CHAPTER 2000-209

Senate Bill No. 1766

An act relating to obsolete, expired, or repealed provisions of law; repealing various provisions of law that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; repealing s. 154.013, F.S., relating to county primary health care panels; amending s. 154.011, F.S.; deleting a cross-reference, to conform; repealing s. 154.12(2), F.S., relating to the legal status of county public health trusts with respect to a repealed provision of law relating to the filing of caveats; repealing s. 408.30, F.S., relating to an obsolete rule-saving clause for the Health Care Cost Containment Board; amending s. 409.912, F.S., and repealing paragraph (35)(f), relating to applicability of provisions authorizing a 1997-1998 outpatient specialty services pilot project; deleting an obsolete date and provision relating to requirements under which federally qualified health centers can be Medicaid prepaid plan providers; repealing s. 381.0408, F.S., relating to the Public Health Partnership Council on Stroke; repealing s. 408.0014, F.S., the Florida Health Access Corporation Act; amending ss. 20.42 and 409.9117, F.S.; deleting references, to conform; repealing s. 408.004, F.S., relating to the Florida Health Plan; repealing ss. 408.002, 408.005, and 408.006, F.S., relating to legislative findings and intent and to development goals and strategies, to conform; amending ss. 408.061, 408.15, 408.301, and 408.704, F.S.; deleting references, to conform; repealing s. 408.01, F.S., relating to the voluntary private health insurance coverage and insurance cost containment program; repealing s. 408.02(9), F.S., relating to a demonstration project on the effectiveness of practice parameters with respect to the costs of defensive medicine and professional liability insurance; repealing s. 408.062(1)(g), F.S., relating to development of an alternative uniform system of financial reporting of gross revenues per adjusted admission; amending s. 408.7071, F.S.; deleting provisions relating to development of a standardized claim form for insurers and health care providers licensed in this state and to the committee appointed for such purpose; repealing s. 409.908(12)(c) and (22), F.S., relating to a report on the effect of the resource-based relative value scale fee schedule on utilization of Medicaid services and to implementation of changes in the Medicaid reimbursement methodology for facilities formerly known as ICF/DD facilities; repealing s. 514.081, F.S., relating to a saving clause applicable to provisions governing construction, modification, and operation of public swimming pools and bathing facilities; amending s. 636.045, F.S.; deleting obsolete provisions relating to minimum surplus requirements for prepaid limited health service organizations; repealing s. 859.03, F.S., relating to wrapping and labeling requirements applicable to the sale of morphine; repealing s. 859.05, F.S., relating to a prohibition on the sale or other disposition of narcotics except by prescription; repealing s. 35, ch. 93-129, Laws of Florida, relating to a work group on rural health care; repealing s. 19, ch. 96-403, Laws of Florida, relating to a task force on the organization and

structure of state health programs; repealing s. 3, ch. 98-21, Laws of Florida, relating to a rural hospital redefinition study group; repealing s. 1, ch. 98-305, Laws of Florida, relating to the Prostate Cancer Task Force; repealing s. 4, ch. 99-214, Laws of Florida, relating to a school nurse training study group; repealing s. 6, ch. 99-393, Laws of Florida, relating to an advisory group on submission and payment of health claims; repealing s. 192, ch. 99-397, Laws of Florida, relating to the task force on the funding of the Public Medical Assistance Trust Fund; amending ch. 99-226, Laws of Florida, relating to the Medicaid Formulary study panel; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 154.013, Florida Statutes, is repealed.

Section 2. Subsection (1) of section 154.011, Florida Statutes, is amended to read:

154.011 Primary care services.—

(1) It is the intent of the Legislature that all 67 counties offer primary care services through contracts, as required by s. 154.01(3), for Medicaid recipients and other qualified low-income persons. Therefore, ~~beginning July 1, 1987,~~ the Department of Health is directed, to the extent that funds are appropriated, to develop a plan to implement a program in cooperation with each county. The department shall coordinate with the county's ~~primary care panel, as created by s. 154.013, or with the county's~~ governing body ~~if no primary care panel is appointed~~. Such primary care programs shall be phased-in and made operational as additional resources are appropriated, and shall be subject to the following:

(a) The department shall enter into contracts with the county governing body for the purpose of expanding primary care coverage. The county governing body shall have the option of organizing the primary care programs through county health departments or through county public hospitals owned and operated directly by the county. The department shall, as its first priority, maximize the number of counties participating in the primary care programs under this section, but shall establish priorities for funding based on need and the willingness of counties to participate. The department shall select counties for programs through a formal request-for-proposal process that requires compliance with program standards for cost-effective quality care and seeks to maximize access throughout the county.

(b) Each county's primary care program may utilize any or all of the following options of providing services: offering services directly through the county health departments; contracting with individual or group practitioners for all or part of the service; or developing service delivery models which are organized through the county health departments but which utilize other service or delivery systems available, such as federal primary care programs or prepaid health plans. In addition, counties shall have the option of pooling resources and joining with neighboring counties in order to fulfill the intent of this section.

(c) Each primary care program shall conform to the requirements and specifications of the department, and shall at a minimum:

1. Adopt a minimum eligibility standard of at least 100 percent of the federal nonfarm poverty level.

2. Provide a comprehensive mix of preventive and illness care services.

3. Be family oriented and be easily accessible regardless of income, physical status, or geographical location.

4. Ensure 24-hour telephone access and offer evening and weekend clinic services.

5. Offer continuity of care over time.

6. Make maximum use of existing providers and closely coordinate its services and funding with existing federal primary care programs, especially in rural counties, to ensure efficient use of resources.

7. Have a sliding fee schedule based on income for eligible persons above 100 percent of the federal nonfarm poverty level.

8. Include quality assurance provisions and procedures for evaluation.

9. Provide early periodic screening diagnostic and treatment services for Medicaid-eligible children.

10. Fully utilize and coordinate with rural hospitals for outpatient services, including contracting for services when advisable in terms of cost-effectiveness and feasibility.

Section 3. Subsection (2) of section 154.12, Florida Statutes, is repealed.

Section 4. Section 408.30, Florida Statutes, is repealed.

Section 5. Paragraph (f) of subsection (35) of section 409.912, Florida Statutes, is repealed, and paragraph (c) of subsection (3) of said section is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(c)~~1.~~ A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641 ~~by January 1, 1998~~, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

~~2. Until March 1, 2000, only, the licensure requirements under parts I and III of chapter 641 shall not apply to a federally qualified health center, an entity owned by one or more federally qualified health centers, or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. These entities are not prohibited from serving Medicaid recipients on a prepaid basis. This subparagraph expires March 1, 2000.~~

Section 6. Section 381.0408, Florida Statutes, is repealed.

Section 7. Section 408.0014, Florida Statutes, is repealed.

Section 8. Paragraphs (b) and (c) of subsection (2) of section 20.42, Florida Statutes, are amended to read:

20.42 Agency for Health Care Administration.—There is created the Agency for Health Care Administration within the Department of Business and Professional Regulation. The agency shall be a separate budget entity, and the director of the agency shall be the agency head for all purposes. The agency shall not be subject to control, supervision, or direction by the Department of Business and Professional Regulation in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) ORGANIZATION OF THE AGENCY.—The agency shall be organized as follows:

(b) The Division of Health Policy and Cost Control, which shall be responsible for health policy, the State Center for Health Statistics, ~~the development of The Florida Health Plan,~~ certificate of need, state and local health planning under s. 408.033, and research and analysis.

(c) The Division of State Health Purchasing shall be responsible for the Medicaid program. The division shall also administer the contracts with ~~the Florida Health Access Corporation program and~~ the Florida Health Care Purchasing Cooperative and the Florida Healthy Kids Corporation.

Section 9. Paragraph (h) of subsection (2) of section 409.9117, Florida Statutes, is amended to read:

409.9117 Primary care disproportionate share program.—

(2) In the establishment and funding of this program, the agency shall use the following criteria in addition to those specified in s. 409.911, payments may not be made to a hospital unless the hospital agrees to:

(h) Work with the Florida Healthy Kids Corporation, the Florida Health Care Purchasing Cooperative, ~~the Florida Health Access Corporation,~~ and business health coalitions, as appropriate, to develop a feasibility study and plan to provide a low-cost comprehensive health insurance plan to persons who reside within the area and who do not have access to such a plan.

Any hospital that fails to comply with any of the provisions of this subsection, or any other contractual condition, may not receive payments under this section until full compliance is achieved.

Section 10. Sections 408.002, 408.004, 408.005, and 408.006, Florida Statutes, are repealed.

Section 11. Paragraph (a) of subsection (4) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(4)(a) Within 120 days after the end of its fiscal year, each health care facility shall file with the agency, on forms adopted by the agency and based on the uniform system of financial reporting, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports which are certified to be complete and accurate by the provider. However, hospitals' actual financial experience shall be their audited actual experience. Nursing homes that do not participate in the Medicare or Medicaid programs shall also submit audited actual experience. Every nursing home shall submit to the agency, in a format designated by the agency, a statistical profile of the nursing home residents. The agency, in conjunction with the Department of Elderly Affairs and the Department of Health, shall review these statistical profiles and develop recommendations for the types of residents who might more appropriately be placed in their homes or other noninstitutional settings. ~~The agency shall include its findings in the final Florida Health Plan which must be submitted to the Legislature by December 31, 1993. Included in the findings shall be outcome data and cost differential data as part of patient profiles.~~

Section 12. Subsections (6) and (7) of section 408.15, Florida Statutes, are amended to read:

408.15 Powers of the agency.—In addition to the powers granted to the agency elsewhere in this chapter, the agency is authorized to:

(6) Apply for and receive and accept grants, gifts, and other payments, including property and services, from any governmental or other public and private entity or person and make arrangements as to the use of same~~, including undertaking special studies and other projects related to The~~

~~Florida Health Plan~~. Funds obtained under this subsection may be used as matching funds for public or private grants.

(7) Seek federal statutory changes and any waivers of federal laws or regulations that will aid in implementing ~~The Florida Health Plan and related~~ health care reforms. This may include seeking amendments to:

(a) The Employee Retirement and Income Security Act of 1974 to permit greater state regulation of employer insurance plans.

(b) The Medicaid program to permit alternative organizational alignments, elimination of all program eligibility requirements except income, and a moratorium on further federal mandates.

(c) The Medicare program to seek state administration of benefits, provider payments, or case management of beneficiaries.

(d) Federal tax laws to permit a 100-percent tax deduction for all private health insurance plans, including those of self-employed persons and unincorporated employers, and reform of the flexible sharing account requirements to maximize pretax health care expenditures.

(e) Other federal programs to permit full implementation of ~~The Florida Health Plan and related~~ state health care reforms.

Section 13. Section 408.301, Florida Statutes, is amended to read:

408.301 Legislative findings.—The Legislature has found that access to quality, affordable, health care for all Floridians is an important goal for the state. ~~The Legislature has charged the Agency for Health Care Administration with the responsibility of developing the Florida Health Plan for assuring access to health care for all Floridians. At the same time,~~ The Legislature recognizes that there are Floridians with special health care and social needs which require particular attention. The people served by the Department of Children and Family Services and the Department of Health are examples of citizens with special needs. The Legislature further recognizes that the Medicaid program is an intricate part of the service delivery system for the special needs citizens served by or through the Department of Children and Family Services and the Department of Health. The Agency for Health Care Administration is not a service provider and does not develop or direct programs for the special needs citizens served by or through the Department of Children and Family Services and the Department of Health. Therefore, it is the intent of the Legislature that the Agency for Health Care Administration work closely with the Department of Children and Family Services and the Department of Health in developing plans for assuring access to all Floridians in order to assure that the needs of special citizens are met.

Section 14. Paragraph (b) of subsection (5) of section 408.704, Florida Statutes, is amended to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide

system of community health purchasing alliances. To this end, the agency is responsible for:

(5) Establishing a data system for accountable health partnerships.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. ~~A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993.~~ The report shall include recommendations regarding:

1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. ~~The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994.~~ The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.654(3)(f).

2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.

3. Methods by which the agency should collect, process, analyze, and distribute the data.

4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.

5. Structuring the data collection process to:

a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;

b. Require that carrier customer satisfaction data conclusions are validated by the agency;

c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061; and

d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.

6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.

Section 15. Section 408.01, Florida Statutes, is repealed.

Section 16. Subsection (9) of section 408.02, Florida Statutes, is repealed.

Section 17. Paragraph (g) of subsection (1) of section 408.062, Florida Statutes, is repealed.

Section 18. Section 408.7071, Florida Statutes, is amended to read:

408.7071 Standardized claim form.—

~~(1)~~ The Agency for Health Care Administration shall develop a standardized claim ~~claims~~ form to be used by insurers and health care providers licensed in this state.

~~(2) In order to develop the standardized claim form, the agency shall appoint a 15-person committee. The committee shall consist of:~~

~~(a) The director of the Agency for Health Care Administration, or the director's designee.~~

~~(b) The Insurance Commissioner, or the commissioner's designee.~~

~~(c) Two representatives of hospitals.~~

~~(d) Five representatives of physicians: two licensed under chapter 458, one licensed under chapter 459, one licensed under chapter 460, and one licensed under chapter 461.~~

~~(e) Two representatives of health insurers.~~

~~(f) Two representatives of health maintenance organizations.~~

~~(g) Two representatives of consumers.~~

~~(3) The committee shall issue a draft of the standardized claims form to the Agency for Health Care Administration by October 1, 1993. The agency may return the form to the committee for modification on a schedule that allows the agency to include the standardized claim form in the final Florida Health Plan, which must be submitted to the Legislature by December 1, 1993.~~

Section 19. Paragraph (c) of subsection (12) and subsection (22) of section 409.908, Florida Statutes, are repealed.

Section 20. Section 514.081, Florida Statutes, is repealed.

Section 21. Section 636.045, Florida Statutes, is amended to read:

636.045 Minimum surplus requirements.—

(1) ~~Except as provided in subsection (2),~~ Each prepaid limited health service organization must at all times maintain a minimum surplus in an amount which is the greater of $150,000 or 10 percent of total liabilities. ~~Any prepaid limited health service organization which had a valid certificate of authority issued pursuant to part I, part II, or part III of chapter 637, or chapter 638, before October 1, 1993, must maintain the surplus required on September 30, 1993, until the following dates, and then shall increase its surplus as follows:~~

~~Date~~	~~Amount~~
~~January 1, 1994~~	~~The greater of $100,000 or 6 percent of total liabilities, whichever is greater.~~
~~January 1, 1995~~	~~The greater of $125,000 or 8 percent of total liabilities, whichever is greater.~~
~~January 1, 1996~~	~~The greater of $150,000 or 10 percent of total liabilities, whichever is greater.~~

(2) The department may not issue a certificate of authority ~~on or after October 1, 1993,~~ unless the prepaid limited health service organization has a minimum surplus in an amount of $150,000 or 10 percent of liabilities, whichever is the greater amount.

Section 22. Section 859.03, Florida Statutes, is repealed.

Section 23. Section 859.05, Florida Statutes, is repealed.

Section 24. Section 35 of chapter 93-129, Laws of Florida, is repealed.

Section 25. Section 19 of chapter 96-403, Laws of Florida, is repealed.

Section 26. Section 3 of chapter 98-21, Laws of Florida, is repealed.

Section 27. Section 1 of chapter 98-305, Laws of Florida, is repealed.

Section 28. Section 4 of chapter 99-214, Laws of Florida, is repealed.

Section 29. Section 6 of chapter 99-393, Laws of Florida, is repealed.

Section 30. Section 192 of chapter 99-397, Laws of Florida, is repealed.

Section 31. The proviso language following Specific Appropriation 224 of chapter 99-226, Laws of Florida, is amended to read:

224 SALARIES AND BENEFITS POSITIONS 884
FROM GENERAL REVENUE FUND..... 12,856,783

FROM ADMINISTRATIVE TRUST FUND..... 22,992,867
FROM GRANTS AND DONATIONS TRUST FUND..... 187,973

From the funds in Specific Appropriation 224, the Agency for Health Care Administration in conjunction with the Department of Children and Families shall conduct a feasibility study related to the development and implementation of a system to automate patient applications for nursing home care under the Medicaid program.

The Agency for Health Care Administration and the Department of Children and Families shall evaluate the potential cost effectiveness of conducting the demonstration project, document potential savings to the state and provide a written report to the chairmen of the Senate Budget Committee and the House Fiscal Responsibility Council and to the Governor no later than February 1, 2000.

~~From the funds in Specific Appropriation 224 and 225B the agency shall provide support for the Medicaid Formulary study panel.~~

~~The Medicaid Formulary study panel is created and shall consist of the following nine members: three members appointed by the Governor to include the Director of the Agency for Health Care Administration; three members appointed by the Speaker of the House of Representatives to include a Member of the House of Representatives; and three members appointed by the President of the Senate, to include a Member of the Senate. The Governor shall appoint a chairperson of the panel from among the panel membership. The panel shall be placed for administrative purposes within the Agency for Health Care Administration. Staff support for the panel shall be provided by the Agency for Health Care Administration.~~

~~The panel shall prepare recommendations on the advisability, feasibility and cost effectiveness of implementing an appropriate formulary for the Medicaid program. Included within the recommendations shall be proposals which will ensure quality of care, enhance patient safety, support appropriate utilization, and maximize cost efficiency. In addition, the panel shall when making their recommendations, include studying the pros and cons of an Open Formulary versus a Restricted Formulary, and the impact a formulary will have on the overall Medicaid program.~~

~~In addition, the panel must prepare a plan which must include, but is not limited to, the following specific components: recommended time lines for implementation; an appropriate communication plan to providers and Medicaid beneficiaries; a plan to obtain all required waivers from the federal government; identification of cost savings through a combination of changes in prescription drug utilization, enhanced patient compliance, and reduced purchasing costs; development of appropriate clinical protocols and guidelines; identification of administrative resources to support the program; multi-year projections for benchmarks for additional cost savings; and an ongoing evaluation plan that includes cost and quality measures. However, the agency shall not implement a formulary without specific legislative authorization.~~

~~Travel and per diem costs of panel members shall be the responsibility of the appointing agency.~~

~~The panel shall present its report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by no later than January 15, 2000.~~

Section 32. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.