

House Bill No. 2037

An act relating to health care; creating the Public Cord Blood Tissue Bank as a statewide consortium; providing purposes, membership, and duties of the consortium; providing duties of the Agency for Health Care Administration and the Department of Health; providing an exception from provisions of the act; requiring specified written disclosure by certain health care facilities and providers; specifying that donation under the act is voluntary; authorizing the consortium to charge fees; amending s. 20.42, F.S.; designating the agency as a department; reorganizing the agency and removing it from under the Department of Business and Professional Regulation; providing for appointment of the Secretary of Health Care Administration by the Governor, subject to confirmation by the Senate; providing for responsibilities and administration of the department; amending s. 440.134, F.S.; deleting obsolete language; amending ss. 120.80, 215.5601, 381.6023, 381.90, 395.0163, 395.10972, 400.0067, 400.235, 400.4415, 400.967, 408.036, 408.05, 408.902, 409.8132, 430.710, 478.44, 627.4236, 641.454, 641.60, 641.70, 732.9216, to conform provisions to changes made by the act; repealing s. 408.001, F.S., relating to the Florida Health Care Purchasing Cooperative; providing for repeal on a date certain or upon the occurrence of a contingency; transferring all powers, duties, and functions and funds of the Agency for Health Care Administration of the Department of Business and Professional Regulation to the new department; providing an effective date.

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

Section 1. PUBLIC CORD BLOOD TISSUE BANK.—

(1) There is established a statewide consortium to be known as the Public Cord Blood Tissue Bank. The Public Cord Blood Tissue Bank is established as a nonprofit legal entity to collect, screen for infectious and genetic diseases, perform tissue typing, cryopreserve, and store umbilical cord blood as a resource to the public. The University of Florida, the University of South Florida, the University of Miami, and the Mayo Clinic, Jacksonville shall jointly form the collaborative consortium, each working with community resources such as regional blood banks, hospitals, and other health care providers to develop local and regional coalitions for the purposes set forth in this act. The consortium participants shall align their outreach programs and activities to all geographic areas of the state, covering the entire state. The consortium is encouraged to conduct outreach and research for Hispanics, African Americans, Native Americans, and other ethnic and racial minorities.

(2) The Agency for Health Care Administration and the Department of Health shall encourage health care providers, including, but not limited to, hospitals, birthing facilities, county health departments, physicians, mid-

wives, and nurses, to disseminate information about the Public Cord Blood Tissue Bank.

(3) Nothing in this section creates a requirement of any health care or services program that is directly affiliated with a bona fide religious denomination that includes as an integral part of its beliefs and practices the tenet that blood transfer is contrary to the moral principles the denomination considers to be an essential part of its beliefs.

(4) Any health care facility or health care provider receiving financial remuneration for the collection of umbilical cord blood shall provide written disclosure of this information to any woman postpartum or parent of a newborn from whom the umbilical cord blood is collected prior to the harvesting of the umbilical cord blood.

(5) A woman admitted to a hospital or birthing facility for obstetrical services may be offered the opportunity to donate umbilical cord blood to the Public Cord Blood Tissue Bank. A woman may not be required to make such a donation.

(6) The consortium may charge reasonable rates and fees to recipients of cord blood tissue bank products.

(7) In order to fund the provisions of this section the consortium participants, the Agency for Health Care Administration, and the Department of Health shall seek private or federal funds to initiate program actions for fiscal year 2000-2001.

Section 2. Section 20.42, Florida Statutes, is amended to read:

20.42 Agency for Health Care Administration.—

(1) There is created a department that, notwithstanding the provisions of subsection 20.04(1), shall be called 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)(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.—The head of the department agency is the Secretary Director of Health Care Administration, who shall be appointed by the Governor, subject to confirmation by the Senate. The secretary director shall serve at the pleasure of and report to the Governor.

(3)(2) ORGANIZATION OF THE AGENCY.—The department agency shall be the chief health policy and planning entity for the state. The department is responsible for health facility licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the implementation of the certificate of

need program; the operation of the State Center for Health Statistics; the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; the certification of health maintenance organizations and prepaid health clinics as set forth in ch. 641, part III; and any other duties prescribed by statute or agreement, organized as follows:

~~(a) The Division of Health Quality Assurance, which shall be responsible for health facility licensure and inspection.~~

~~(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.~~

~~(d) The Division of Administrative Services, which shall be responsible for revenue management, budget, personnel, and general services.~~

~~(3) DEPUTY DIRECTOR FOR HEALTH QUALITY ASSURANCE.—The director shall appoint a Deputy Director for Health Quality Assurance who shall serve at the pleasure of, and be directly responsible to, the director. The Deputy Director for Health Quality Assurance shall be responsible for the Division of Health Quality Assurance.~~

~~(4) DEPUTY DIRECTOR FOR HEALTH POLICY AND COST CONTROL.—The director shall appoint a Deputy Director for Health Policy and Cost Control who shall serve at the pleasure of, and be directly responsible to, the director. The Deputy Director for Health Policy and Cost Control shall be responsible for the Division of Health Policy and Cost Control.~~

~~(5) DEPUTY DIRECTOR FOR STATE HEALTH PURCHASING.—The director shall appoint a Deputy Director for State Health Purchasing who shall serve at the pleasure of, and be directly responsible to, the director. The Deputy Director for State Health Purchasing shall be responsible for the Division of State Health Purchasing.~~

~~(6) DEPUTY DIRECTOR OF ADMINISTRATIVE SERVICES.—The director shall appoint a Deputy Director of Administrative Services who shall serve at the pleasure of, and be directly responsible to, the director. The deputy director shall be responsible for the Division of Administrative Services.~~

Section 3. Paragraph (a) of subsection (2) of section 440.134, Florida Statutes, is amended to read:

440.134 Workers' compensation managed care arrangement.—

(2)(a) The agency shall, beginning April 1, 1994, authorize an insurer to offer or utilize a workers' compensation managed care arrangement after

Section 6. Subsections (2), (3) and (7) of section 381.0602, Florida Statutes, are amended to read:

381.0602 Organ Transplant Advisory Council; membership; responsibilities.—

(2) The ~~Secretary~~ Director of Health Care Administration shall appoint all members of the council to serve a term of 2 years.

(3) The ~~Secretary~~ Director of Health Care Administration shall fill each vacancy on the council for the balance of the unexpired term. Priority consideration must be given to the appointment of an individual whose primary interest, experience, or expertise lies with clients of the Department of Health and the agency. If an appointment is not made within 120 days after a vacancy occurs on the council, the vacancy must be filled by the majority vote of the council.

(7) The council shall meet at least annually or upon the call of the chairperson or the ~~Secretary~~ Director of Health Care Administration.

Section 7. Subsection (1) of section 381.6023, Florida Statutes, is amended to read:

381.6023 Organ and Tissue Procurement and Transplantation Advisory Board; creation; duties.—

(1) There is hereby created the Organ and Tissue Procurement and Transplantation Advisory Board, which shall consist of 14 members who are appointed by and report directly to the ~~Secretary~~ Director of Health Care Administration. The membership must be regionally distributed and must include:

(a) Two representatives who have expertise in vascular organ transplant surgery;

(b) Two representatives who have expertise in vascular organ procurement, preservation, and distribution;

(c) Two representatives who have expertise in musculoskeletal tissue transplant surgery;

(d) Two representatives who have expertise in musculoskeletal tissue procurement, processing, and distribution;

(e) A representative who has expertise in eye and cornea transplant surgery;

(f) A representative who has expertise in eye and cornea procurement, processing, and distribution;

(g) A representative who has expertise in bone marrow procurement, processing, and transplantation;

(h) A representative from the Florida Pediatric Society;

- (i) A representative from the Florida Society of Pathologists; and
- (j) A representative from the Florida Medical Examiners Commission.

Section 8. Subsection (3) of section 381.90, Florida Statutes, is amended to read:

381.90 Health Information Systems Council; legislative intent; creation, appointment, duties.—

(3) The council shall be composed of the following members or their senior executive-level designees:

- (a) The secretary of the Department of Health;
- (b) The secretary of the Department of Business and Professional Regulation;
- (c) The secretary of the Department of Children and Family Services;
- (d) The secretary of ~~director of the Agency for~~ Health Care Administration;
- (e) The secretary of the Department of Corrections;
- (f) The Attorney General;
- (g) The executive director of the Correctional Medical Authority;
- (h) Two members representing county health departments, one from a small county and one from a large county, appointed by the Governor;
- (i) A representative from the Florida Association of Counties;
- (j) The State Treasurer and Insurance Commissioner;
- (k) A representative from the Florida Healthy Kids Corporation;
- (l) A representative from a school of public health chosen by the Board of Regents;
- (m) The Commissioner of Education;
- (n) The secretary of the Department of Elderly Affairs; and
- (o) The secretary of the Department of Juvenile Justice.

Representatives of the Federal Government may serve without voting rights.

Section 9. Paragraph (a) of subsection (1) of section 395.0163, Florida Statutes, is amended to read:

395.0163 Construction inspections; plan submission and approval; fees.—

(1)(a) The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the secretary ~~director~~ of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary.

Section 10. Section 395.10972, Florida Statutes, is amended to read:

395.10972 Health Care Risk Manager Advisory Council.—The Secretary ~~Director~~ of Health Care Administration may appoint a five-member advisory council to advise the agency on matters pertaining to health care risk managers. The members of the council shall serve at the pleasure of the secretary ~~director~~. The council shall designate a chair. The council shall meet at the call of the secretary ~~director~~ or at those times as may be required by rule of the agency. The members of the advisory council shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall consist of individuals representing the following areas:

- (1) Two shall be active health care risk managers.
- (2) One shall be an active hospital administrator.
- (3) One shall be an employee of an insurer or self-insurer of medical malpractice coverage.
- (4) One shall be a representative of the health-care-consuming public.

Section 11. Paragraph (h) of subsection (2) of section 400.0067, Florida Statutes, is amended to read:

400.0067 Establishment of State Long-Term Care Ombudsman Council; duties; membership.—

- (2) The State Long-Term Care Ombudsman Council shall:

(h) Prepare an annual report describing the activities carried out by the ombudsman and the State Long-Term Care Ombudsman Council in the year for which the report is prepared. The State Long-Term Care Ombudsman Council shall submit the report to the Commissioner of the United States Administration on Aging, the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House

and Senate, the chairpersons of appropriate House and Senate committees, the Secretaries of Elderly Affairs and Children and Family Services, and the Secretary ~~Director~~ of Health Care Administration. The report shall be submitted at least 30 days before the convening of the regular session of the Legislature and shall, at a minimum:

1. Contain and analyze data collected concerning complaints about and conditions in long-term care facilities.
2. Evaluate the problems experienced by residents of long-term care facilities.
3. Contain recommendations for improving the quality of life of the residents and for protecting the health, safety, welfare, and rights of the residents.
4. Analyze the success of the ombudsman program during the preceding year and identify the barriers that prevent the optimal operation of the program. The report of the program's successes shall also address the relationship between the state long-term care ombudsman program, the Department of Elderly Affairs, the Agency for Health Care Administration, and the Department of Children and Family Services, and an assessment of how successfully the state long-term care ombudsman program has carried out its responsibilities under the Older Americans Act.
5. Provide policy and regulatory and legislative recommendations to solve identified problems; resolve residents' complaints; improve the quality of care and life of the residents; protect the health, safety, welfare, and rights of the residents; and remove the barriers to the optimal operation of the state long-term care ombudsman program.
6. Contain recommendations from the district ombudsman councils regarding program functions and activities.
7. Include a report on the activities of the legal advocate and other legal advocates acting on behalf of the district and state councils.

Section 12. Paragraph (a) of subsection (3) of section 400.235, Florida Statutes, is amended to read:

400.235 Nursing home quality and licensure status; Gold Seal Program.—

(3)(a) The Gold Seal Program shall be developed and implemented by the Governor's Panel on Excellence in Long-Term Care which shall operate under the authority of the Executive Office of the Governor. The panel shall be composed of three persons appointed by the Governor, to include a consumer advocate for senior citizens and two persons with expertise in the fields of quality management, service delivery excellence, or public sector accountability; three persons appointed by the Secretary of Elderly Affairs, to include an active member of a nursing facility family and resident care council and a member of the University Consortium on Aging; the State Long-Term Care Ombudsman; one person appointed by the Florida Life

Care Residents Association; one person appointed by the Secretary of Health; two persons appointed by the Secretary Director of Health Care Administration, ~~to include the Deputy Director for State Health Purchasing~~; one person appointed by the Florida Association of Homes for the Aging; and one person appointed by the Florida Health Care Association. ~~All members of the panel shall be appointed by October 1, 1999, and the panel shall hold its organizational meeting no later than December 10, 1999.~~ Vacancies on the panel shall be filled in the same manner as the original appointments. No member shall serve for more than 4 consecutive years from the date of appointment.

Section 13. Subsection (1) of section 400.4415, Florida Statutes, is amended to read:

400.4415 Assisted living facilities advisory committee.—

(1) There is created the assisted living facilities advisory committee, which shall assist the agency in developing and implementing a pilot rating system for facilities. The committee shall consist of nine members who are to be appointed by, and report directly to, the secretary director of the agency. The membership is to include:

- (a) One researcher from a university center on aging.
- (b) One representative from the Florida Health Care Association.
- (c) One representative from the Florida Assisted Living Association.
- (d) One representative from the Florida Association of Homes for the Aging.
- (e) One representative from the Agency for Health Care Administration.
- (f) One representative from the adult services program of the Department of Children and Family Services.
- (g) One representative from the alcohol, drug abuse, and mental health program of the Department of Children and Family Services.
- (h) One representative from the Department of Elderly Affairs.
- (i) One consumer representative from a district long-term care ombudsman council.

Section 14. Subsection (5) of section 400.967, Florida Statutes, is amended to read:

400.967 Rules and classification of deficiencies.—

(5) The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the final plans and specifications. The agency may be granted one 15-day extension for the review period, if the secretary director of the agency so approves. If the agency fails to act within the specified time, it is deemed to have approved the plans and specifications.

When the agency disapproves plans and specifications, it must set forth in writing the reasons for disapproval. Conferences and consultations may be provided as necessary.

Section 15. Subsection (3) of section 408.036, Florida Statutes, is amended to read:

408.036 Projects subject to review.—

(3) EXEMPTIONS.—Upon request, supported by such documentation as the agency requires, the agency shall grant an exemption from the provisions of subsection (1):

(a) For the initiation or expansion of obstetric services.

(b) For any expenditure to replace or renovate any part of a licensed health care facility, provided that the number of licensed beds will not increase and, in the case of a replacement facility, the project site is the same as the facility being replaced.

(c) For providing respite care services. An individual may be admitted to a respite care program in a hospital without regard to inpatient requirements relating to admitting order and attendance of a member of a medical staff.

(d) For hospice services or home health services provided by a rural hospital, as defined in s. 395.602, or for swing beds in such rural hospital in a number that does not exceed one-half of its licensed beds.

(e) For the conversion of licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital as defined in s. 395.602, so long as the conversion of the beds does not involve the construction of new facilities. The total number of skilled nursing beds, including swing beds, may not exceed one-half of the total number of licensed beds in the rural hospital as of July 1, 1993. Certified skilled nursing beds designated under this paragraph, excluding swing beds, shall be included in the community nursing home bed inventory. A rural hospital which subsequently decertifies any acute care beds exempted under this paragraph shall notify the agency of the decertification, and the agency shall adjust the community nursing home bed inventory accordingly.

(f) For the addition of nursing home beds at a skilled nursing facility that is part of a retirement community that provides a variety of residential settings and supportive services and that has been incorporated and operated in this state for at least 65 years on or before July 1, 1994. All nursing home beds must not be available to the public but must be for the exclusive use of the community residents.

(g) For an increase in the bed capacity of a nursing facility licensed for at least 50 beds as of January 1, 1994, under part II of chapter 400 which is not part of a continuing care facility if, after the increase, the total licensed bed capacity of that facility is not more than 60 beds and if the facility has been continuously licensed since 1950 and has received a superior rating on each of its two most recent licensure surveys.

(h) For the establishment of a Medicare-certified home health agency by a facility certified under chapter 651; a retirement community, as defined in s. 400.404(2)(g); or a residential facility that serves only retired military personnel, their dependents, and the surviving dependents of deceased military personnel. Medicare-reimbursed home health services provided through such agency shall be offered exclusively to residents of the facility or retirement community or to residents of facilities or retirement communities owned, operated, or managed by the same corporate entity. Each visit made to deliver Medicare-reimbursable home health services to a home health patient who, at the time of service, is not a resident of the facility or retirement community shall be a deceptive and unfair trade practice and constitutes a violation of ss. 501.201-501.213.

(i) For the establishment of a Medicare-certified home health agency. This paragraph shall take effect 90 days after the adjournment sine die of the next regular session of the Legislature occurring after the legislative session in which the Legislature receives a report from the Secretary Director of Health Care Administration certifying that the federal Health Care Financing Administration has implemented a per-episode prospective pay system for Medicare-certified home health agencies.

(j) For an inmate health care facility built by or for the exclusive use of the Department of Corrections as provided in chapter 945. This exemption expires when such facility is converted to other uses.

(k) For an expenditure by or on behalf of a health care facility to provide a health service exclusively on an outpatient basis.

(l) For the termination of a health care service.

(m) For the delicensure of beds. An application submitted under this paragraph must identify the number, the classification, and the name of the facility in which the beds to be delicensed are located.

(n) For the provision of adult inpatient diagnostic cardiac catheterization services in a hospital.

1. In addition to any other documentation otherwise required by the agency, a request for an exemption submitted under this paragraph must comply with the following criteria:

a. The applicant must certify it will not provide therapeutic cardiac catheterization pursuant to the grant of the exemption.

b. The applicant must certify it will meet and continuously maintain the minimum licensure requirements adopted by the agency governing such programs pursuant to subparagraph 2.

c. The applicant must certify it will provide a minimum of 2 percent of its services to charity and Medicaid patients.

2. The agency shall adopt licensure requirements by rule which govern the operation of adult inpatient diagnostic cardiac catheterization programs

established pursuant to the exemption provided in this paragraph. The rules shall ensure that such programs:

a. Perform only adult inpatient diagnostic cardiac catheterization services authorized by the exemption and will not provide therapeutic cardiac catheterization or any other services not authorized by the exemption.

b. Maintain sufficient appropriate equipment and health personnel to ensure quality and safety.

c. Maintain appropriate times of operation and protocols to ensure availability and appropriate referrals in the event of emergencies.

d. Maintain appropriate program volumes to ensure quality and safety.

e. Provide a minimum of 2 percent of its services to charity and Medicaid patients each year.

3.a. The exemption provided by this paragraph shall not apply unless the agency determines that the program is in compliance with the requirements of subparagraph 1. and that the program will, after beginning operation, continuously comply with the rules adopted pursuant to subparagraph 2. The agency shall monitor such programs to ensure compliance with the requirements of subparagraph 2.

b.(I) The exemption for a program shall expire immediately when the program fails to comply with the rules adopted pursuant to sub-subparagraphs 2.a., b., and c.

(II) Beginning 18 months after a program first begins treating patients, the exemption for a program shall expire when the program fails to comply with the rules adopted pursuant to sub-subparagraphs 2.d. and e.

(III) If the exemption for a program expires pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the agency shall not grant an exemption pursuant to this paragraph for an adult inpatient diagnostic cardiac catheterization program located at the same hospital until 2 years following the date of the determination by the agency that the program failed to comply with the rules adopted pursuant to subparagraph 2.

4. The agency shall not grant any exemption under this paragraph until the adoption of the rules required under this paragraph, or until March 1, 1998, whichever comes first. However, if final rules have not been adopted by March 1, 1998, the proposed rules governing the exemptions shall be used by the agency to grant exemptions under the provisions of this paragraph until final rules become effective.

(o) For any expenditure to provide mobile surgical facilities and related health care services under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter 957.

(p) For state veterans' nursing homes operated by or on behalf of the Florida Department of Veterans' Affairs in accordance with part II of chapter 296 for which at least 50 percent of the construction cost is federally

funded and for which the Federal Government pays a per diem rate not to exceed one-half of the cost of the veterans' care in such state nursing homes. These beds shall not be included in the nursing home bed inventory.

A request for exemption under this subsection may be made at any time and is not subject to the batching requirements of this section.

Section 16. Paragraph (a) of subsection (8) of section 408.05, Florida Statutes, is amended to read:

408.05 State Center for Health Statistics.—

(8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM ADVISORY COUNCIL.—

(a) There is established in the agency the State Comprehensive Health Information System Advisory Council to assist the center in reviewing the comprehensive health information system and to recommend improvements for such system. The council shall consist of the following members:

1. An employee of the Executive Office of the Governor, to be appointed by the Governor.

2. An employee of the Department of Insurance, to be appointed by the Insurance Commissioner.

3. An employee of the Department of Education, to be appointed by the Commissioner of Education.

4. Ten persons, to be appointed by the Secretary ~~Director~~ of Health Care Administration, representing other state and local agencies, state universities, the Florida Association of Business/Health Coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.

Section 17. Subsection (1) of section 408.902, Florida Statutes, is amended to read:

408.902 MedAccess program; creation; program title.—

(1) Effective July 1, 1994, there is hereby created the MedAccess program to be administered by the Agency for Health Care Administration. The MedAccess program shall not be subject to the requirements of the Department of Insurance or chapter 627. The secretary ~~director~~ of the agency shall appoint an administrator of the MedAccess program ~~which shall be located in the Division of State Health Purchasing.~~

Section 18. Subsection (2) of section 409.8132, Florida Statutes, is amended to read:

409.8132 Medikids program component.—

(2) ADMINISTRATION.—The secretary ~~director~~ of the agency shall appoint an administrator of the Medikids program component, ~~which shall be~~

~~located in the Division of State Health Purchasing.~~ The Agency for Health Care Administration is designated as the state agency authorized to make payments for medical assistance and related services for the Medikids program component of the Florida Kidcare program. Payments shall be made, subject to any limitations or directions in the General Appropriations Act, only for covered services provided to eligible children by qualified health care providers under the Florida Kidcare program.

Section 19. Subsection (1) of section 430.710, Florida Statutes, is amended to read:

430.710 Long-term care interagency advisory council.—

(1) The long-term care interagency advisory council is created within the Department of Elderly Affairs to advise the secretary of the department on matters related to the long-term care community diversion pilot projects. The department and the agency shall provide staff support to the council, as determined by the secretary of the department and the secretary ~~director~~ of the agency.

(a) The Secretary of the Department of Children and Family Services shall appoint four members, one each to represent the following:

1. Consumers, or family or guardians of consumers, of optional state supplementation, adult protective services, developmental services, or mental health services from the department.
2. Providers of community-based services.
3. Consumer advocacy organizations.
4. Consumers, or representatives of consumers, who have nonage related physical disabilities.

(b) The Secretary of the Department of Elderly Affairs shall appoint five members, one each to represent the following:

1. The nursing home industry.
2. The assisted living industry.
3. Consumers of long-term care services.
4. Providers of community-based services.
5. Area Agencies on Aging.

(c) The Commissioner of Insurance shall appoint one member to represent the insurance industry.

(d) The Secretary of ~~Director of the Agency for~~ Health Care Administration shall appoint three members, one each to represent the following:

1. The hospital industry.

2. The home health industry.
3. Health maintenance organizations.

Section 20. Paragraph (c) of subsection (4) of section 478.44, Florida Statutes, is amended to read:

478.44 Electrolysis Council; creation; function; powers and duties.—

(4)

(c) Unless otherwise provided by law, a council member shall be compensated \$50 for each day the member attends an official meeting of the council or participates in official council business. A council member is also entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state requires the prior approval of the Secretary ~~Director~~ of Health Care Administration.

Section 21. Subsection (3) of section 627.4236, Florida Statutes, is amended to read:

627.4236 Coverage for bone marrow transplant procedures.—

(3)(a) The Agency for Health Care Administration shall adopt rules specifying the bone marrow transplant procedures that are accepted within the appropriate oncological specialty and are not experimental for purposes of this section. The rules must be based upon recommendations of an advisory panel appointed by the secretary ~~director~~ of the agency, composed of:

1. One adult oncologist, selected from a list of three names recommended by the Florida Medical Association;

2. One pediatric oncologist, selected from a list of three names recommended by the Florida Pediatric Society;

3. One representative of the J. Hillis Miller Health Center at the University of Florida;

4. One representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.;

5. One consumer representative, selected from a list of three names recommended by the Insurance Commissioner;

6. One representative of the Health Insurance Association of America;

7. Two representatives of health insurers, one of whom represents the insurer with the largest Florida health insurance premium volume and one of whom represents the insurer with the second largest Florida health insurance premium volume; and

8. One representative of the insurer with the largest Florida small group health insurance premium volume.

(b) The director shall also appoint a member of the advisory panel to serve as chairperson.

(c) The agency shall provide, within existing resources, staff support to enable the panel to carry out its responsibilities under this section.

(d) In making recommendations and adopting rules under this section, the advisory panel and the director shall:

1. Take into account findings, studies, or research of the federal Agency for Health Care Policy, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, and Congressional Office of Technology Assessment, and any other relevant information.

2. Consider whether the federal Food and Drug Administration or National Cancer Institute are conducting or sponsoring assessment procedures to determine the safety and efficacy of the procedure or substantially similar procedures, or of any part of such procedures.

3. Consider practices of providers with respect to requesting or requiring patients to sign a written acknowledgment that a bone marrow transplant procedure is experimental.

(e) The advisory panel shall conduct, at least biennially, a review of scientific evidence to ensure that its recommendations are based on current research findings and that insurance policies offer coverage for the latest medically acceptable bone marrow transplant procedures.

Section 22. Section 641.454, Florida Statutes, is amended to read:

641.454 Civil action to enforce prepaid health clinic contract; attorney's fees; court costs.—In any civil action brought to enforce the terms and conditions of a prepaid health clinic contract, the prevailing party is entitled to recover reasonable attorney's fees and court costs. This section shall not be construed to authorize a civil action against the department, its employees, or the Insurance Commissioner and Treasurer or against the Agency for Health Care Administration, the employees of the Agency for Health Care Administration, or the Secretary ~~Director~~ of Health Care Administration.

Section 23. Paragraph (f) of subsection (6) of section 641.60, Florida Statutes, is amended to read:

641.60 Statewide Managed Care Ombudsman Committee.—

(6) The statewide committee or a member of the committee:

(f) Shall conduct meetings at least two times a year at the call of the chairperson and at other times at the call of the secretary of the agency ~~director~~ or by written request of three members.

Section 24. Subsection (3) of section 641.70, Florida Statutes, is amended to read:

641.70 Agency duties relating to the Statewide Managed Care Ombudsman Committee and the district managed care ombudsman committees.—

(3) The secretary ~~director~~ of the agency shall ensure the full cooperation and assistance of agency employees with members of the statewide committee and district committees.

Section 25. Subsections (3) and (5) of section 732.9216, Florida Statutes, are amended to read:

732.9216 Organ and tissue donor education panel.—

(3) All members of the panel shall be appointed by the Secretary ~~Director~~ of Health Care Administration to serve a term of 2 years, except that, initially, six members shall be appointed for 1-year terms and six members shall be appointed for 2-year terms.

(5) The panel shall meet at least semiannually or upon the call of the chairperson or the Secretary ~~Director~~ of Health Care Administration.

Section 26. Section 408.001, Florida Statutes, is repealed effective December 31, 2000, or upon dissolution of the Florida Health Care Purchasing Cooperative, whichever occurs first.

Section 27. All powers, duties, and functions and rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Agency for Health Care Administration within the Department of Business and Professional Regulation are transferred by a type one transfer, as defined in s. 20.06(1), Florida Statutes, to the Agency for Health Care Administration, as created by this act.

Section 28. This act shall take effect October 1, 2000.

Approved by the Governor June 15, 2000.

Filed in Office Secretary of State June 15, 2000.