training conducted pursuant to this section to be eligible for recertification as provided in s. 401.27, F.S. Establishes requirements for the department's acceptance of documentation that the certificate holder has completed a minimum of 30 hours of recertification training as provided herein.

Section 33. Amends s. 401.30, F.S., 1998 Supplement, relating to records that must be maintained by permitted ambulance services, to grant the Department of Health specific authority for its administrative rule (64E-2.013, F.A.C.) that requires each licensee to maintain records and reports and to submit the record to the department as requested. Licensed ambulance services, basic life support services, and advanced life support services, must provide the receiving hospital with a copy of an individual patient care record for each patient who is transported to the hospital. The information contained on the record and the method and time frame for providing the record must be prescribed by rule of the department.

Section 34. Amends s. 401.35, F.S., relating to the Department of Health's rulemaking authority to enforce provisions relating to the regulation of emergency medical services, to grant the department specific rulemaking authority for its administrative rule (64E-2.003, F.A.C.) that requires licensed

ambulance services, basic life support services, and advanced life support services to meet specific standards for the security and storage of controlled substances, medications, and fluids that are not inconsistent with requirements of ch. 499, F.S., the Florida Drug and Cosmetic Act or ch. 893, F.S., relating to the regulation of controlled substances. Requires an application for each respective service license to include an oath, upon forms provided by the department which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules.

Section 35. Amends s. 409.9126, F.S., 1998 Supplement, relating to children with special health care needs, to provide for a geographic phase-in of Medicaid capitation payments to Children's Medical Services for services provided to Medicaid eligible children with special health care needs, beginning July 1, 1999, with statewide implementation to be complete by January 1, 2000.

Section 36. Amends s. 465.019, F.S., 1998 Supplement, relating to institutional pharmacies, to allow nursing homes to purchase and possess medical oxygen.

Section 37. Amends s. 499.005, F.S., 1998 Supplement, relating to prohibited acts, to clarify that a person must be authorized to sell or transfer legend drugs and compressed medical gas under ch. 499, and that a person acquiring a legend drug must be authorized to do so under the applicable law where the receipt occurs. Providing the department with false information regarding any matter within the jurisdiction of ch. 499 is prohibited, not just as it relates to a drug, device, or cosmetic. The distribution of a legend device to the patient or ultimate consumer without a prescription or order from a practitioner licensed by law to use or prescribe the device is prohibited.

Section 38. Amends s. 499.007, F.S., relating to misbranded drugs or devices, to conform the prescription statement of labels to match recently enacted federal language.

Section 39. Amends s. 499.028, F.S., relating to drug samples or complimentary drugs, to authorize federal, state, and local government employees, acting within the scope of their employment, to possess prescription drug samples.

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

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

Section 42. Amends s. 39.303, F.S., 1998 Supplement, relating to child protection teams, to conform titles relating to Children's Medical Services.

Section 43. Amends s. 391.021, F.S., 1998 Supplement, relating to definitions used in reference to Children's Medical Services, to provide conforming language that is needed due to the reorganization of Children's Medical Services into two divisions.

Section 44. Amends s. 391.221, F.S., 1998 Supplement, relating to the Statewide Children's Medical Services Network Advisory Council, to provide conforming language that is needed due to the reorganization of Children's Medical Services into two divisions.

Section 45. Amends s. 391.222, F.S., 1998 Supplement, relating to the Cardiac Advisory Council, to provide conforming language that is needed due to the reorganization of Children's Medical Services into two divisions.

Section 46. Amends s. 391.223, F.S., 1998 Supplement, relating to technical advisory panels, to provide conforming language that is needed due to the reorganization of Children's Medical Services into two divisions.

Section 47. Repeals subsection (3) of s. 381.731, F.S., relating to submission of an initial Healthy Communities plan that was submitted in 1992.

Section 48. Repeals subsection (5) of s. 383.307, F.S., relating to department consultation agreements with birth centers that are unable to find consultants.

Section 49. Repeals subsection (7) of s. 404.20, F.S., relating to department monitoring requirements of the transportation of radioactive materials.

Section 50. Repeals s. 409.9125, F.S., relating to study requirements for Medicaid alternative service networks.

Section 51. Provides that the building known as the 1911 State Board of Health Building which is part of a multi-building complex with the address of 1217 Pearl Street, Jacksonville, Florida shall be known as the Wilson T. Sowder, M.D. Building.

Section 52. Provides that the building authorized by Chapter 98-307, L.O.F., that will be located at the University of South Florida which will house laboratory facilities for the Department of Health shall be known as the William G. “Doc” Myers, M.D. Building.

Section 53. Provides that the Department of Health headquarters building that will comprise approximately 100,000 square feet that is authorized by item 1986 in the 1998-99 General Appropriations Act shall be known as the E. Charlton Prather, M.D. Building.

Section 54. Permits the Department of Health to become an accrediting entity of the National Environmental Laboratory Accreditation program.

Section 55. Amends s. 381.0022, F.S., 1998 Supplement, to give the Department of Health and the Agency for Health Care Administration the ability to share confidential information when it is needed for Medicaid reimbursement purposes.

Section 56. Amends s. 383.011, F.S., 1998 Supplement, relating to administration of maternal and child health programs, to provide that, with respect to the Child Care Food Program, the rules adopted by the department that interpret and implement relevant federal regulations, *may*, rather than *must*, address at least those program requirements and procedures identified in paragraph (1)(i).

Section 57. Amends s. 468.304, F.S., 1998 Supplement, relating to certification examination, to provide that fees are not to exceed $100 plus the actual per-applicant cost to the department for purchasing the examination from a national organization.

Section 58. Amends s. 468.306, F.S., 1998 Supplement, relating to examinations, to provide that fees shall not exceed $75 plus the actual per-applicant cost for purchasing the examination from a national organization.

Section 59. Amends s. 468.309, F.S., relating to certificate; duration, renewal; reversion to inactive status, to provide that radiologic technologist’s certificates issued in accordance with this part expire as specified in rules adopted by the department which establish a procedure for the biennial renewal of certificates.

Section 60. Amends s. 455.565, F.S., 1998 Supplement, relating to designated health care professionals and information required for licensure, to exempt registered physician interns, residents, or fellows from the physician licensure profiling and credentialing requirements.

Section 61. Directs the Division of Children’s Medical Services of the Department of Health to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism, and require the nonprofit provider to report its findings to the Division of Children’s Medical Services, the President of the Senate, the Speaker of the House of Representatives, and other appropriate bodies.

Section 62. Provides an appropriation of $50,000 to the Division of Children's Medical Services of the Department of Health from the General Revenue Fund for the purpose of implementing this act.

Section 63. Amends s. 232.435, F.S., relating to extracurricular athletic activities and athletic trainers, to conform a cross-reference to part XIII of ch. 468, F.S.

Section 64. Amends s. 381.026, F.S., 1998 Supplement, relating to Florida Patient's Bill of Rights and Responsibilities, to specify that "department" means the Department of Health.

Section 65. Amends s. 381.0261, F.S., 1998 Supplement, relating to summary of patient's bill of rights, distribution, and penalty, to clarify that certain administration fines may be imposed by the Agency for Health Care Administration, and to establish that each intentional and willful violation constitutes a separate violation and is subject to a separate fine. Permits administrative fines to be imposed by the appropriate regulatory board, or the department if there is no board, when any health care provider fails to make available to patients a summary of their rights, pursuant to s. 381.026, F.S., and this section.

Section 66. Amends s. 409.906(11), F.S., 1998 Supplement, relating to optional Medicaid services and the Healthy Start waiver authorized thereunder, to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver.

Section 67. Amends s. 409.910, F.S., 1998 Supplement, relating to Medicaid third-party liability, to add as a new subsection (21) the requirement that health insurers and health maintenance organizations develop the capability for tape matches for purposes of Medicaid file matches, using current Medicare standard billing formats, to determine if Medicaid recipients might have any applicable insurance coverage. Existing subsection (21) is renumbered as (22).

Section 68. Creates s. 409.9101, F.S., relating to recovery for payments made on behalf of Medicaid-eligible persons. This section codifies into statute Medicaid's estate recovery process. This new section contains the following subsections:

Subsection (1) provides the short title, the "Medicaid Estate Recovery Act."

Subsection (2) provides legislative findings and intent.

Subsection (3) imposes the requirement of serving of a notice of administration to AHCA by estate personal representatives under s. 733.212(4)(a), F.S.

Subsection (4) provides a statement of the fact that acceptance of Medicaid services creates a claim in favor of AHCA as an interested person, in those instances involving a deceased Medicaid recipient who has reached age 55.

Subsection (5) provides AHCA with authority to amend claim amounts based on receipt of reimbursement requests from providers subsequent to filing the claim.

Subsection (6) specifies the process for determining an estate claim amount based on AHCA's provider payment processing system, and provides for such system reports to be considered prima facie evidence in AHCA's claim.

Subsection (7) specifies that a claim against an estate is a Class 3 claim, in conformity with the current public assistance claim standing.

Subsection (8) stipulates that a claim against an estate will not be enforced if the decedent is survived by a spouse, a child under age 21, or a child meeting the federal definition of disabled.

Subsection (9) indicates that no claim will be made against a homestead determined to be exempt from the claims of creditors, in conformity with the Florida Constitution.

Subsection (10) provides an exemption from enforcement of these provisions in circumstances in which doing so would create a hardship. Criteria are specified for determination of a hardship, and relate to residency issues, basic needs issues, care history issues, and property settlement cost considerations.

Subsection (11) provides guidance in cases involving settlement proceeds from liable third parties.

Subsection (12) provides guidance in situations involving non-liquid real property.

Subsection (13) authorizes AHCA to adopt rules to implement this section.

Section 69. Amends s. 409.912(3)(d), F.S., 1998 Supplement, relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing Medicaid services, to delete the requirement that one of the four demonstration projects be conducted in Orange County. (The sole bidder there to the Agency for Health Care Administration's Invitation to Negotiate decided not to participate as a demonstration project.)

Section 70. Amends s. 409.913(24)(a), F.S., relating to the withholding of payments as part of Medicaid program integrity activity, to authorize AHCA to withhold payments, in whole or in part, based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services. Deletes existing limitations that the agency may only reduce payments by up to 10 percent of the amount due, and up to $25,000 per month when an overpayment by the agency exceeds $75,000. (The agency indicates that it is not currently adhering to this latter limitation due to federal withholding requirements.) A stipulation is added that withheld amounts be placed in a suspended account, readily accessible for payment to providers within 14 days of the settlement of the withheld amount.

Section 71. Creates s. 409.9131, F.S., addressing Medicaid program integrity issues (fraud and abuse) in the context of Medicaid physician providers. Specifically addressed are: findings and intent; definitions of 6 specific terms; on-site records review, including prior notice provisions; notice of due process; and determination of overpayment. These new provisions address a review of medical records, consideration of physician case-mix, including patient age and whether the physician's patients include Children's Medical Services Network patients, and peer review as part of determination of any physician provider overpayments. In addition, the Agency for Health Care Administration is directed to study and report to the Legislature its methodology for overpayment calculations, including the appropriateness of using physician specialty and case-mix parameters in the methodology.

Section 72. Amends s. 455.501, F.S., relating to the definition of "health care practitioner" as used in part II of ch. 455, F.S., to add those professions that are inadvertently not included.

Section 73. Amends s. 455.507, F.S., to add "or the department when there is no board" to that section relating to exemptions for members of the armed forces or their spouses.

Section 74. Amends s. 455.521, F.S., 1998 Supplement, relating to the powers and duties of the department for the "professions" under its jurisdiction.

Section 75. Amends s. 455.557, F.S., 1998 Supplement, relating to standardized credentialing for health care practitioners, as follows:

Provides that the Department of Health no longer act as a credentials verification entity (CVE) for all health care practitioners in the state. Requires the department to serve as a depository for mostly unverified core credentials data and corrections, updates, or modifications to such data. Requires such data to become available electronically to any health care entity that is authorized to access the data by the health care practitioner. Access to the new system is prohibited without prior approval of the health care practitioner. Credentials verfication organizations (CVOs) gathering data on a health care practitioner must get the core credentials data from the department the same as a health care entity.

Provides for a new definition of “core credential data” in order to accommodate the needs of the health care entities. Also, a credentials verification entity (CVE) is changed to a credentials verification organization (CVO), which is the more common name used in the industry.

Requires all health care practitioners to provide “core credentials data” and corrections, updates, or modifications to such data to the department instead of a designated CVO. However, a health care practitioner may still designate a CVO, which must provide the data to the department as agent for the practitioner. A designated CVO must meet all the time frames established for a practitioner, or face suspension of its license to operate in Florida. Also, a designated CVO is prohibited from releasing any information on its client without prior approval by the practitioner.

Changes the time period for reporting certain incidents from “within 30 days” to “within 45 days” to coincide with the requirements of profile reporting. Rather than file two reports (profile and credentials update), a credentials report is redesigned to comply with the requirements of a profile report. Also, the provision that every practitioner must file a quarterly update if no data changes had been filed, is deleted.

Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any practitioner if the information is available from the department. This does not restrict the right of any state agency to request additional information not included in the department’s file, which is deemed necessary for the agency’s specific credentialing purposes.

Prohibits liability insurance requirements from being established by the department for CVOs. Requires each CVO to maintain liability insurance appropriate to meet the certification or accreditation requirements established in s. 455.557, F.S.

Provides that no liability against a CVO or any health care entity may be incurred for reliance on data obtained directly from the department.

Requires that the Credentials Advisory Council be abolished October 1, 1999. After the council is abolished, the department may carry out all council-consulted duties on its own.

Section 76. Amends s. 455.564, F.S., 1998 Supplement, to specify that an incomplete application expires 1 year after initial filing, to provide for a wall-card size license, to require 1 hour of risk-management training as part of continuing education requirements, and to provide that if there is no regulatory board, the Department of Health has the authority to adopt rules and establish the criteria for continuing education courses required for license renewal.

Section 77. Amends s. 455.5651, F.S., 1998 Supplement, to provide that the Department of Health may not include disciplinary action taken by a licensed hospital or an ambulatory surgical center in the practitioner profile.

Section 78. Amends s. 455.567, F.S., clarifying the definition of sexual misconduct in the practice of a health care profession by a health care practitioner.

Section 79. Amends s. 455.574, F.S., 1998 Supplement, to clarify that an applicant may review the questions the applicant answered incorrectly or the parts of the examination failed.

Section 80. Amends s. 455.587, F.S., to authorize a fee of up to $25 for the issuance of wall certificates authorized in 1998 to licensees licensed prior to July 1, 1998, or for a duplicate wall certificate.

Section 81. Amends s. 455.601, F.S., relating to Hepatitis B or human immunodeficiency carriers, to provide language establishing that there is no presumption that a blood-borne infection is a job-related injury for employees of a health care facility.

Section 82. Amends s. 455.604, F.S., 1998 Supplement, to add the profession licensed under part X of ch. 468, the Dietetics and Nutrition Practice Act, to the list of professions required to complete a continuing education course on HIV and AIDS.

Section 83. Amends s. 455.607, F.S., relating to HIV and AIDS continuing education course requirements for certain professions, to correct a cross-reference.

Section 84. Amends s. 455.624, F.S., to expand the opportunity for regulatory boards to discipline practitioners for certain violations (including attempting to engage a patient or client in sexual activity, failing to comply with the requirements of profiling and credentialing, failing to report to the board or department after being convicted or found guilty of a crime, using information from accident reports, and failing to inform patients about their rights).

Section 85. Amends s. 455.664, F.S., relating to advertisement by a health care practitioner of free or discounted services, to change the term health care provider to health care practitioner. This conforms to 1998 changes in terms. Also, the requirements are made applicable to the following chapters: 465, 467, 478, 483, 484, 490, and 491.

Section 86. Amends s. 455.667, F.S., 1998 Supplement, to expand the definitions to provide that in certain instances, the department may obtain patient records, billing records, and insurance records without patient consent if a complaint has been filed alleging inadequate medical care, fraud, kickbacks, etc., and certain conditions are met.

Section 87. Amends s. 455.687, F.S., to clarify that the department may issue an emergency suspension order of the license of any health care practitioner who tests positive for any drug on any government or private-sector pre-employment or employer-ordered drug test, if the practitioner does not have a legitimate medical reason for using such drug. The practitioner is given 48 hours from the time of notification to produce a lawful prescription for the drug before an emergency order is issued.

Section 88. Amends s. 455.694, F.S., 1998 Supplement, relating to financial responsibility requirements, to include ch. 467, midwives.

Section 89. Creates s. 455.712, F.S., to require all business establishments regulated by the Division of Medical Quality Assurance pursuant to ss. 455.517 through 455.707, F.S., to obtain an active status business license prior to operating such business. Business establishments include, but are not limited to, dental laboratories, electrology facilities, massage establishments, pharmacies, and health care services pools.

Section 90. Amends s. 457.102, F.S., 1998 Supplement, relating to definition used in ch. 457, F.S., to provide that “prescriptive rights” means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Section 91. Amends s. 458.307, F.S., 1998 Supplement, relating to the Board of Medicine, to require that one member of the Board of Medicine be a health care risk manager licensed under s. 395.10974 (hospital chapter) rather than a hospital risk manager certified under part IX of ch 626 (insurance chapter), and to remove outdated language.

Section 92. Creates s. 458.309(3), F.S., 1998 Supplement, to grant authority to the Board of Medicine to promulgate rules requiring registration of all physician offices performing levels 2 and 3 office surgery. The department is authorized to inspect such offices unless the offices are accredited by a nationally recognized agency or an accrediting organization subsequently approved by the board. All costs for registration, inspection, or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 93. Amends s. 458.311, F.S., 1998 Supplement, to provide for the Federation of State Medical Boards to give the medical examination rather than the Board of Medicine as was done prior to 1999. Also, after the year 2000, only the United States Medical Licensing Examination (USMLE) will be accepted for licensure by Florida and the various other states. (Prior to this date, a combination of the various approved medical examinations has been acceptable.) Provision is made to allow an individual who was licensed in another state and practiced for at least 10 years to become licensed in Florida by passage of the Special Purpose Examination (SPEX). However, for the purpose of examination of any applicant who was licensed on the basis of a state board

examination prior to 1974, who is currently licensed in at least 3 other jurisdictions of the U.S. or Canada, and who has practiced pursuant to such licensure for a period of at least 20 years, this provision does not apply. Various provisions of obsolete language are deleted.

Section 94. Amends s. 458.3115, F.S., 1998 Supplement, to delete obsolete language related to the Agency for Health Care Administration (agency), and insert "department" for the Department of Health. The medical boards were transferred from the agency to the department effective July 1, 1997.

Section 95. Amends s. 458.313, F.S., to provide that prior to January 1, 2000, a physician who meets various requirements and has passed a combination of the various approved medical examinations can be licensed in Florida by endorsement. After that date, they can only be licensed by endorsement if they passed all parts of the USMLE examination. Provides that an applicant may complete a board-approved postgraduate training program within 2 years of filing an application in lieu of the actual practice of medicine for at least 2 of the preceding 4 years. Also, various obsolete language is deleted.

Section 96. Amends s. 458.315, F.S., relating to a certificate to practice in areas of critical need, to authorize a physician to practice in all approved areas of critical need rather than seek approval for each area. The recipient of a temporary certificate shall notify the board within 30 days after accepting employment, of all such employment and of any places where practice privileges were denied.

Section 97. Amends s. 458.3165, F.S., relating to public psychiatry certificate, to provide that a recipient of a public psychiatry certificate may use the certificate to work at any public mental health facility or program funded in part or entirely by state funds.

Section 98. Amends s. 458.317, F.S., 1998 Supplement, to authorize any physician holding an active Florida license to convert it to a limited license for the purpose of providing uncompensated care for low-income Floridians. Applicants who receive no compensation will have all fees and assessments waived.

Section 99. Amends s. 458.331, F.S., 1998 Supplement, to increase the administrative fine cap from $5,000 to $10,000, and include provision for fining a physician who violates the Patient's Bill of Rights.

Section 100. Amends s. 458.347, F.S., 1998 Supplement, relating to physician assistants, to delete obsolete language related to examinations and to provide that temporary licenses expire 30 days after receiving test scores.

Section 101. Amends s. 459.005, F.S., 1998 Supplement, to grant authority to the Board of Osteopathic Medicine to promulgate rules requiring registration of all physician offices performing levels 2 and 3 office surgery. The department is authorized to inspect such offices unless the offices are accredited by a nationally recognized agency or an accrediting organization subsequently approved by the board. All costs for registration, inspection, or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 102. Amends s. 459.0075, F.S., to authorize any physician holding an active Florida license to convert it to a limited license for the purpose of providing uncompensated care for low-income Floridians. Applicants who receive no compensation, will have all fees and assessments waived.

Section 103. Amends s. 459.015, F.S., 1998 Supplement, to provide that failing to comply with the requirements of ss. 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint, constitutes grounds for which certain disciplinary actions may be taken.

Section 104. Amends s. 460.402, F.S., to exempt from chiropractic licensure requirements chiropractic students enrolled in a community-based internship.

Section 105. Amends s. 460.403, F.S., 1998 Supplement, to provide a definition for a “community-based internship” for purposes of chiropractic licensure.

Section 106. Amends s. 460.406, F.S., 1998 Supplement, to remove the requirement for a post-graduate chiropractic internship program.

Section 107. Amends s. 460.413, F.S., 1998 Supplement, to increase the administrative fine cap from $2,000 to $10,000 for chiropractic physicians.

Section 108. Amends s. 460.4165 F.S., relating to chiropractic physicians’ assistants, to: clarify language relating to certified chiropractic physicians’ assistants; provide that ch. 460, does not prevent third-party payers from reimbursing employers of chiropractic physicians’ assistants from covered services rendered by certified chiropractic physicians’ assistants; set requirements for curriculum; establish application approval for certified chiropractic physicians’ assistants; delete language relating to board rules and certifications of chiropractic physicians’ assistants; and establish requirements for the supervision of registered chiropractic assistants and certification renewal. Obsolete language is deleted.

Section 109. Provides that persons holding certificates as certified chiropractic physicians’ assistants on the effective date of this act need not reapply for certification, but must comply with biennial renewal requirements as provided in s. 460.4165(6), F.S.

Section 110. Amends s. 460.4166, F.S., 1998 Supplement, to establish that registered chiropractic assistants may perform certain duties under the supervision of a certified chiropractic physician’s assistant.

Section 111. Amends s. 461.003, F.S., 1998 Supplement, to provide a definition for “certified podiatric x-ray assistant,” “department,” and “practice of podiatric medicine.”

Section 112. Amends s. 461.006, F.S., 1998 Supplement, relating to licensure by examination, to expand the clinical experience requirements that allow an applicant to be examined by the department to become a licensed podiatric physician, and to specifically define “active licensed practice” in this context.

Section 113. Amends s. 461.007, F.S., 1998 Supplement, relating to renewal of license, to include requirements for renewal of license for licensees who have not actively practiced podiatric medicine within a certain time period.

Section 114. Amends s. 461.013, F.S., 1998 Supplement, relating to grounds for disciplinary action, to provide that failing to comply with the requirements of ss 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a complaint, shall constitute grounds for which specified disciplinary actions may be taken; and to increase the board’s administrative fine cap for practice act violations from a maximum of $1,000 per violation to $10,000.

Section 115. Creates s. 461.0135, F.S., to establish provisions for the operation of X-ray machines by podiatric X-ray assistants.

Section 116. Amends s. 464.008, F.S., relating to nurse licensure by examination, to provide that any applicant who fails the examination a certain number of times, regardless of the jurisdiction in which the examination is taken, will be required to complete a board-approved remedial course before the applicant will be approved for reexamination.

Section 117. Amends s. 464.022, F.S., relating to nursing, to provide that no provision of chapter 464 shall be construed to prohibit the practice of nursing by individuals enrolled in board-approved remedial courses.

Section 118. Amends s. 465.003, F.S., to change the statutory definition of the "practice of the profession of pharmacy" to include “other pharmaceutical services” which means evaluation and monitoring of a patient’s health as it relates to drug therapy and assisting in the management of such drug therapy. A definition is added for “data communication device.”

Section 119. Amends s. 465.016, F.S., to add correctional facilities to the institutional practice sites where return of unit-dose medications for reuse is permitted. Specifies that using or releasing a patient's records except as authorized under chapter 465 or chapter 455, F.S., is grounds for disciplinary action. Increases the administrative fine from a maximum of $1,000 to a maximum of $5,000 for each offense.

Section 120. Amends s. 465.014, F.S., relating to pharmacy technicians, to conform a cross-reference.

Section 121. Amends s. 465.015, F.S., relating to violations and penalties, to conform a cross-reference.

Section 122. Amends s. 465.0196, F.S., relating to special pharmacy permits, to conform a cross-reference.

Section 123. Amends s. 468.812, F.S., relating to exemptions from licensure, to conform a cross-reference.

Section 124. Amends s. 499.003, F.S., relating to definitions of terms used in ss. 499.001-499.081, F.S., to conform a cross-reference.

Section 125. Creates within the Department of Health a 15-member Task Force for the Study of Collaborative Drug Therapy Management. The task force consists of representatives of 10 associations and 5 state entities. The charge to the task force is to provide an overview of other states' laws or rules relating to collaborative drug therapy management, receive testimony and identify the extent of this practice currently, and determine the efficacy of this practice in improving health care patient outcomes. The task force is directed to meet by August 1, 1999, and submit a report of its findings to the Senate President, House Speaker, and applicable legislative committees not later than December 31, 1999.

Section 126. Amends s. 466.021, F.S., relating to penalties for employment of unlicensed persons by dentists, to delete the requirement that the department furnish the actual work order forms to dentists, and to incorporate technical revisions.

Section 127. Amends s. 468.1155, F.S., to clarify that an applicant for a provisional license to practice speech-language pathology is qualified with either a master's or a doctoral degree.

Section 128. Amends s. 468.1215, F.S., to clarify that a bachelor's degree is required for licensure as a speech-language pathology assistant.

Section 129. Amends s. 468.307, F.S., 1998 Supplement, relating to radiologic technology, to authorize the department to establish by rule a subcategory of a certificate limiting the holder to a specific procedure or specified type of equipment.

Section 130. Amends s. 468.506, F.S., 1998 Supplement, to replace "director" with "secretary" and "agency" with "department," with regard to the Dietetics and Nutrition Practice Council.

Section 131. Amends s. 468.701, F.S., 1998 Supplement, to change the definitions section specific to athletic trainers to delete "council" and insert "Board of Athletic Training."

Section 132. Amends s. 468.703, F.S., 1998 Supplement, to convert the Council of Athletic Training composed of seven members reporting to the department to a Board of Athletic Training composed of nine members. Five of the council members are required to be athletic trainers, one member a physician licensed under ch. 460, one a physician licensed under either chapter 458 or 459, and two consumer members. Obsolete language is deleted.

Section 133. Amends s. 468.705, F.S., 1998 Supplement, to provide for the new Board of Athletic Training to have rule making authority for specified issues.

Section 134. Amends s. 468.707, F.S., 1998 Supplement, relating to licensure by examination, to replace “department” with “board” and to conform a cross-reference.

Section 135. Amends s. 468.709, F.S., relating to fees, to replace “department” with “board.”

Section 136. Amends s. 468.711, F.S., 1998 Supplement, relating to renewal of license, to replace “department” with “board” and to correct a cross-reference.

Section 137. Amends s. 468.719, F.S., 1998 Supplement, relating to disciplinary actions, to replace “department” with “board.”

Section 138. Amends s. 468.721, F.S., relating to the saving clause, to provide that department rules remain in effect pending adoption of rules by the board, and to delete obsolete language.

Section 139. Amends s. 20.43, F.S., 1998 Supplement, to include the Board of Athletic Training created under part XIII of ch. 468, under the Division of Medical Quality Assurance within the Department of Health.

Section 140. Provides that the Council of Athletic Training and the terms of its members are terminated on July 1, 1999.

Section 141. Amends s. 468.805, F.S., relating to grandfathering of a person who has practiced orthotics, prosthetics, or pedorthics, to provide for a grandfather clause for certain people who meet certain examination requirements related to meeting a March 1, 1998, deadline.

Section 142. Amends s. 468.806, F.S., relating to biennial renewal of license, to provide that the Board of Orthotists and Prosthetists, shall establish a procedure for approving continuing education providers, and may set a fee for provider approval.

Section 143. Amends s. 478.42, F.S., to clarify the definition of electrolysis to mean the permanent removal of hair by destroying the hair-producing cells using equipment and devices approved by the Board of Medicine and cleared by and registered with the U.S. Food and Drug Administration.

Section 144. Amends s. 483.041, F.S., to expand the definition of “clinical laboratory,” to include specific laboratory services that are provided, and to define “clinical laboratory examination.” The definition of “licensed practitioner” is expanded to include a duly licensed out-of-state practitioner who orders a laboratory examination for non-Florida residents who reside in the same state as the out-of-state ordering practitioner.

Section 145. Amends s. 483.803, F.S., relating to definitions applicable to clinical laboratory personnel, to state that a “clinical laboratory examination” means an examination as defined in s. 483.041, F.S.

Section 146. Amends s. 483.807, F.S., 1998 Supplement, to clarify language relating to initial application for a laboratory training program.

Section 147. Amends s. 483.809, F.S., 1998 Supplement, relating to licensure; examinations; registration of trainees; approval of curricula, to authorize the board to designate by rule a national examination in lieu of a state examination for clinical laboratory personnel.

Section 148. Amends s. 483.812, F.S., relating to public health laboratory scientists’ licensure, to revise clinical laboratory director requirements to bring the standards into conformity with federal law.

Section 149. Amends s. 483.813, F.S., relating to clinical laboratory personnel license, to delete provision for a conditional license for a period of up to 3 years.

Section 150. Amends s. 483.821, F.S., relating to periodic demonstration of competency; continuing education or reexamination, to authorize the Board of Clinical Laboratory Personnel to

provide by rule for continuing education or retraining requirements for candidates failing an examination two or more times.

Section 151. Amends s. 483.824, F.S., relating to qualifications of clinical laboratory director, to specify that a holder of a doctoral degree be nationally certified.

Section 152. Amends s. 483.825, F.S., relating to grounds for disciplinary action against clinical laboratory personnel, to include a number of items, such as, convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing, as well as additional grounds relating to patient care and quality of care.

Section 153. Amends s. 483.901, F.S., 1998 Supplement, relating to medical physicists, to delete the provision for a temporary license to an applicant pending completion of the application process, and to conform references.

Section 154. Amends s. 484.007, F.S., relating to licensure of opticians, to provide that a licensed optician must have been licensed in this state for at least one year before being authorized to supervise an apprentice.

Section 155. Amends s. 484.0512, F.S., relating to a hearing aid thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee, to provide that the period for a refund mirrors language that speech-language pathology and audiology have in their practice act. It requires a refund within 30 days of the return or attempted return of the hearing aid.

Section 156. Amends s. 484.053, F.S., relating to prohibitions and penalties relating to hearing aids, to increase the penalty for the unlicensed practice of the profession from a second-degree misdemeanor to a third-degree felony.

Section 157. Amends s. 484.056, F.S., 1998 Supplement, relating to hearing aid disciplinary proceedings, to correct a cross-reference.

Section 158. Amends s. 486.041, F.S., relating to physical therapist application for license, to delete the provision for issuance of a temporary permit.

Section 159. Amends s. 486.081, F.S., relating to physical therapist issuance of license without examination to person passing examination of another authorized examining board, to delete the provision for issuance of a temporary permit.

Section 160. Amends s. 486.103, F.S., relating to physical therapist assistant, to delete the provision for issuance of a temporary permit.

Section 161. Amends s. 486.107, F.S., relating to physical therapist assistants, to delete the provision for issuance of a temporary permit.

Section 162. Amends s. 490.005, F.S., 1998 Supplement, relating to psychological services licensure by examination, to amend a provision passed in 1998 that provided the date an applicant could submit to the board from prior to July 1, 2001, to August 31, 2001, and that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education. Existing reference to comparability being determined by the board is deleted.

Section 163. Amends s. 490.006, F.S., relating to licensure by endorsement, to provide that a psychologist with a doctoral degree in psychology and who has a least 20 years of experience as a licensee in any jurisdiction of the United States within 25 years preceding the date of application may be licensed in Florida.

Section 164. Amends s. 490.0085, F.S., relating to psychologist continuing education, to correct the name of the Medical Quality Trust Fund.

Section 165. Amends s. 491.0045, F.S., relating to clinical social work, marriage and family therapy, and mental health counseling intern registration, to provide that applicants who register as interns on or before December 31, 2001, and meet the education requirements in effect on December 31, 2000, are deemed to have met the educational requirements for licensure.

Section 166. Amends s. 491.0046, F.S., relating to clinical social work, marriage and family therapy, and mental health counseling provisional license requirements, to provide additional educational requirements for applicants applying for licensure by examination or endorsement.

Section 167. Amends s. 491.005, F.S., relating to licensure by exam, to provide that, for the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees shall not exceed those stated in this subsection. An individual who is registered as an intern and has satisfied all of the education requirements for the profession for which the applicant seeks licensure shall be certified as having met the educational requirements for licensure under this section. Also, the section provides that the board may adopt rules necessary to implement any education or experience requirement of this section for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

Section 168. Amends s. 491.005, F.S., to provide that effective January 1, 2001, a series of enhanced educational requirements for licensure by endorsement take effect.

Section 169. Amends s. 491.006, F.S., relating to licensure or certification by endorsement, to provide for licensure by endorsement or by passage of the examination in the profession which the applicant seeks licensure.

Section 170. Amends s. 491.0085, F.S., relating to continuing education, to provide that laws and rules courses and their providers and programs, may test the applicants for the courses offered.

Section 171. Amends s. 491.014, F.S., 1998 Supplement, relating to exemptions, to delete the requirement that such services may be performed for no more than five days in any month and no more than 15 days in a calendar year.

Section 172. Amends s. 499.012, F.S., 1998 Supplement, relating to wholesale distributions of prescription drugs, to provide for certain governmental transfers of drugs between identified entities.

Also, the governmental sale, purchase, trade, or other transfer of prescription drugs to certain entities for an authorized contract provider for eligible patients who meet certain conditions must be based on written authorization from the Secretary of the Department of Health or his designee, and specified conditions must be met. The current department rule provides for the issuance of a restricted distributor's permit to monitor this activity instead. In addition, the current rule does not prohibit prescription drugs transferred under this authority from being billed to Medicaid, which is prohibited in the bill.

Section 173. Amends s. 626.883, F.S., relating to insurance administrators, to require that payments by a fiscal intermediary to a health care provider include the following information:

- For a *noncapitated* health care provider, an explanation of services being reimbursed which includes specific information such as the patient's name, date of service, procedure code, amount of reimbursement, and plan identification.
- For a *capitated* health care provider, a statement of services which must include the number of patients covered by the contract, the rate per patient, the total amount of payment, and the identification of the plan on whose behalf the payment is made.

Section 174. Amends s. 641.316, F.S., 1998 Supplement, relating to fiscal intermediary services, to require that payments by a fiscal intermediary to a health care provider include the following information:

- For a *noncapitated* health care provider, an explanation of services being reimbursed which includes specific information such as the patient's name, date of service, procedure code, amount of reimbursement, and plan identification.
- For a *capitated* health care provider, a statement of services which must include the number of patients covered by the contract, the rate per patient, the total amount of payment, and the identification of the plan on whose behalf the payment is made.

Section 175. Establishes a Task Force on Telehealth that will review the various aspects of telehealth services. Provides legislative intent. Directs the Secretary of Health to appoint an unspecified number of task force members representing affected medical and allied health professions and other affected health care industries. Specifies nine specific study issues. Directs the task force to provide recommendations to the Legislature and Governor by January 1, 2000.

Section 176. Amends s. 468.352, F.S., relating to definitions used in part V, ch. 468, F.S., relating to respiratory therapy, to define "board" to mean the Board of Respiratory Care.

Section 177. Amends s. 468.353, F.S., relating to board functions related to respiratory care, to give the powers and duties of the Board of Medicine to the Board of Respiratory Care and to give the Board of Respiratory Care certain rulemaking authority.

Section 178. Amends s. 468.354, F.S., relating to the respiratory care board; organization; function; to create the Board of Respiratory Care in place of the Advisory Council on Respiratory Care, to establish board membership, and incorporate conforming revisions.

Section 179. Amends s. 468.355, F.S., relating to eligibility for licensure; temporary licensure, to remove outdated language and to require the Board of Respiratory Care to review the examinations and standards of the National Board for Respiratory Care "periodically" rather than "annually."

Section 180. Amends s. 468.357, F.S., relating to licensure by examination, to make changes necessary as a result of the creation of the Board of Respiratory Care, and to delete outdated language.

Section 181. Amends s. 468.364, F.S., 1998 Supplement, relating to fees; establishment; disposition, to remove certain fee-related rulemaking authority from the board.

Section 182. Amends s. 468.365, F.S., 1998 Supplement, relating to respiratory care disciplinary grounds and actions, to make necessary changes as a result of the creation of the Board of Respiratory Care.

Section 183. Amends s. 464.016, F.S., relating to violations and penalties, to specify that use of the title "nurse" to imply that a person is licensed or certified as same, unless such person is licensed or certified, constitutes a misdemeanor of the first degree.

Section 184. Amends s. 458.3115, F.S., 1998 Supplement, relating to restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination or agency-developed examination; restrictions on practice; full licensure, to provide that a person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent part of the USMLE up to the year 2002, rather than 2000, and clarifies language relating to practice in any jurisdiction.

Section 185. Amends s. 458.3124, F.S., 1998 Supplement, relating to restricted license; certain experienced foreign-trained physicians, to amend the date by which a person applying for licensure must submit application to the Department of Health.

Section 186. Amends section 301 of chapter 98-166, Laws of Florida, to include language stating that the fee charged by the department for foreign licensed physician examinees is not to exceed 25 percent of the actual costs of the first examination administered pursuant to s. 458.3115, F.S., 1998 Supplement, and a fee not to exceed 75 percent of the actual costs for any subsequent examination administered pursuant to that section.

Section 187. Directs the Agency for Health Care Administration, in conjunction with other agencies as appropriate, to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida. The study shall include, but not be limited to: an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients; financial arrangements among kidney dialysis centers, their medical directors, any business relationships and affiliations with clinical laboratories and any self-referral to clinical laboratory services; the quality and responsiveness of clinical laboratory services for dialysis patients in Florida; and the average annual revenue for dialysis patients for clinical laboratory services for the past 10 years. The agency is required to report its findings to the Legislature by February 1, 2000.

Section 188. Amends s. 455.651, F.S., 1998 Supplement, relating to disclosure of confidential information, to provide that any person injured as a result of a willful violation of this section shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Section 189. Amends s. 641.261, F.S., relating to HMO other reporting requirements, to conform references to the Agency for Health Care Administration from the Department of Health and Rehabilitative Services.

Section 190. Amends s. 641.411, F.S., relating to prepaid health clinic other reporting requirements, to conform references to the Agency for Health Care Administration from the Department of Health and Rehabilitative Services.

Section 191. Amends s. 733.212, F.S., notice of administration; filing of objections and claims, to provide that under s. 409.9101, F.S., the Agency for Health Care Administration is considered a reasonably ascertainable creditor in instances where the decedent had received Medicaid assistance for medical care after reaching 55 years of age.

Section 192. Provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed as follows: 2 by the President of the Senate, one of whom is a member of the Senate and one of whom represents a hospital subject to the PMATF assessment; 2 by the Speaker of the House of Representatives, one of whom is a member of the House and one of whom represents a non-hospital health care entity subject to the PMATF assessment; and 3 by the Governor, the Director of AHCA or his designee, a medical doctor licensed to practice in the state, and a consumer with no employment or investment interest in any health care entity subject to the PMATF and who is a representative of Florida TaxWatch. The Governor is to designate the task force chair from among the members.

Specific study topics include:

- Whether any provisions of ss. 395.701 and 395.7015, F.S., relating to assessments on net operating revenues of hospitals and non-hospital health care entities for deposit into the Public Medical Assistance Trust Fund, and s. 409.918, F.S., relating to the creation of and authorization for the Public Medical Assistance Trust Fund, need to be revised;

- Whether current assessments are equitably imposed;

- Whether exemptions from, or inclusions within, the assessments are justified; and

- The extent to which modifications to other statutory provisions that require deposit of specified revenue into the Public Medical Assistance Trust Fund could result in increased revenue for the trust fund, including but not limited to: s. 210.20, F.S., relating to cigarette tax funds; s. 395.1041, F.S., relating to hospital emergency room access violation fines; s. 408.040, F.S., relating to certificate-of-need violation fines; and s. 408.08, F.S., relating to hospital cost containment violation fines.

Directs the task force to provide an analysis of the budgetary impact of any recommended exemptions from, inclusions within, or modifications to, existing assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the

task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

Section 193. Creates s. 395.40, F.S., to provide Legislative findings and intent that there has been a lack of timely access to trauma care due to the state's fragmented trauma system and that there is a necessity to plan for and establish an inclusive system which would incorporate and coordinate all providers who have resources to meet the needs of trauma victims. Provides findings that there would be significant benefits from coordinating the trauma-related activities of several state agencies. States the intent of the Legislature to place primary responsibility for planning a statewide system with the Department of Health and finds that there would be significant benefit from the department, the Agency for Health Care Administration and the Boards of Medicine and Nursing establishing interagency teams and agreements to develop guidelines, standards, and rules. Gives leadership responsibility for this activity to the Department of Health. Suggests that the above-named entities should establish a coordinated methodology for: monitoring, evaluating, and enforcing the requirements of the state's trauma system which recognizes the interest of each agency; developing roles for trauma agencies which include issues of system evaluation and managed care; developing and submitting federal waivers as necessary; developing criteria which later will become the basis for mandatory trauma victim care consultation and mandatory transfer of appropriate victims to trauma centers; developing a coordinated approach to trauma victim care, including movement of the trauma victim through the trauma system and identification of medical responsibility for each phase of in- and out-of-hospital trauma care; and requiring medical directors of emergency medical services providers to have medical accountability for the trauma victim during an inter-facility transfer. Encourages the department to foster the provision of trauma care and serve as a catalyst for improvements in trauma care including the promotion of trauma centers and agencies in each trauma region and updating the state trauma system plan by December, 2000, and every five years thereafter.

Section 194. Amends s. 395.401, F.S., 1998 Supplement, to delete the definitions of local and regional trauma agencies and provide a definition of trauma agency, which may be established and operated by one or more counties. Also, provides a definition of "trauma alert victim" and modifies the definition of "trauma victim" to include injuries due to burns and to remove "life-threatening" as a condition of being defined as a trauma victim. Decreases the frequency for submission of trauma agency plans from annually to every 5 years, and eliminates requirements for the department to approve or disapprove plans within specified time frames. Removes requirements for public hearings with adequate notice and removes the requirement that trauma agencies submit written notice to the department 90 days prior to ceasing operation.

Section 195. Amends s. 395.402, F.S., to delete periodic revision by the Legislature of county trauma service area assignments based on recommendations made in local or regional trauma plans. The bill requires the department to assume this review and assignment function, and requires the department to take into consideration regional recommendations and the recommendations made as a part of the state trauma plan in the review and assignment function. The review is to take place in the year 2000 and every 5 years thereafter.

Section 196. Amends s. 395.4045, F.S., to require Emergency Medical Services providers to transport trauma alert victims to hospitals approved as trauma centers, except as provided in local or regional trauma protocols or, if no local or regional trauma protocol is in effect, as provided for in a provider's departmentally approved trauma protocol, and that trauma alert victims be identified through the use of a trauma scoring system.

Section 197. Effective January 1, 2000, creates s. 458.351, F.S., to require physicians licensed under chapter 458, F.S., to file adverse incident reports within 15 days of the occurrence of the incident. Includes a definition of "adverse incident," and requires the department to review each incident. Provides rulemaking authority to implement this section. (NOTE: HB 1843 or similar legislation did not pass that would have provided for public record exemptions and other restrictions on disclosure of the records generated by this action.)

Section 198. Effective January 1, 2000, creates s. 459.026, F.S., to require physicians licensed under chapter 459, F.S., to file adverse incident reports within 15 days of the occurrence of the incident. Includes a definition of "adverse incident," and requires the department to review each

incident. Provides rulemaking authority to implement this section. (NOTE: HB 1843 or similar legislation did not pass that would have provided for public record exemptions and other restrictions on disclosure of the records generated by this action.)

Section 199. Requires the Department of Health to establish maximum allowable levels for contaminants in compressed air used for recreational sport diving; provides for periodic compressed air contaminant testing; provides for exemptions; requires compressed air vendors to display certificates received from accredited laboratories; and provides for penalties. The department is also authorized to adopt rules to implement the provisions of this section. Provides an effective date of January 1, 2000.

Section 200. Creates the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to the Governor, the Legislature, and the Department of Health on ways to strengthen the HIV and AIDS prevention programs and early intervention and treatment efforts in minority communities. In addition, the tack force will address the needs of the state's minorities infected with HIV and those who have AIDS, and their families. The bill directs the Secretary of the Department of Health to appoint 15 members to the task force and provides the membership composition of the task force from a broad range of backgrounds, including: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The bill provides that members will not be compensated.

The task force report must address:

- Strategies for reducing the risk of HIV and AIDS in minority communities.
- A plan for establishing mentor programs and exchanging information and ideas among minority community-based organizations providing HIV and AIDS prevention services.
- Strategies to implement prevention and treatment programs within minority communities.
- Strategies for ensuring that at-risk minority persons who test positive for HIV or AIDS are provided with access to treatment and secondary prevention services.
- Strategies to help reduce or eliminate high-risk behaviors in persons who test negative but engage in high-risk behaviors.
- A plan to evaluate the implementation of the recommendations made by the task force.

Section 201. Directs the Department of Health to develop and implement a statewide HIV and AIDS prevention campaign targeted towards minorities at risk of HIV infection. This campaign will include television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach. The campaign will also provide information on the risk of HIV and AIDS infection and the strategies to follow for prevention, early detection, and treatment. All of the messages and concepts will be evaluated with members of the target group and utilize culturally sensitive language and educational materials.

The bill also directs the Department of Health to establish four positions within the department, including HIV and AIDS regional minority coordinators and one statewide HIV and AIDS minority coordinator. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment programs. The statewide coordinator will report to the chief of the Bureau of HIV/AIDS in the Department of Health.

The Department of Health, Minority HIV and AIDS Task Force, and the statewide coordinator are to plan and conduct a statewide Black Leadership Conference on HIV and AIDS by January 2000. The conference will provide workshops for minority organizations in building skills and improving the capacity to conduct HIV and AIDS prevention and treatment programs.

Section 202. Provides an appropriation of $250,000 in fiscal year 1999-2000 from the General Revenue Fund to the Department of Health to carry out these minority HIV and AIDS initiatives.

Section 203. Amends s. 20.41, F.S., relating to the Department of Elderly Affairs, to provide that area agencies on aging are subject to ch. 119, F.S., relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

Section 204. Effective October 1, 1999, creates part XV of ch. 468, F.S., consisting of ss. 468.821, 468.822, 468.823, 468.824, 468.825, 468.826, 468.827, and 468.828, F.S., to require the Department of Health to regulate the practice of certified nursing assistants in Florida and provides requirements for certification. Additionally, the department is authorized to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of specified prohibited acts.

Furthermore: provides definitions; authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Family Services; requires each employer of certified nursing assistants to submit to the Department of Health a list of names and Social Security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial; provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public; and requires the department to adopt rules for the implementation of part XV, chapter 468, F.S.

Section 205. Provides that by October 1, 1999, and by October 1 of every year thereafter, each employer of certified nursing assistants shall submit to the Department of Health a list of the names and Social Security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months. Provides requirements of updating the registry and assigning inactive certification. Provides that this section is repealed October 2, 2001.

Section 206. Effective October 1, 1999, amends s. 400.211, F.S., 1998 Supplement, relating to certification of persons employed as nursing assistants, to provide necessary language and deletions to conform with language created in sections 204 and 205 of the bill.

Section 207. Amends s. 409.912, F.S., 1998 Supplement, relating to Medicaid cost-effective purchasing of health care, to require the Agency for Health Care Administration to enter into agreements with not-for-profit organizations based in this state for the purpose of providing vision screening.

Section 208. Provides for an effective date of July 1, 1999, except as otherwise expressly provided in this act.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

DEPARTMENT OF HEALTH

1. Non-recurring Effects:	Year 1	Year 2
Program Planning, Support/Regulation Budget Entity (64100000)		
Certified Nursing Assistant (CNA) Registry and Program Medical Quality Assurance Fiscal Impact Statement		
GENERAL REVENUE		
Expenses:		
Regulatory Spec I (4 FTE)	$9,548	
Regulatory Spec II (2 FTE)	$5,710	
TOTAL Expenses - MQA	$15,258	
OCO:		
Regulatory Spec I (4 FTE)	$16,708	
Regulatory Spec II (2 FTE)	$8,354	
TOTAL OCO	$25,062	
TOTAL Non-Recurring – MQA	$40, 320	
Information Resource Management (IRM) Fiscal Impact		
Expenses:		
Software -- Operating System, Data Base, Web, Application, Development, Tools, Utilities	$150,000	
800 Service - Startup plus first 9 months of operation	$6,100	
Contract programming -- Application and Voice Response Unit	$712,000	
PRAES Modifications	$10,000	
Public Awareness and Outreach	$80,000	
Standard Expense Packages (2 FTE)	$5,710	
TOTAL Expenses -- IRM	$963,810	
Operating Capital Outlay:		
Hardware Servers -- Application, Data Base, Web	$225,000	
Storage -- DASD, Tape	$75,000	
Standard OCO Packages (2 FTE)	$8,354	
TOTAL OCO -- IRM	$308,354	
TOTAL Non-Recurring -- IRM	$1,272,164	
TOTAL Non-Recurring -- MQA & IRM	$1,312,484	

2. Recurring Effects:		
Health Services Budget Entity (64200000)		
EXPENSES:		
Radiation Protection Trust Fund		
Radioactive Monitoring Systems at weigh stations		
Reduction in travel costs	($3,000)	($3,000)
REVENUES:		
Planning & Evaluation Trust Fund		
Vital Statistics Fees $2 Surcharge	$800,000	$800,000
General Revenue		
HIV Minority Task Force	$250,000	$250,000
Children's Medical Services Budget Entity (64300000)		
Clinical Trials on Secretin		
CONTRACTED SERVICES:		
General Revenue	$50,000	$50,000

Program Planning, Support/Regulation Budget Entity (64100000)

Certified Nursing Assistant (CNA) Registry and Program Medical Quality Assurance Fiscal Impact Statement			
GENERAL REVENUE			
6 FTE: Salary and Benefits (25% lapse)			
Regulatory Spec I (4 FTE)		$97,428	$129,904
Regulatory Spec II (2 FTE)		$53,128	$70,386
TOTAL SALARIES AND BENEFITS		$150,556	$200,290
6 FTE, Expense (2 @ $5,307, 4 @ $4,988)		$30,566	$30,566
TOTAL RECURRING COSTS - MQA		$181,122	$230,856
Information Resource Management			
Salary and Benefits (calculated at midpoint)			
Systems Project Analyst PG24	1.0	$61,580	$82,107
Distributed Computer Systems Analyst PG22	1.0	$54,509	$72,679
TOTAL SALARIES AND BENEFITS		$116,089	$154,786
EXPENSES:			
Standard Expense (2 FTE)		$26,012	$26,012
800 Service (monthly usage on annual basis)		$12,000	$12,000
Voice Response Unit Maintenance		$20,000	$20,000
TOTAL RECURRING EXPENSES		$58,012	$58,012
TOTAL RECURRING - IRM		$174,101	$174,101

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

	Year 1	Year 2
Non-Recurring	$1,312,484	$0
Recurring	$1,452,223	$1,540,654
TOTAL REVENUES AND EXPENDITURES	$2,764,707	$1,540,654

AGENCY FOR HEALTH CARE ADMINISTRATION

According to the Agency for Health Care Administration, “The provisions of the bill have some minor fiscal impacts on the Agency which must be addressed through existing resources. The bill authorizes the Agency to request budget through authority of chapter 216, F.S., in the event the Healthy Start Medicaid waiver is not approved and the Agency reqests implementation of a certified match program for Healthy Start services.”

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   None.

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

   None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

As adopted by the Health Care Services Committee on April 5, 1999, as a strike-all amendment to HB 687, a function of the PMATF task force was review of federal requirements relating to provider assessments, an issue included because of federal requirements relating to “provider taxes.” On May 28, 1999, HCFA notified AHCA of federal approval of Florida’s request (resulting from 1998 legislation) for an exemption from the assessment on hospital net operating revenues for outpatient radiation therapy services provided by a hospital and for elimination of the assessment on freestanding radiation therapy centers. Such changes do, in fact, meet all federal tests relating to a “broad based health care-related tax” and uniformity requirements, and this federal approval, and federal requirements generally, may have an impact on the deliberations of the PMATF Task Force.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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

At its meeting on April 21, 1999, the Committee on Governmental Operations reported HB 2125 favorably. The vote was unanimous, 5-0. The committee adopted twelve amendments, which made necessary technical changes, required development of a system for newborn Medicaid identification, gave certain authority to the Department of Health, and removed certain language relating to birth records, cease and desist orders, and inspection of nursing homes.

On April 26, 1999, the House unanimously passed HB 2125, including the committee amendments. The bill was then messaged to the Senate, where the bill was substantially amended. The amendments added language from several other bills including:

CS/HB 319, relating to Pharmacy Practice;
HB 687, relating to the Public Medical Assistance Trust Fund;
HB 797, relating to Minority HIV and AIDS Prevention;
HB 965, relating to the Telehealth Task Force;
HB 1073, relating to Recreational Sport Diving;
HB 1431, relating to Emergency Medical Services;
CS/HB 1467, relating to Health Care Practioner/Regulation;
HB 1703, relating to Medical Practice Telemedicine;
HB 1847, relating to Health Care Practioner/Regulation/Adverse Incidents;
HB 1881, relating to Health Care Practioner/Credentials;
HB 2031, relating to Certified Nursing Assistants; and
HB 2239, relating to the Medicaid Program.

The bill was then returned to the House where it passed unanimously, as amended by the Senate, on April 30, 1999.

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:
Prepared by: Staff Director:

Amy K. Guinan Phil E. Williams

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:
Prepared by: Staff Director:

Jen Girgen Jimmy O. Helms

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH CARE SERVICES:
Prepared by: Staff Director:

Amy K. Guinan Phil E. Williams