CHAPTER 2001-62

House Bill No. 663

An act relating to the Florida Statutes; amending ss. 370.0603, 370.092, 370.093, 370.12, 372.5712, 372.5715, 373.4135, 375.021, 376.30713, 377.703, 380.012, 380.0555, 381.003, 381.004, 381.0065, 381.0303, 381.90, 383.50, 384.29, 393.0641, 394.875, 395.0163, 395.4045, 395.602, 395.7015, 400.0091, 400.022, 400.023, 400.141, 400.408, 400.464, 400.980, 402.166, 402.28, 402.50, 403.031, 403.714, 403.718, 403.7191, 403.7192, 408.02, 408.0361, 409.145, 409.1685, 409.908, 409.912, 409.946, 414.105, 418.302, 420.506, 420.507, 435.03, 435.05, 435.07, 440.15, 440.381, 440.4416, 443.1715, 445.024, 446.50, 456.025, 456.039, 458.3135, 458.319, and 460.403, F.S.; reenacting ss. 370.021(2), 375.045, 397.405, 409.9122(1), 445.003(6)(b), 445.009(7)(c), 467.001, 467.002, 467.004, 467.011, 467.0125, 467.014, 467.015, 467.016, 467.017, 467.201, 467.203, 467.205, 467.207, and 468.354(3)(b), F.S.; and repealing ss. 373.4593(2)(a)-(c), 381.0045(3), 383.0112(2)(g), 411.01(9)(c), 421.37, 421.38, 421.39, 421.40, 421.41, 421.42, 421.43, 421.44, 421.45, 427.0159(2), and 464.0045, F.S., pursuant to s. 11.242, F.S.; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Subsection (2) of section 370.021, Florida Statutes, is reenacted to read:

370.021 Administration; rules, publications, records; penalties; injunctions.—

(2) MAJOR VIOLATIONS.—In addition to the penalties provided in paragraphs (1)(a) and (b), the court shall assess additional penalties against any person, firm, or corporation convicted of major violations as follows:

(a) For a violation involving more than 100 illegal blue crabs, crawfish, or stone crabs, an additional penalty of $10 for each illegal blue crab, crawfish, stone crab, or part thereof.

(b) For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, or any two violations within a 12-month period involving shrimping gear, minimum size (count), or season, an additional penalty of $10 for each pound of illegal shrimp or part thereof.

(c) For a violation involving the taking or harvesting of oysters from nonapproved areas or the taking or possession of unculled oysters, an additional penalty of $10 for each bushel of illegal oysters.

(d) For a violation involving the taking or harvesting of clams from nonapproved areas, an additional penalty of $100 for each 500 count bag of illegal clams.

(e) For a violation involving the taking, harvesting, or possession of any of the following species, which are endangered, threatened, or of special concern:

1. Shortnose sturgeon (Acipenser brevirostrum);

2. Atlantic sturgeon (Acipenser oxyrhynchus);

3. Common snook (Centropomus undecimalis);

4. Atlantic loggerhead turtle (Caretta caretta caretta);

5. Atlantic green turtle (Chelonia mydas mydas);

6. Leatherback turtle (Dermochelys coriacea);

7. Atlantic hawksbill turtle (Eretmochelys imbricata imbracata);

8. Atlantic ridley turtle (Lepidochelys kempi); or

9. West Indian manatee (Trichechus manatus latirostris),

an additional penalty of $100 for each unit of marine life or part thereof.

(f) For a second or subsequent conviction within 24 months for any violation of the same law or rule involving the taking or harvesting of more than 100 pounds of any finfish, an additional penalty of $5 for each pound of illegal finfish.

(g) For any violation involving the taking, harvesting, or possession of more than 1,000 pounds of any illegal finfish, an additional penalty equivalent to the wholesale value of the illegal finfish.

(h) The proceeds from the penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund to be used for marine fisheries research or into the commission's Federal Law Enforcement Trust Fund as provided in s. 372.107, as applicable.

(i) Permits issued to any person, firm, or corporation by the commission to take or harvest saltwater products, or any license issued pursuant to s. 370.06 or s. 370.07 may be suspended or revoked by the commission, pursuant to the provisions and procedures of s. 120.60, for any major violation prescribed in this subsection:

1. Upon a first conviction for a major violation, for up to 30 calendar days.

2. Upon a second conviction for a violation which occurs within 12 months after a prior violation, for up to 90 calendar days.

3. Upon a third conviction for a violation which occurs within 24 months after a prior violation, for up to 180 calendar days.

4. Upon a fourth conviction for a violation which occurs within 36 months after a prior violation, for a period of 6 months to 3 years.

(j) Upon the arrest and conviction for a major violation involving stone crabs, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.

(k) Upon the arrest and conviction for a major violation involving crawfish, the licenseholder must show just cause why his or her license should not be suspended or revoked. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal crawfish; any single violation involving possession of more than 25 crawfish during the closed season or possession of more than 25 wrung crawfish tails or more than 25 egg-bearing or stripped crawfish; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal crawfish in the aggregate are involved.

(l) Upon the arrest and conviction for a major violation involving blue crabs, the licenseholder shall show just cause why his or her saltwater products license should not be suspended or revoked. This paragraph shall not apply to an individual fishing with no more than five traps. For the purposes of this paragraph, a "major violation" means a major violation as prescribed for illegal blue crabs, any single violation wherein 50 or more illegal blue crabs are involved; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 100 illegal blue crabs in the aggregate are involved.

(m) Upon the conviction for a major violation involving finfish, the licenseholder must show just cause why his or her saltwater products license should not be suspended or revoked. For the purposes of this paragraph, a major violation is prescribed for the taking and harvesting of illegal finfish, any single violation involving the possession of more than 100 pounds of illegal finfish, or any combination of violations in any 3-consecutive-year period wherein more than 200 pounds of illegal finfish in the aggregate are involved.

(n) Upon final disposition of any alleged offense for which a citation for any violation of this chapter or the rules of the Fish and Wildlife Conserva-

tion Commission has been issued, the court shall, within 10 days, certify the disposition to the commission.

(o) For a violation involving the taking or harvesting of any marine life species, as those species are defined by rule of the commission, the harvest of which is prohibited, or the taking or harvesting of such a species out of season, or with an illegal gear or chemical, or any violation involving the possession of 25 or more individual specimens of marine life species, or any combination of violations in any 3-year period involving more than 70 such specimens in the aggregate, the suspension or revocation of the licenseholder's marine life endorsement as provided in paragraph (i).

Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any major violation prescribed in this subsection.

Reviser's note.—Section 36, ch. 2000-364, Laws of Florida, amended paragraphs (2)(b) and (i) and added paragraph (2)(o), but failed to republish the flush left language at the end of the subsection. In the absence of affirmative evidence that the Legislature intended to repeal the flush left language, subsection (2) is reenacted to confirm that the omission was not intended.

Section 2. Subsection (3) of section 370.0603, Florida Statutes, is amended to read:

370.0603 Marine Resources Conservation Trust Fund; purposes.—

(3) Funds provided to the Marine Resources Conservation Trust Fund from taxes distributed under s. 201.15(8) ~~201.15(9)~~ shall be used for the following purposes:

(a) To reimburse the cost of activities authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. Such facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operation related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through the contractual agreement to each facility for manatee rehabilitation must be proportionate to the number of manatees under acute care rehabilitation; the number of maintenance days medically necessary in the facility; and the number released during the previous fiscal year. The commission may set a cap on the total amount reimbursed per manatee per year.

(b) For training on the care, treatment, and rehabilitation of marine mammals at the Whitney Laboratory and the College of Veterinary ~~School of~~ Medicine at the University of Florida.

(c) For program administration costs of the agency.

(d) Funds not distributed in any 1 fiscal year must be carried over for distribution in subsequent years.

Reviser's note.—The introductory paragraph is amended to correct an apparent error and facilitate correct interpretation. Section 201.15(8) was amended by s. 33, ch. 2000-197, Laws of Florida, to add a reference to payment of funds to the credit of the trust fund for purposes of marine mammal care pursuant to s. 370.0603(3). Paragraph (b) is amended to conform to the official title of the college as created in s. 240.513(1)(f).

Section 3. Subsections (3) and (4) of section 370.092, Florida Statutes, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3) Notwithstanding subsections (1) and (2), unless authorized by rule of the Fish and Wildlife Conservation Commission, it is a major violation under this section, punishable as provided in s. 370.021(3) ~~subsection (4)~~, for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets shall be as defined in s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or in a rule of the Fish and Wildlife Conservation Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current United States Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

(4) The Fish and Wildlife Conservation Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in s. 370.021(3) ~~subsection (4)~~.

Reviser's note.—Amended to conform to the current location of the referenced material. The language in s. 370.021(3), enacted by s. 2, ch. 98-227, Laws of Florida, is substantively the same as former s. 370.092(4), which was repealed by s. 13, ch. 98-227.

Section 4. Subsection (5) of section 370.093, Florida Statutes, is amended to read:

370.093 Illegal use of nets.—

(5) Any person who violates this section shall be punished as provided in s. 370.021(3) ~~370.092(4)~~.

Reviser's note.—Amended to conform to the current location of the referenced material. The language in s. 370.021(3), enacted by s. 2, ch. 98-227, Laws of Florida, is substantively the same as former s. 370.092(4), which was repealed by s. 13, ch. 98-227.

Section 5. Subsection (3) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES).—It is unlawful to catch, attempt to catch, molest, injure, kill, or annoy, or otherwise interfere with the normal activity and well-being of, mammalian dolphins (porpoises), except as may be authorized by ~~as~~ a federal permit.

Reviser's note.—Amended to facilitate correct interpretation.

Section 6. Subsection (1) of section 372.5712, Florida Statutes, is amended to read:

372.5712 Florida waterfowl permit revenues.—

(1) The commission shall expend the revenues generated from the sale of the Florida waterfowl permit as provided in s. 372.57(4)(a) or that pro rata portion of any license that includes waterfowl hunting privileges, as provided in s. 372.57(2)(k) and (14)(b) ~~372.57(2)(i) and (14)(b)~~ as follows: A maximum of 5 percent of the gross revenues shall be expended for administrative costs; a maximum of 25 percent of the gross revenues shall be expended for waterfowl research approved by the commission; and a maximum of 70 percent of the gross revenues shall be expended for projects approved by the commission, in consultation with the Waterfowl Advisory Council, for the purpose of protecting and propagating migratory waterfowl and for the development, restoration, maintenance, and preservation of wetlands within the state.

Reviser's note.—Amended to conform to the redesignation of paragraphs of s. 372.57(2) by s. 37, ch. 2000-362, Laws of Florida.

Section 7. Subsection (1) of section 372.5715, Florida Statutes, is amended to read:

372.5715 Florida wild turkey permit revenues.—

(1) The commission shall expend the revenues generated from the sale of the turkey permit as provided for in s. 372.57(4)(e) or that pro rata portion of any license that includes turkey hunting privileges as provided for in s. 372.57(2)(k) and (14)(b) ~~372.57(2)(i) and (14)(b)~~ for research and management of wild turkeys.

Reviser's note.—Amended to conform to the redesignation of paragraphs of s. 372.57(2) by s. 37, ch. 2000-362, Laws of Florida.

Section 8. Subsection (7) of section 373.4135, Florida Statutes, is amended to read:

373.4135 Mitigation banks and offsite regional mitigation.—

(7) The department, water management districts, and local governments may elect to establish and manage mitigation sites, including regional off-

site mitigation areas, or contract with permitted mitigation banks, to provide mitigation options for private single-family lots or homeowners. The department, water management districts, and local governments shall provide a written notice of their election under this subsection ~~paragraph~~ by United States mail to those individuals who have requested, in writing, to receive such notice. The use of mitigation options established under this subsection are not subject to the full-cost-accounting provision of s. 373.414(1)(b)1. To use a mitigation option established under this subsection, the applicant for a permit under this part must be a private, single-family lot or homeowner, and the land upon which the adverse impact is located must be intended for use as a single-family residence by the current owner. The applicant must not be a corporation, partnership, or other business entity. However, the provisions of this subsection shall not apply to other entities that establish offsite regional mitigation as defined in this section and s. 373.403.

Reviser's note.—Amended to correct an apparent error. Subsection (7) is not divided into paragraphs.

Section 9. Paragraphs (a), (b), and (c) of subsection (2) of section 373.4593, Florida Statutes, are repealed.

Reviser's note.—Repealed to delete language that is obsolete; paragraphs (2)(a) and (b) provide that by June 1, 1994, the South Florida Water Management District must request the Federal Government to become a joint sponsor and take all action to expedite or waive necessary federal approvals needed to implement an emergency interim plan to restore Florida Bay. Paragraph (2)(c) provides that by July 1, 1994, the South Florida Water Management District must file for any necessary federal approvals.

Section 10. Subsection (1) of section 375.021, Florida Statutes, is amended to read:

375.021 Comprehensive multipurpose outdoor recreation plan.—

(1) The department is given the responsibility, authority, and power to develop and execute a comprehensive multipurpose outdoor recreation plan for this state with the cooperation of the Department of Agriculture and Consumer Services, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Florida Commission on Tourism ~~Department of Commerce~~, and the water management districts.

Reviser's note.—Amended to conform to the repeal of s. 20.17, creating the Department of Commerce, by s. 3, ch. 96-320, Laws of Florida, and the assumption of its obligations regarding the comprehensive multipurpose outdoor recreation plan by the Florida Commission on Tourism.

Section 11. Section 375.045, Florida Statutes, is reenacted to read:

375.045 Florida Preservation 2000 Trust Fund.—

(1) There is created the Florida Preservation 2000 Trust Fund to carry out the purposes of ss. 259.032, 259.101, and 375.031. The Florida Preservation 2000 Trust Fund shall be held and administered by the Department of

Environmental Protection. Proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a), not to exceed $3 billion, shall be deposited into this trust fund to be distributed as provided in s. 259.101(3). The bond resolution adopted by the governing board of the Division of Bond Finance may provide for additional provisions that govern the disbursement of the bond proceeds.

(2) The Department of Environmental Protection shall distribute revenues from the Florida Preservation 2000 Trust Fund only to programs of state agencies or local governments as set out in s. 259.101(3). Excluding distributions to the Save Our Everglades Trust Fund, such distributions shall be spent by the recipient within 90 days after the date on which the Department of Environmental Protection initiates the transfer.

(3) Any agency or district which acquires lands using Preservation 2000 funds, as distributed pursuant to this section and s. 259.101(3), shall manage the lands to make them available for public recreational use, provided that the recreational use does not interfere with the protection of natural resource values. Any such agency or district may enter into agreements with the Department of Environmental Protection or other appropriate state agencies to transfer management authority to or to lease to such agencies lands purchased with Preservation 2000 funds, for the purpose of managing the lands to make them available for public recreational use. The water management districts and the Department of Environmental Protection shall take action to control the growth of nonnative invasive plant species on lands they manage which are purchased with Preservation 2000 funds.

(4) The Department of Environmental Protection shall ensure that the proceeds from the sale of revenue bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 201.15(1)(a) shall be administered and expended in a manner that ensures compliance of each issue of revenue bonds that are issued on the basis that interest thereon will be excluded from gross income for federal income tax purposes, with the applicable provisions of the United States Internal Revenue Code and the regulations promulgated thereunder, to the extent necessary to preserve the exclusion of interest on such revenue bonds from gross income for federal income tax purposes. The Department of Environmental Protection shall have the authority to administer the use and disbursement of the proceeds of such revenue bonds or require that the use and disbursement thereof be administered in such a manner as shall be necessary to implement strategies to maximize any available benefits under the applicable provisions of the United States Internal Revenue Code or regulations promulgated thereunder, to the extent not inconsistent with the purposes identified in s. 259.101(3).

Upon a determination by the Department of Environmental Protection that proceeds being held in the trust fund to support distributions outside the Department of Environmental Protection are not likely to be disbursed in accordance with the foregoing considerations, the Department of Environmental Protection shall petition the Governor and Cabinet to allow for the

immediate disbursement of such funds for the acquisition of projects approved for purchase pursuant to the provisions of chapter 259.

Reviser's note.—Section 6, ch. 2000-129, Laws of Florida, purported to amend subsection (2), but failed to republish the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal the flush left language, s. 375.045 is reenacted to confirm that the omission was not intended.

Section 12. Subsection (7) of section 376.30713, Florida Statutes, is repealed, and subsection (2) of that section is amended to read:

376.30713 Preapproved advanced cleanup.—

(2) ~~Beginning January 1, 1997,~~ The department is authorized to approve an application for preapproved advanced cleanup at eligible sites, prior to funding based on the site's priority ranking established pursuant to s. 376.3071(5)(a), in accordance with the provisions of this section. Persons who qualify as an applicant under the provisions of this section shall only include the facility owner or operator or the person otherwise responsible for site rehabilitation.

(a) Preapproved advanced cleanup applications may be submitted between May 1 and June 30 and between November 1 and December 31 of each fiscal year. Applications submitted between May 1 and June 30 shall be for the fiscal year beginning July 1. ~~Initial applications shall be submitted between November 1 and December 31, 1996.~~ An application shall consist of:

1. A commitment to pay no less than 25 percent of the total cleanup cost deemed recoverable under the provisions of this section along with proof of the ability to pay the cost share.

2. A nonrefundable review fee of $250 to cover the administrative costs associated with the department's review of the application.

3. A limited contamination assessment report.

4. A proposed course of action.

The limited contamination assessment report shall be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Any costs incurred related to conducting the limited contamination assessment report are not refundable from the Inland Protection Trust Fund. Site eligibility under this subsection, or any other provision of this section, shall not constitute an entitlement to preapproved advanced cleanup or continued restoration funding. The applicant shall certify to the department that the applicant has the prerequisite authority to enter into a preapproved advanced cleanup contract with the department. This certification shall be submitted with the application.

(b) The department shall rank the applications based on the percentage of cost-sharing commitment proposed by the applicant, with the highest

ranking given to the applicant that proposes the highest percentage of cost sharing. If the department receives applications that propose identical cost-sharing commitments and which exceed the funds available to commit to all such proposals during the preapproved advanced cleanup application period, the department shall proceed to rerank those applicants. Those applicants submitting identical cost-sharing proposals which exceed funding availability shall be so notified by the department and shall be offered the opportunity to raise their individual cost-share commitments, in a period of time specified in the notice. At the close of the period, the department shall proceed to rerank the applications in accordance with this paragraph.

Reviser's note.—Subsection (2) is amended to delete obsolete references to past dates. Subsection (7), requiring legislative review of s. 376.30713 prior to March 1, 2001, is repealed.

Section 13. Paragraph (h) of subsection (3) of section 377.703, Florida Statutes, is amended to read:

377.703 Additional functions of the Department of Community Affairs; energy emergency contingency plan; federal and state conservation programs.—

(3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.—The Department of Community Affairs shall, in addition to assuming the duties and responsibilities provided by ss. 20.18 and 377.701, perform the following functions consistent with the development of a state energy policy:

(h) Promote the development and use of renewable energy resources, in conformance with the provisions of chapter 187 and s. 377.601, by:

1. Establishing goals and strategies for increasing the use of solar energy in this state.

2. Aiding and promoting the commercialization of solar energy technology, in cooperation with the Florida Solar Energy Center, Enterprise Florida, Inc. ~~the Department of Commerce~~, and any other federal, state, or local governmental agency which may seek to promote research, development, and demonstration of solar energy equipment and technology.

3. Identifying barriers to greater use of solar energy systems in this state, and developing specific recommendations for overcoming identified barriers, with findings and recommendations to be submitted annually in the report to the Legislature required under paragraph (f).

4. In cooperation with the Department of Transportation, Enterprise Florida, Inc. ~~the Department of Commerce~~, the Florida Solar Energy Center, and the Florida Solar Energy Industries Association, investigating opportunities, pursuant to the National Energy Policy Act of 1992 and the Housing and Community Development Act of 1992, for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance this state's position as the leader in solar energy research, development, and use.

5. Undertaking other initiatives to advance the development and use of renewable energy resources in this state.

In the exercise of its responsibilities under this paragraph, the department shall seek the assistance of the solar energy industry in this state and other interested parties and is authorized to enter into contracts, retain professional consulting services, and expend funds appropriated by the Legislature for such purposes.

Reviser's note.—Amended to conform to the repeal of s. 20.17, which created the Department of Commerce, by s. 3, ch. 96-320, Laws of Florida, and the replacement of the department with Enterprise Florida, Inc., for purposes of providing assistance in the area of solar energy pursuant to s. 288.041.

Section 14. Section 380.012, Florida Statutes, is amended to read:

380.012 Short title.—Sections 380.012, 380.021, 380.031, 380.04, 380.05, 380.06, 380.07, and 380.08 ~~380.012-380.10~~ shall be known and may be cited as "The Florida Environmental Land and Water Management Act of 1972."

Reviser's note.—Amended to conform to the current sections comprising the referenced act as enacted by ch. 72-317, Laws of Florida.

Section 15. Paragraph (f) of subsection (10) of section 380.0555, Florida Statutes, is repealed, and paragraphs (c), (d), and (g) of subsection (10) of that section are amended to read:

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(10) REQUIREMENTS; LOCAL GOVERNMENTS.—

(c)1. The Department of Health shall survey all septic tank soil-absorption systems in the Apalachicola Bay Area to determine their suitability as onsite sewage treatment systems. Within 6 months from June 18, 1985, Franklin County and the municipalities within it, after consultation with the Department of Health and the Department of Environmental Protection ~~Regulation~~, shall develop a program designed to correct any onsite sewage treatment systems that might endanger the water quality of the bay.

2. Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact by ordinance procedures implementing this program. These procedures shall include notification to owners of unacceptable septic tanks and procedures for correcting unacceptable septic tanks. These ordinances shall not be effective until approved by the Department of Health and the Department of Environmental Protection ~~Regulation~~.

(d) Franklin County and the municipalities within it shall, within 12 months from June 18, 1985, establish by ordinance a map of "pollution-sensitive segments of the critical shoreline" within the Apalachicola Bay Area, which ordinance shall not be effective until approved by the Depart-

ment of Health and the Department of Environmental Protection ~~Regulation~~. Franklin County and the municipalities within it, after the effective date of these ordinances, shall no longer grant permits for onsite wastewater disposal systems in pollution-sensitive segments of the critical shoreline, except for those onsite wastewater systems that will not degrade water quality in the river or bay. These ordinances shall not become effective until approved by the resource planning and management committee. Until such ordinances become effective, the Franklin County Health Department shall not give a favorable recommendation to the granting of a septic tank variance pursuant to section (1) of Ordinance 79-8, adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, or issue a permit for a septic tank or alternative waste disposal system pursuant to Ordinance 81-5, adopted on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, as amended as set forth in subparagraph (8)(a)2., unless the Franklin County Health Department certifies, in writing, that the use of such system will be consistent with paragraph (7)(f) and subsection (8).

(f)~~(g)~~ Franklin County and the municipalities within it shall, beginning 12 months from June 18, 1985, prepare semiannual reports on the implementation of paragraphs (b)-(e) ~~(b)-(f)~~ on the environmental status of the Apalachicola Bay Area. The state land planning agency may prescribe additional detailed information required to be reported. Each report shall be delivered to the resource planning and management committee and the state land planning agency for review and recommendations. The state land planning agency shall review each report and consider such reports when making recommendations to the Administration Commission pursuant to subsection (9).

Reviser's note.—Paragraph (10)(f), which related to a report to be submitted within 12 months from June 18, 1985, is repealed because it has served its purpose. Paragraphs (10)(c) and (d) are amended to conform to the transfer of all legal authority and action of the Department of Environmental Regulation to the Department of Environmental Protection by s. 3, ch. 93-213, Laws of Florida. Paragraph (10)(g) is amended to conform to the repeal of paragraph (10)(f).

Section 16. Paragraph (e) of subsection (1) of section 381.003, Florida Statutes, is amended to read:

381.003 Communicable disease and AIDS prevention and control.—

(1) The department shall conduct a communicable disease prevention and control program as part of fulfilling its public health mission. A communicable disease is any disease caused by transmission of a specific infectious agent, or its toxic products, from an infected person, an infected animal, or the environment to a susceptible host, either directly or indirectly. The communicable disease program must include, but need not be limited to:

(e) Programs for the prevention and control of vaccine-preventable diseases, including programs to immunize school children as required by s. 232.032 and the development of an automated, electronic, and centralized

database or registry of immunizations. The department shall ensure that all children in this state are immunized against vaccine-preventable diseases. The immunization registry shall allow the department to enhance current immunization activities for the purpose of improving the immunization of all children in this state.

1. Except as provided in subparagraph 2., the department shall include all children born in this state in the immunization registry by using the birth records from the Office of Vital Statistics. The department shall add other children to the registry as immunization services are provided.

2. The parent or guardian of a child may refuse to have the child included in the immunization registry by signing a form obtained from the department, or from the health care practitioner or entity that provides the immunization, which indicates that the parent or guardian does not wish to have the child included in the immunization registry. The decision to not participate in the immunization registry must be noted in the registry.

3. The immunization registry shall allow for immunization records to be electronically transferred to entities that are required by law to have such records, including schools, licensed child care facilities, and any other entity that is required by law to obtain proof of a child's immunizations.

4. Any health care practitioner licensed under chapter 458, chapter 459, or chapter 464 in this state who complies with rules adopted by the department to access the immunization registry may, through the immunization registry, directly access immunization records and update a child's immunization history or exchange immunization information with another authorized practitioner, entity, or agency involved in a child's care. The information included in the immunization registry must include the child's name, date of birth, address, and any other unique identifier necessary to correctly identify the child; the immunization record, including the date, type of administered vaccine, and vaccine lot number; and the presence or absence of any adverse reaction or contraindication related to the immunization. Information received by the department for the immunization registry retains its status as confidential medical information and the department must maintain the confidentiality of that information as otherwise required by law. A health care practitioner or other agency that obtains information from the immunization registry must maintain the confidentiality of any medical records in accordance with s. 456.057 ~~455.667~~ or as otherwise required by law.

Reviser's note.—Amended to conform to the redesignation of s. 455.667 as s. 456.057 by s. 79, ch. 2000-160, Laws of Florida.

Section 17. Paragraph (e) of subsection (3) of section 381.004, Florida Statutes, is amended to read:

381.004 HIV testing.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(e) Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). No person who has obtained or has knowledge of a test result pursuant to this section may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative.

2. Any person, including third-party payors, designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative. The test subject may in writing authorize the disclosure of the test subject's HIV test results to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. A general release without such prior written authorization is not sufficient to release HIV test results.

3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee participates in the administration or provision of patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information. The department shall adopt a rule defining which persons have a need to know pursuant to this subparagraph.

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment. For purposes of this subparagraph, health care providers shall include licensed health care professionals employed by or associated with state, county, or municipal detention facilities when such health care professionals are acting exclusively for the purpose of providing diagnoses or treatment of persons in the custody of such facilities.

5. The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law.

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to July 6, 1988, for the purpose of artificial insemination.

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews pursuant to chapters 395 and 766.

8. Authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information.

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records.

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.

c. Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

10. A person allowed access by order of a judge of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security. A judge of compensation claims shall not issue such order unless he or she finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means.

11. Those employees of the department or of child-placing or child-caring agencies or of family foster homes, licensed pursuant to s. 409.175, who are directly involved in the placement, care, control, or custody of such test subject and who have a need to know such information; adoptive parents of such test subject; or any adult custodian, any adult relative, or any person responsible for the child's welfare, if the test subject was not tested under subparagraph (b)2. and if a reasonable attempt has been made to locate and inform the legal guardian of a test result. The department shall adopt a rule to implement this subparagraph.

12. Those employees of residential facilities or of community-based care programs that care for developmentally disabled persons, pursuant to chapter 393, who are directly involved in the care, control, or custody of such test subject and who have a need to know such information.

13. A health care provider involved in the delivery of a child can note the mother's HIV test results in the child's medical record.

14. Medical personnel or nonmedical personnel who have been subject to a significant exposure during the course of medical practice or in the performance of professional duties, or individuals who are the subject of the significant exposure as provided in subparagraphs (h)10.-12. ~~(h)10., 11., and 13.~~

15. The medical examiner shall disclose positive HIV test results to the department in accordance with rules for reporting and controlling the spread of disease.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Subparagraph (3)(h)12. references significant exposure; subparagraph (3)(h)13. does not.

Section 18. Subsection (3) of section 381.0045, Florida Statutes, is repealed.

Reviser's note.—The cited subsection relates to a 2-year pilot program to provide outreach services to high-risk pregnant women in five specified counties, effective October 1, 1998.

Section 19. Paragraph (t) of subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system

without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(t) Notwithstanding the provisions of subparagraph (g)1. ~~(f)1.~~, onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does

not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

Reviser's note.—Amended to conform to the redesignation of paragraphs of subsection (4) by s. 1, ch. 99-395, Laws of Florida.

Section 20. Subsections (1) and (3), paragraph (a) of subsection (5), and subsection (7) of section 381.0303, Florida Statutes, are amended to read:

381.0303 Health practitioner recruitment for special needs shelters.—

(1) PURPOSE.—The purpose of this section is to designate the Department of Health, through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners, as defined in s. 456.001(4) ~~455.501(4)~~, to staff special needs shelters in times of emergency or disaster and to provide resources to the department to carry out this responsibility. However, nothing in this section prohibits a county health department from entering into an agreement with a local emergency management agency to assume the lead responsibility for recruiting health care practitioners.

(3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.—The Department of Health shall reimburse, subject to the availability of funds for this purpose, health care practitioners, as defined in s. 456.001 ~~455.501~~, provided the practitioner is not providing care to a patient under an existing contract, and emergency medical technicians and paramedics licensed pursuant to chapter 401 for medical care provided at the request of the department in special needs shelters or at other locations during times of emergency or major disaster. Reimbursement for health care practitioners, except for physicians licensed pursuant to chapter 458 or chapter 459, shall be based on the average hourly rate that such practitioners were paid according to the most recent survey of Florida hospitals conducted by the Florida Hospital Association. Reimbursement shall be requested on forms prepared by the Department of Health. If a Presidential Disaster Declaration has been made, and the Federal Government makes funds available, the department shall use such funds for reimbursement of eligible expenditures. In other situations, or if federal funds do not fully compensate the department for reimbursement made pursuant to this section, the department shall submit to the Cabinet or Legislature, as appropriate, a budget amendment to obtain reimbursement from the working capital fund. Travel expense and per diem costs shall be reimbursed pursuant to s. 112.061.

(5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The Department of Health may establish a special needs shelter interagency committee, to be chaired and staffed by the department. The committee shall resolve problems related to special needs shelters not addressed in the state comprehensive emergency medical plan and shall serve as an oversight committee to monitor the planning and operation of special needs shelters.

(a) The committee may:

~~1. On or before January 1, 2001, resolve questions concerning the roles and responsibilities of state agencies and other organizations that are necessary to implement the program.~~

~~2. On or before January 1, 2001, identify any issues requiring additional legislation and funding.~~

1.~~3.~~ Develop and negotiate any necessary interagency agreements.

2.~~4.~~ Undertake other such activities as the department deems necessary to facilitate the implementation of this section.

3.~~5.~~ Submit recommendations to the Legislature as necessary.

(7) REVIEW OF EMERGENCY MANAGEMENT PLANS.—The submission of emergency management plans to county health departments by home health agencies pursuant to s. 400.497(8)(c) and (d) ~~400.497(11)(c) and (d)~~ and by nurse registries pursuant to s. 400.506(16)(e) and by hospice programs pursuant to s. 400.610(1)(b) is conditional upon the receipt of an appropriation by the department to establish medical services disaster coordinator positions in county health departments unless the secretary of the department and a local county commission jointly determine to require such plans to be submitted based on a determination that there is a special need to protect public health in the local area during an emergency.

Reviser's note.—Subsections (1) and (3) are amended to conform to the redesignation of s. 455.501 as s. 456.001 by s. 36, ch. 2000-160, Laws of Florida. Paragraph (5)(a) is amended to delete provisions that have served their purpose. Subsection (7) is amended to conform to the redesignation of s. 400.497(11)(c) and (d) as s. 400.497(8)(c) and (d) to conform to s. 13, ch. 2000-140, Laws of Florida, and s. 160, ch. 2000-318, Laws of Florida.

Section 21. Subsection (4) and paragraph (c) of subsection (7) of section 381.90, Florida Statutes, are amended to read:

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

(4) Members of the council who are appointed by the Governor shall serve 2-year terms beginning January 1 through December 31~~, except that their initial term shall be July 1, 1997, through December 31, 1998~~. A member may be removed by the Governor for cause or if such member is absent from three consecutive meetings. Any member appointed to fill a vacancy shall serve for the unexpired term of his or her predecessor.

(7) The council's duties and responsibilities include, but are not limited to, the following:

(c) To develop a review process to ensure cooperative planning among agencies that collect or maintain health-related data. ~~The council shall submit a report on the implementation of this requirement to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2000.~~

Reviser's note.—Amended to delete obsolete provisions.

Section 22. Paragraph (g) of subsection (2) of section 383.0112, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph relates to a statewide symposium on responsible fatherhood to be held no later than December 1996.

Section 23. Subsection (7) of section 383.50, Florida Statutes, is amended to read:

383.50 Treatment of abandoned newborn infant.—

(7) Upon admitting a newborn infant under this section, the hospital shall immediately contact a local licensed child-placing agency or alternatively contact the statewide central abuse hotline for the name of a licensed child-placing agency for purposes of transferring physical custody of the newborn infant. The hospital shall notify the licensed child-placing agency that a newborn infant has been left with the hospital and approximately when the licensed child-placing agency can take physical custody of the child. In cases where there is actual or suspected child abuse or neglect, the hospital or any of its licensed health care professionals shall report the actual or suspected child abuse or neglect in accordance with ss. 39.201 ~~39.1023~~ and 395.1023 in lieu of contacting a licensed child-placing agency.

Reviser's note.—Amended to correct an apparent error and conform to the correct citation of the referenced material; there is no s. 39.1023.

Section 24. Paragraph (d) of subsection (1) of section 384.29, Florida Statutes, is amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(d) When made in a medical emergency, but only to the extent necessary to protect the health or life of a named party, or an injured officer, firefighter, paramedic, or emergency medical technician~~, as provided in s. 796.08(6)~~; or

Reviser's note.—Amended to delete an obsolete reference. Section 796.08(6) was repealed by s. 2, ch. 94-205, Laws of Florida.

Section 25. Subsection (1) of section 393.0641, Florida Statutes, is amended to read:

393.0641 Program for the prevention and treatment of severe self-injurious behavior.—

(1) ~~Effective July 1, 1990, and~~ Contingent upon specific appropriations, there is created a diagnostic, treatment, training, and research program for clients exhibiting severe self-injurious behavior. This program shall:

(a) Serve as a resource center for information, training, and program development.

(b) Research the diagnosis and treatment of severe self-injurious behavior, and related disorders, and develop methods of prevention and treatment of self-injurious behavior.

(c) Identify individuals in critical need.

(d) Develop treatment programs which are meaningful to individuals with developmental disabilities, in critical need, while safeguarding and respecting the legal and human rights of the individuals.

(e) Disseminate research findings on the prevention and treatment of severe self-injurious behavior.

(f) Collect data on the type, severity, incidence, and demographics of individuals with severe self-injurious behavior, and disseminate the data.

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 26. Subsection (12) of section 394.875, Florida Statutes, is amended to read:

394.875 Crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required; penalties.—

(12) Notwithstanding the other provisions of this section, any facility licensed under former chapter ~~chapters~~ 396 and chapter 397 for detoxification, residential level I care, and outpatient treatment may elect to license concurrently all of the beds at such facility both for that purpose and as a long-term residential treatment facility pursuant to this section, if all of the following conditions are met:

(a) The licensure application is received by the department prior to January 1, 1993.

(b) On January 1, 1993, the facility was licensed under former chapter ~~chapters~~ 396 and chapter 397 as a facility for detoxification, residential level I care, and outpatient treatment of substance abuse.

(c) The facility restricted its practice to the treatment of law enforcement personnel for a period of at least 12 months beginning after January 1, 1992.

(d) The number of beds to be licensed under this chapter is equal to or less than the number of beds licensed under former chapter ~~chapters~~ 396 and chapter 397 as of January 1, 1993.

(e) The licensee agrees in writing to a condition placed upon the license that the facility will limit its treatment exclusively to law enforcement personnel and their immediate families who are seeking admission on a voluntary basis and who are exhibiting symptoms of posttraumatic stress disorder or other mental health problems, including drug or alcohol abuse, which are directly related to law enforcement work and which are amenable to verbal treatment therapies; the licensee agrees to coordinate the provision of appropriate postresidential care for discharged individuals; and the licensee further agrees in writing that a failure to meet any condition specified in this paragraph shall constitute grounds for a revocation of the facility's license as a residential treatment facility.

(f) The licensee agrees that the facility will meet all licensure requirements for a residential treatment facility, including minimum standards for compliance with lifesafety requirements, except those licensure requirements which are in express conflict with the conditions and other provisions specified in this subsection.

(g) The licensee agrees that the conditions stated in this subsection must be agreed to in writing by any person acquiring the facility by any means.

Any facility licensed under this subsection is not required to provide any services to any persons except those included in the specified conditions of licensure, and is exempt from any requirements related to the 60-day or greater average length of stay imposed on community-based residential treatment facilities otherwise licensed under this chapter.

Reviser's note.—Amended to conform to the repeal of chapter 396 by s. 48, ch. 93-39, Laws of Florida.

Section 27. Effective July 1, 2001, paragraph (a) of subsection (1) of section 395.0163, Florida Statutes, as amended by section 21 of chapter 2000-141, Laws of Florida, is amended to read:

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

(1)(a) The design, construction, erection, alteration, modification, repair, and demolition of all public and private health care facilities are governed by the Florida Building Code and the Florida Fire Prevention Code under ss. 553.73 and 633.022 ~~663.022~~. In addition to the requirements of ss. 553.79 and 553.80, the agency shall review facility plans and survey the construction of any facility licensed under this chapter. 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 applicable provisions of the Florida Building Code or 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 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.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 663.022 does not exist. Section 633.022 relates to uniform firesafety standards.

Section 28. Subsection (4) of section 395.4045, Florida Statutes, is amended to read:

395.4045 Emergency medical service providers; trauma transport protocols; transport of trauma alert victims to trauma centers; interfacility transfer.—

(4) The department shall specify by rule the subjects and the minimum criteria related to prehospital trauma transport, trauma center or hospital destination determinations, and interfacility trauma transfer transport by an emergency medical services provider to be included in a trauma agency's or emergency medical service provider's trauma transport protocol and shall approve or disapprove each such protocol. Trauma transport protocol rules pertaining to the air transportation of trauma victims shall be consistent with, but not limited to, applicable Federal Aviation Administration regulation. Emergency medical services licensees and trauma agencies shall be subject to monitoring by the department, under ss. 395.401(3) ~~395.401(4)~~ and 402.31(1) for compliance with requirements, as applicable, regarding trauma transport protocols and the transport of trauma victims.

Reviser's note.—Amended to conform to the redesignation of s. 395.401(4) as s. 395.401(3) by s. 2, ch. 2000-189, Laws of Florida.

Section 29. Paragraphs (c) and (g) of subsection (2) of section 395.602, Florida Statutes, are amended to read:

395.602 Rural hospitals.—

(2) DEFINITIONS.—As used in this part:

(c) "Inactive rural hospital bed" means a licensed acute care hospital bed, as defined in s. 395.002(14) ~~395.002(12)~~, that is inactive in that it cannot be occupied by acute care inpatients.

(g) "Swing-bed" means a bed which can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to 42 C.F.R. ~~the Code of Federal Regulations,~~ parts 405, 435, 440, 442, and 447.

Reviser's note.—Paragraph (2)(c) is amended to conform to the redesignation of subunits of s. 395.002 to conform to s. 23, ch. 98-89, Laws of

Florida, and s. 37, ch. 98-171, Laws of Florida. Paragraph (2)(g) is amended to conform to the correct citation to the referenced material.

Section 30. Paragraph (b) of subsection (2) of section 395.7015, Florida Statutes, is amended to read:

395.7015 Annual assessment on health care entities.—

(2) There is imposed an annual assessment against certain health care entities as described in this section:

(b) For the purpose of this section, "health care entities" include the following:

1. Ambulatory surgical centers and mobile surgical facilities licensed under s. 395.003. This subsection shall only apply to mobile surgical facilities operating under contracts entered into on or after July 1, 1998.

2. Clinical laboratories licensed under s. 483.091, excluding any hospital laboratory defined under s. 483.041(6) ~~483.041(5)~~, any clinical laboratory operated by the state or a political subdivision of the state, any clinical laboratory which qualifies as an exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which receives 70 percent or more of its gross revenues from services to charity patients or Medicaid patients, and any blood, plasma, or tissue bank procuring, storing, or distributing blood, plasma, or tissue either for future manufacture or research or distributed on a nonprofit basis, and further excluding any clinical laboratory which is wholly owned and operated by 6 or fewer physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of the same group.

3. Diagnostic-imaging centers that are freestanding outpatient facilities that provide specialized services for the identification or determination of a disease through examination and also provide sophisticated radiological services, and in which services are rendered by a physician licensed by the Board of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by an osteopathic physician licensed by the Board of Osteopathic Medicine under s. 459.006, s. 459.007, or s. 459.0075. For purposes of this paragraph, "sophisticated radiological services" means the following: magnetic resonance imaging; nuclear medicine; angiography; arteriography; computed tomography; positron emission tomography; digital vascular imaging; bronchography; lymphangiography; splenography; ultrasound, excluding ultrasound providers that are part of a private physician's office practice or when ultrasound is provided by two or more physicians licensed under chapter 458 or chapter 459 who are members of the same professional association and who practice in the same medical specialties; and such other sophisticated radiological services, excluding mammography, as adopted in rule by the board.

Reviser's note.—Amended to conform to the redesignation of s. 483.041(5) as s. 483.041(6) by s. 144, ch. 99-397, Laws of Florida.

Section 31. Section 397.405, Florida Statutes, is reenacted to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021(12).

(3) A substance abuse education program established pursuant to s. 233.061.

(4) A facility or institution operated by the Federal Government.

(5) A physician licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) An established and legally cognizable church or nonprofit religious organization, denomination, or sect providing substance abuse services, including prevention services, which are exclusively religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization, denomination, or sect providing any of the licensable service components itemized under s. 397.311(19) is not exempt for purposes of its provision of such licensable service components but retains its exemption with respect to all services which are exclusively religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under s. 393.063(8) that, in addition to providing services to persons who are developmentally disabled as defined therein, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services required to be attended pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291 are exempt from licensure under this chapter. Treatment programs must continue to be licensed under this chapter.

The exemptions from licensure in this section do not apply to any facility or entity which receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. No provision of this chapter shall be construed to limit the practice of a physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a psychotherapist licensed under chapter 491, providing outpatient or inpatient substance abuse treatment to a voluntary patient, so long as the physician, psychologist, or psychotherapist does not represent to the public that he or she is a licensed service provider under this act. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Section 9, ch. 2000-350, Laws of Florida, purported to amend subsection (2), but failed to republish the flush left language at the end of the section. In the absence of affirmative evidence that the Legislature intended to repeal the flush left language, s. 397.405 is reenacted to confirm that the omission was not intended.

Section 32. Section 400.0091, Florida Statutes, is amended to read:

400.0091 Training.—The ombudsman shall provide appropriate training to all employees of the Office of State Long-Term Care Ombudsman and to the state and local long-term care ombudsman councils, including all unpaid volunteers. ~~The ombudsman shall implement the training program no later than June 1, 1994.~~ No employee, officer, or representative of the office or of the state or local long-term care ombudsman councils, other than the ombudsman, may carry out any authorized ombudsman duty or responsibility unless the person has received the training required by this section and has been approved by the ombudsman as qualified to carry out ombudsman activities on behalf of the office or the state or local long-term care ombudsman councils.

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 33. Subsection (3) of section 400.022, Florida Statutes, is amended to read:

400.022 Residents' rights.—

(3) Any violation of the resident's rights set forth in this section shall constitute grounds for action by the agency under the provisions of s. 400.102. In order to determine whether the licensee is adequately protecting residents' rights, the annual inspection of the facility shall include private informal conversations with a sample of residents to discuss residents' experiences within the facility with respect to rights specified in this section and general compliance with standards, and consultation with the ombudsman council in the local planning and service area of the Department of Elderly Affairs in which the nursing home is located.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 34. Subsection (4) of section 400.023, Florida Statutes, is amended to read:

400.023 Civil enforcement.—

(4) Claimants alleging a deprivation or infringement of adequate and appropriate health care pursuant to s. 400.022(1)(l) ~~400.022(1)(k)~~ which resulted in personal injury to or the death of a resident shall conduct an investigation which shall include a review by a licensed physician or registered nurse familiar with the standard of nursing care for nursing home residents pursuant to this part. Any complaint alleging such a deprivation or infringement shall be accompanied by a verified statement from the

reviewer that there exists reason to believe that a deprivation or infringement occurred during the resident's stay at the nursing home. Such opinion shall be based on records or other information available at the time that suit is filed. Failure to provide records in accordance with the requirements of this chapter shall waive the requirement of the verified statement.

Reviser's note.—Amended to conform to the redesignation of s. 400.022(1)(k) as s. 400.022(1)(l) by s. 3, ch. 93-217, Laws of Florida.

Section 35. Section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(1) Be under the administrative direction and charge of a licensed administrator.

(2) Appoint a medical director licensed pursuant to chapter 458 or chapter 459. The agency may establish by rule more specific criteria for the appointment of a medical director.

(3) Have available the regular, consultative, and emergency services of physicians licensed by the state.

(4) Provide for resident use of a community pharmacy as specified in s. 400.022(1)(q). Any other law to the contrary notwithstanding, a registered pharmacist licensed in Florida, that is under contract with a facility licensed under this chapter, shall repackage a nursing facility resident's bulk prescription medication which has been packaged by another pharmacist licensed in any state in the United States into a unit dose system compatible with the system used by the nursing facility, if the pharmacist is requested to offer such service. In order to be eligible for the repackaging, a resident or the resident's spouse must receive prescription medication benefits provided through a former employer as part of his or her retirement benefits a qualified pension plan as specified in s. 4972 of the Internal Revenue Code, a federal retirement program as specified under 5 C.F.R. s. 831, or a long-term care policy as defined in s. 627.9404(1). A pharmacist who correctly repackages and relabels the medication and the nursing facility which correctly administers such repackaged medication under the provisions of this subsection shall not be held liable in any civil or administrative action arising from the repackaging. In order to be eligible for the repackaging, a nursing facility resident for whom the medication is to be repackaged shall sign an informed consent form provided by the facility which includes an explanation of the repackaging process and which notifies the resident of the immunities from liability provided herein. A pharmacist who repackages and relabels prescription medications, as authorized under this subsection, may charge a reasonable fee for costs resulting from the implementation of this provision.

(5) Provide for the access of the facility residents to dental and other health-related services, recreational services, rehabilitative services, and

social work services appropriate to their needs and conditions and not directly furnished by the licensee. When a geriatric outpatient nurse clinic is conducted in accordance with rules adopted by the agency, outpatients attending such clinic shall not be counted as part of the general resident population of the nursing home facility, nor shall the nursing staff of the geriatric outpatient clinic be counted as part of the nursing staff of the facility, until the outpatient clinic load exceeds 15 a day.

(6) Be allowed and encouraged by the agency to provide other needed services under certain conditions. If the facility has a standard licensure status, and has had no class I or class II deficiencies during the past 2 years or has been awarded a Gold Seal under the program established in s. 400.235, it may be encouraged by the agency to provide services, including, but not limited to, respite and adult day services, which enable individuals to move in and out of the facility. A facility is not subject to any additional licensure requirements for providing these services. Respite care may be offered to persons in need of short-term or temporary nursing home services. Respite care must be provided in accordance with this part and rules adopted by the agency. However, the agency shall, by rule, adopt modified requirements for resident assessment, resident care plans, resident contracts, physician orders, and other provisions, as appropriate, for short-term or temporary nursing home services. The agency shall allow for shared programming and staff in a facility which meets minimum standards and offers services pursuant to this subsection, but, if the facility is cited for deficiencies in patient care, may require additional staff and programs appropriate to the needs of service recipients. A person who receives respite care may not be counted as a resident of the facility for purposes of the facility's licensed capacity unless that person receives 24-hour respite care. A person receiving either respite care for 24 hours or longer or adult day services must be included when calculating minimum staffing for the facility. Any costs and revenues generated by a nursing home facility from nonresidential programs or services shall be excluded from the calculations of Medicaid per diems for nursing home institutional care reimbursement.

(7) If the facility has a standard licensure status or is a Gold Seal facility, exceeds minimum staffing standards, and is part of a retirement community that offers other services pursuant to part III, part IV, or part V, be allowed to share programming and staff. At the time of relicensure, a retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were exceeded.

(8) Maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner.

(9) If the licensee furnishes food service, provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians. In making rules to implement this subsection, the agency shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics.

(10) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social his-

tory, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the agency.

(11) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this part.

(12) Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information pursuant to this part. Such information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any facility releasing such records pursuant to this part shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records.

(13) Publicly display a poster provided by the agency containing the names, addresses, and telephone numbers for the state's abuse hotline, the State Long-Term Care Ombudsman, the Agency for Health Care Administration consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, with a clear description of the assistance to be expected from each.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of <u>their</u> ~~its~~ program.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 36. Paragraph (a) of subsection (2) of section 400.408, Florida Statutes, is amended to read:

400.408 Unlicensed facilities; referral of person for residency to unlicensed facility; penalties; verification of licensure status.—

(2) It is unlawful to knowingly refer a person for residency to an unlicensed assisted living facility; to an assisted living facility the license of which is under denial or has been suspended or revoked; or to an assisted living facility that has a moratorium on admissions. Any person who violates this subsection commits a noncriminal violation, punishable by a fine not exceeding $500 as provided in s. 775.083.

(a) Any health care practitioner, as defined in s. <u>456.001</u> ~~455.501~~, which is aware of the operation of an unlicensed facility shall report that facility to the agency. Failure to report a facility that the practitioner knows or has reasonable cause to suspect is unlicensed shall be reported to the practitioner's licensing board.

Reviser's note.—Amended to conform to the redesignation of s. 455.501 as s. 456.001 by s. 36, ch. 2000-160, Laws of Florida.

Section 37. Paragraph (b) of subsection (5) of section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(5) The following are exempt from the licensure requirements of this part:

(b) Home health services provided by a state agency, either directly or through a contractor with:

1. The Department of Elderly Affairs.

2. The Department of Health, a community health center, or a rural health network that furnishes home visits for the purpose of providing environmental assessments, case management, health education, personal care services, family planning, or followup treatment, or for the purpose of monitoring and tracking disease.

3. Services provided to persons who have developmental disabilities, as defined in s. 393.063(12) ~~393.063(11)~~.

4. Companion and sitter organizations that were registered under s. 400.509(1) on January 1, 1999, and were authorized to provide personal services under s. 393.063(33) under a developmental services provider certificate on January 1, 1999, may continue to provide such services to past, present, and future clients of the organization who need such services, notwithstanding the provisions of this act.

5. The Department of Children and Family Services.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 393.063 by s. 23, ch. 98-171, Laws of Florida.

Section 38. Paragraph (d) of subsection (12) of section 400.980, Florida Statutes, is amended to read:

400.980 Health care services pools.—

(12)

(d) If financial responsibility requirements are met by maintaining an escrow account or letter of credit, as provided in this section, upon the entry of an adverse final judgment arising from a medical malpractice arbitration award from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the financial institution holding the escrow account or the letter of credit shall pay directly to the claimant the entire amount of the judgment together with all accrued interest or the amount maintained in the escrow account or letter of credit

as required by this section, whichever is less, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. If timely payment is not made, the agency shall suspend the registration of the pool pursuant to procedures set forth by the agency ~~department~~ through rule. Nothing in this paragraph shall abrogate a judgment debtor's obligation to satisfy the entire amount of any judgment.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Rulemaking authority relating to suspension of registration is granted to the Agency for Health Care Administration in s. 400.980(13).

Section 39. Subsection (2) of section 402.166, Florida Statutes, is amended to read:

402.166 Florida local advocacy councils; confidential records and meetings.—

(2) Each local council shall have no fewer than 7 members and no more than 15 members, no more than 4 of whom are or have been recipients of one or more client services within the last 4 years, except that one member of this group may be an immediate relative or legal representative of a current or former client; two providers who deliver client services as defined in s. 402.164(2); and two representatives of professional organizations, one of whom represents the health-related professions and one of whom represents the legal profession. Priority of consideration shall be given to the appointment of at least one medical or osteopathic physician, as defined in chapters 458 and 459, and one member in good standing of The Florida Bar. Priority of consideration shall also be given to the appointment of an individual who is receiving client services and whose primary interest, experience, or expertise lies with a major client group not represented on the council ~~committee~~ at the time of the appointment. A person who is employed in client services by any state agency may not be appointed to the council. No more than three individuals who are providing contracted services for clients to any state agency may serve on the same local council at the same time. Persons related to each other by consanguinity or affinity within the third degree may not serve on the same local council at the same time. All members of local councils must successfully complete a standardized training course for council members within 3 months after their appointment to a local council. A member may not be assigned to an investigation that requires access to confidential information prior to the completion of the training course. After he or she completes the required training course, a member of a local council may not be prevented from participating in any activity of that local council, including investigations and monitoring, except due to a conflict of interest as described in the procedures established by the statewide council pursuant to subsection (7).

Reviser's note.—Amended to conform to the redesignation of district human rights advocacy committees as local advocacy councils by s. 3, ch. 2000-263, Laws of Florida.

Section 40. Paragraph (b) of subsection (4) of section 402.28, Florida Statutes, is amended to read:

402.28 Child Care Plus.—

(4)

(b) Each child care facility, home, or agency representing a network of family day care homes wishing to apply for ~~a Child Care Plus grant shall submit a grant proposal for funding the department no later than March 1, 1990. Thereafter, each such facility, home, or agency wishing to apply for~~ continued funding through an annual Child Care Plus grant shall apply to the department no later than March 1 of each year.

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 41. Paragraph (b) of subsection (2) of section 402.50, Florida Statutes, is repealed, and paragraph (a) of subsection (2) of that section is amended to read:

402.50 Administrative infrastructure; legislative intent; establishment of standards.—

(2) ADMINISTRATIVE INFRASTRUCTURE STANDARDS.—

(a) The department, in conjunction with the Department of Management Services and the Governor's Office of Planning and Budgeting, shall develop standards for administrative infrastructure funding and staffing to support the department and contract service providers in the execution of their duties and responsibilities. ~~A report of recommended standards shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and House, and the chairpersons of appropriate House and Senate committees by October 1, 1992.~~

Reviser's note.—Paragraph (2)(a) is amended to delete an obsolete provision. Paragraph (2)(b) provides that the former Department of Health and Rehabilitative Services was to submit, by October 1, 1991, a task analysis, implementation plan, and schedule for development of administrative infrastructure standards to the Economic and Demographic Research Division of the former Joint Legislative Management Committee, which entity was to review and submit comments regarding same to the appropriations committees by December 1, 1991.

Section 42. Paragraph (a) of subsection (13) of section 403.031, Florida Statutes, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(13) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in

regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes of s. 403.0885, waters of the state also include navigable waters or waters of the contiguous zone as used in s. 502 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in existence on January 1, 1993, except for those navigable waters seaward of the boundaries of the state set forth in s. 1, Art. II of the State Constitution. Solely for purposes of this chapter, waters of the state also include the area bounded by the following:

(a) Commence at the intersection of State Road (SRD) 5 (U.S. 1) and the county line dividing Dade and Monroe Counties, said point also being the mean high-water line of Florida Bay, located in section 4, township 60 south, range 39 east of the Tallahassee Meridian for the point of beginning. From said point of beginning, thence run northwesterly along said SRD 5 to an intersection with the north line of section 18, township 58 south, range 39 east; thence run westerly to a point marking the southeast corner of section 12, township 58 south, range 37 east, said point also lying on the east boundary of the Everglades National Park; thence run north along the east boundary of the aforementioned Everglades National Park to a point marking the northeast corner of section 1, township 58 south, range 37 east; thence run west along said park to a point marking the northwest corner of said section 1; thence run northerly along said park to a point marking the northwest corner of section 24, township 57 south, range 37 east; thence run westerly along the south lines of sections 14, 15, and 16 to the southwest corner of section 16; thence leaving the Everglades National Park boundary run northerly along the west line of section 16 to the northwest corner of section 16; thence east along the northerly line of section 16 to a point at the intersection of the east one-half and west one-half of section 9; thence northerly along the line separating the east one-half and the west one-half of sections 9, 4, 33, and 28; thence run easterly along the north line of section 28 to the northeast corner of section 28; thence run northerly along the west line of section 22 to the northwest corner of section 22; thence easterly along the north line of section 22 to a point at the intersection of the east one-half and west one-half of section 15; thence run northerly along said line to the point of intersection with the north line of section 15; thence easterly along the north line of section 15 to the northeast corner of section 15; thence run northerly along the west lines of sections 11 and 2 to the northwest corner of section 2; thence run easterly along the north lines of sections 2 and 1 to the northeast corner of section 1, township 56 south, range 37 east; thence run north along the east line of section 36, township 55 south, range 37 east to the northeast corner of section 36; thence run west along the north line of section 36 to the northwest corner of section 36; thence run north along the west line of section 25 to the northwest corner of section 25; thence run west along the north line of section 26 to the northwest corner of section 26; thence run north along the west line of section 23 to the northwest corner of section 23; thence run easterly along the north line of section 23 to the northeast corner of section 23; thence run north along the west line of section 13 to the northwest corner of section 13; thence run east along the north line of section 13 to a point of intersection with the west line of the southeast one-quarter of section 12; thence run north along the west line of the southeast

one-quarter of section 12 to the northwest corner of the southeast one-quarter of section 12; thence run east along the north line of the southeast one-quarter of section 12 to the point of intersection with the east line of section 12; thence run east along the south line of the northwest one-quarter of section 7 to the southeast corner of the northwest one-quarter of section 7; thence run north along the east line of the northwest one-quarter of section 7 to the point of intersection with the north line of section 7; thence run northerly along the west line of the southeast one-quarter of section 6 to the northwest corner of the southeast one-quarter of section 6; thence run east along the north lines of the southeast one-quarter of section 6 and the southwest one-quarter of section 5 to the northeast corner of the southwest one-quarter of section 5; thence run northerly along the east line of the northwest one-quarter of section 5 to the point of intersection with the north line of section 5; thence run northerly along the line dividing the east one-half and the west one-half of Lot 5 to a point intersecting the north line of Lot 5; thence run east along the north line of Lot 5 to the northeast corner of Lot 5, township 54½ south, range 38 east; thence run north along the west line of section 33, township 54 south, range 38 east to a point intersecting the northwest corner of the southwest one-quarter of section 33; thence run easterly along the north line of the southwest one-quarter of section 33 to the northeast corner of the southwest one-quarter of section 33; thence run north along the west line of the northeast one-quarter of section 33 to a point intersecting the north line of section 33; thence run easterly along the north line of section 33 to the northeast corner of section 33; thence run northerly along the west line of section 27 to a point intersecting the northwest corner of the southwest one-quarter of section 27; thence run easterly to the northeast corner of the southwest one-quarter of section 27; thence run northerly along the west line of the northeast one-quarter of section 27 to a point intersecting the north line of section 27; thence run west along the north line of section 27 to the northwest corner of section 27; thence run north along the west lines of sections 22 and 15 to the northwest corner of section 15; thence run easterly along the north lines of sections 15 and 14 to the point of intersection with the L-31N Levee, said intersection located near the southeast corner of section 11, township 54 south, range 38 east; thence run northerly along Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to Levees L-31N, L-29, and L-30, said intersection located near the southeast corner of section 2, township 54 south, range 38 east; thence run northeasterly, northerly, and northeasterly along Levee L-30 to a point of intersection with the Dade/Broward Levee, said intersection located near the northeast corner of section 17, township 52 south, range 39 east; thence run due east to a point of intersection with SRD 27 (Krome Ave.); thence run northeasterly along SRD 27 to an intersection with SRD 25 (U.S. 27), said intersection located in section 3, township 52 south, range 39 east; thence run northerly along said SRD 25, entering into Broward County, to an intersection with SRD 84 at Andytown; thence run southeasterly along the aforementioned SRD 84 to an intersection with the southwesterly prolongation of Levee L-35A, said intersection being located in the northeast one-quarter of section 5, township 50 south, range 40 east; thence run northeasterly along Levee L-35A to an intersection of Levee L-36, said intersection located near the southeast corner of section 12, township 49 south, range 40 east; thence run northerly along Levee L-36, entering into

Palm Beach County, to an intersection common to said Levees L-36, L-39, and L-40, said intersection located near the west quarter corner of section 19, township 47 south, range 41 east; thence run northeasterly, easterly, and northerly along Levee L-40, said Levee L-40 being the easterly boundary of the Loxahatchee National Wildlife Refuge, to an intersection with SRD 80 (U.S. 441), said intersection located near the southeast corner of section 32, township 43 south, range 40 east; thence run westerly along the aforementioned SRD 80 to a point marking the intersection of said road and the northeasterly prolongation of Levee L-7, said Levee L-7 being the westerly boundary of the Loxahatchee National Wildlife Refuge; thence run southwesterly and southerly along said Levee L-7 to an intersection common to Levees L-7, L-15 (Hillsborough Canal), and L-6; thence run southwesterly along Levee L-6 to an intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said intersection being located near the northwest corner of section 27, township 47 south, range 38 east; thence run westerly along the aforementioned Levee L-5 to a point intersecting the east line of range 36 east; thence run northerly along said range line to a point marking the northeast corner of section 1, township 47 south, range 36 east; thence run westerly along the north line of township 47 south, to an intersection with Levee L-23/24 (Miami Canal); thence run northwesterly along the Miami Canal Levee to a point intersecting the north line of section 22, township 46 south, range 35 east; thence run westerly to a point marking the northwest corner of section 21, township 46 south, range 35 east; thence run southerly to the southwest corner of said section 21; thence run westerly to a point marking the northwest corner of section 30, township 46 south, range 35 east, said point also being on the line dividing Palm Beach and Hendry Counties; from said point, thence run southerly along said county line to a point marking the intersection of Broward, Hendry, and Collier Counties, said point also being the northeast corner of section 1, township 49 south, range 34 east; thence run westerly along the line dividing Hendry and Collier Counties and continuing along the prolongation thereof to a point marking the southwest corner of section 36, township 48 south, range 29 east; thence run southerly to a point marking the southwest corner of section 12, township 49 south, range 29 east; thence run westerly to a point marking the southwest corner of section 10, township 49 south, range 29 east; thence run southerly to a point marking the southwest corner of section 15, township 49 south, range 29 east; thence run westerly to a point marking the northwest corner of section 24, township 49 south, range 28 east, said point lying on the west boundary of the Big Cypress Area of Critical State Concern as described in rule 28-25.001 ~~27F-3~~, Florida Administrative Code; thence run southerly along said boundary crossing SRD 84 (Alligator Alley) to a point marking the southwest corner of section 24, township 50 south, range 28 east; thence leaving the aforementioned west boundary of the Big Cypress Area of Critical State Concern run easterly to a point marking the northeast corner of section 25, township 50 south, range 28 east; thence run southerly along the east line of range 28 east to a point lying approximately 0.15 miles south of the northeast corner of section 1, township 52 south, range 28 east; thence run southwesterly 2.4 miles more or less to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles more or less west of the east line of range 28 east; thence run northwesterly and westerly along SRD 90 to an intersection with the west line of

section 10, township 52 south, range 28 east; thence leaving SRD 90 run southerly to a point marking the southwest corner of section 15, township 52 south, range 28 east; thence run westerly crossing the Faka Union Canal 0.6 miles more or less to a point; thence run southerly and parallel to the Faka Union Canal to a point located on the mean high-water line of Faka Union Bay; thence run southeasterly along the mean high-water line of the various bays, rivers, inlets, and streams to the point of beginning.

Reviser's note.—Amended to conform to the redesignation of rule 27F-3 as rule 28-25.001, Florida Administrative Code.

Section 43. Subsection (4) of section 403.714, Florida Statutes, is amended to read:

403.714 Duties of state agencies.—

(4) The Department of Agriculture and Consumer Services, in consultation with the Department of Transportation~~, the Department of Commerce,~~ and the department, and appropriate trade associations, shall undertake to stimulate the development of sustainable state markets for compost through demonstration projects and other approaches the Department of Agriculture and Consumer Services may develop.

Reviser's note.—Amended to delete obsolete language. Section 20.17, which created the Department of Commerce, was repealed by s. 3, ch. 96-320, Laws of Florida.

Section 44. Paragraph (b) of subsection (3) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(3)

(b) The Department of Revenue~~, under the applicable rules of the Career Service Commission,~~ is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

Reviser's note.—Amended to delete language that has served its purpose. The Career Service Commission was repealed by s. 87, ch. 86-163, Laws of Florida.

Section 45. Subsection (5) of section 403.7191, Florida Statutes, is amended to read:

403.7191 Toxics in packaging.—

(5) CERTIFICATE OF COMPLIANCE.—Each manufacturer or distributor of a package or packaging component shall provide, if required, to the

purchaser of such package or packaging component, a certificate of compliance stating that the package or packaging component is in compliance with the provisions of this section. If compliance is achieved under any of the exemptions provided in paragraph (4)(b) ~~or paragraph (4)(c)~~, the certificate shall state the specific basis upon which the exemption is claimed. The certificate of compliance shall be signed by an authorized official of the manufacturing or distributing company. The manufacturer or distributor shall retain the certificate of compliance for as long as the package or packaging component is in use. A copy of the certificate of compliance shall be kept on file by the manufacturer or distributor of the package or packaging component for at least 3 years from the date of the last sale or distribution by the manufacturer or distributor. Certificates of compliance, or copies thereof, shall be furnished within 60 days to the department upon the department's request. If the manufacturer or distributor of the package or packaging component reformulates or creates a new package or packaging component, including a reformulation or creation to meet the maximum levels set forth in subsection (3), the manufacturer or distributor shall provide an amended or new certificate of compliance for the reformulated or new package or packaging component.

Reviser's note.—Amended to conform to the repeal of paragraph (4)(c) by s. 41, ch. 99-5, Laws of Florida.

Section 46. Subsection (7) of section 403.7192, Florida Statutes, is amended to read:

403.7192 Batteries; requirements for consumer, manufacturers, and sellers; penalties.—

(7) ~~On or before October 7, 1997, and annually thereafter, for a period of 3 years, cell manufacturers and marketers or their representative organization shall report to the department plans for the implementation of the requirements under subsection (6). The reports shall include estimates of the cadmium disposal reductions.~~ Representative organizations of manufacturers shall supply to the department a list of those organization members for whom the association is conducting the unit management program.

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 47. Subsections (3), (4), and (5) of section 408.02, Florida Statutes, are amended to read:

408.02 Practice parameters.—

(3) The agency shall summarize the effectiveness and cost of care outcomes for each diagnosis by hospital, by district, by region, and across the state, as well as by any other grouping which will facilitate the development of clinically relevant practice parameters. The agency shall make the report available to the public and all hospitals throughout the state on an annual basis beginning December 31, 1994. The agency shall also make detail data submitted pursuant to subsection (2) ~~(3)~~ available for analysis by others, subject to protection of confidentiality pursuant to s. 408.061.

(4) The agency, in conjunction with the Florida Medical Association, the Florida Chiropractic Association, the Florida Osteopathic Medical Association, the Florida Podiatric Medical Association, and other health professional associations, and in conjunction with the respective boards within the Division of Medical Quality Assurance, shall develop and may adopt by rule state practice parameters based on the data received under subsection (3) ~~(4)~~ as well as on nationally developed practice guidelines. However, practice parameters adopted by rule shall not provide grounds for any administrative action. The agency shall prioritize the development of those practice parameters which involve the greatest utilization of resources either because they are the most costly or because they are the most frequently performed. Prior to the development of practice parameters under this subsection, the agency in conjunction with the various health professional associations may proceed with the development of state practice parameters based on nationally developed practice guidelines.

(5) The agency, in conjunction with the appropriate health professional associations shall develop and may adopt by rule practice parameters for services provided by diagnostic-imaging centers, radiation therapy services, clinical laboratory services, physical therapy services, and comprehensive rehabilitative services. ~~Practice parameters applicable to diagnostic-imaging services shall be developed by December 31, 1993.~~

Reviser's note.—Subsections (3) and (4) are amended to conform to the redesignation of subunits of s. 408.02 necessitated by the repeal of former subsection (2) by s. 22, ch. 95-146, Laws of Florida. Subsection (5) is amended to delete a provision that has served its purpose.

Section 48. Section 408.0361, Florida Statutes, is amended to read:

408.0361 Diagnostic cardiac catheterization services providers; compliance with guidelines and requirements.—Each provider of diagnostic cardiac catheterization services shall comply with the requirements of s. 408.036(3)(i)2.a.-d. ~~408.036(3)(n)2.a.-d.~~, and rules of the Agency for Health Care Administration governing the operation of adult inpatient diagnostic cardiac catheterization programs, including the most recent guidelines of the American College of Cardiology and American Heart Association Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories.

Reviser's note.—Amended to conform to the redesignation of paragraphs of s. 408.036(3) by s. 7, ch. 2000-256, Laws of Florida, and s. 8, ch. 2000-318, Laws of Florida.

Section 49. Paragraph (c) of subsection (3) of section 409.145, Florida Statutes, is amended to read:

409.145 Care of children.—

(3)

(c)1. The department is authorized to provide the services of the children's foster care program to an individual who is enrolled full-time in a postsecondary vocational-technical education program, full-time in a community college program leading toward a vocational degree or an associate

degree, or full-time in a university or college, if the following requirements are met:

a. The individual was committed to the legal custody of the department for placement in foster care as a dependent child;

b. The permanency planning goal pursuant to part VIII ~~VII~~ of chapter 39 for the individual is long-term foster care or independent living;

c. The individual has been accepted for admittance to a postsecondary vocational-technical education program, to a community college, or to a university or college;

d. All other resources have been thoroughly explored, and it can be clearly established that there are no alternative resources for placement; and

e. A written service agreement which specifies responsibilities and expectations for all parties involved has been signed by a representative of the department, the individual, and the foster parent or licensed child-caring agency providing the placement resources, if the individual is to continue living with the foster parent or placement resource while attending a postsecondary vocational-technical education program, community college, or university or college. An individual who is to be continued in or placed in independent living shall continue to receive services according to the independent living program and agreement of responsibilities signed by the department and the individual.

2. Any provision of this chapter or any other law to the contrary notwithstanding, when an individual who meets the requirements of subparagraph 1. is in attendance at a community college, college, or university, the department may make foster care payments to such community college, college, or university in lieu of payment to the foster parents or individual, for the purpose of room and board, if not otherwise provided, but such payments shall not exceed the amount that would have been paid to the foster parents had the individual remained in the foster home.

3. The services of the foster care program shall continue only for an individual under this paragraph who is a full-time student but shall continue for not more than:

a. Two consecutive years for an individual in a postsecondary vocational-technical education program;

b. Two consecutive years or four semesters for an individual enrolled in a community college unless the individual is participating in college preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing program, in which case such services shall continue for not more than 3 consecutive years or six semesters; or

c. Four consecutive years, 8 semesters, or 12 quarters for an individual enrolled in a college or university unless the individual is participating in

college-preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing programs, in which case such services shall continue for not more than 5 consecutive years, 10 semesters, or 15 quarters.

4.a. As a condition for continued foster care services, an individual shall have earned a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall grade point average of 2.0 for only the previous term, and be eligible for continued enrollment in the institution. If the postsecondary vocational-technical school program does not operate on a grade point average as described above, then the individual shall maintain a standing equivalent to the 2.0 grade point average.

b. Services shall be terminated upon completion of, graduation from, or withdrawal or permanent expulsion from a postsecondary vocational-technical education program, community college, or university or college. Services shall also be terminated for failure to maintain the required level of academic achievement.

Reviser's note.—Amended to conform to the redesignation of part VII of chapter 39 as part VIII by s. 22, ch. 2000-139, Laws of Florida.

Section 50. Section 409.1685, Florida Statutes, is amended to read:

409.1685 Children in foster care; annual report to Legislature.—The Department of Children and Family Services shall submit a written report to the substantive committees of the Legislature concerning the status of children in foster care and concerning the judicial review mandated by part X ~~VIII~~ of chapter 39. This report shall be submitted by March 1 of each year and shall include the following information for the prior calendar year:

(1) The number of 6-month and annual judicial reviews completed during that period.

(2) The number of children in foster care returned to a parent, guardian, or relative as a result of a 6-month or annual judicial review hearing during that period.

(3) The number of termination of parental rights proceedings instituted during that period which shall include:

(a) The number of termination of parental rights proceedings initiated pursuant to s. 39.703; and

(b) The total number of terminations of parental rights ordered.

(4) The number of foster care children placed for adoption during that period.

Reviser's note.—Amended to conform to the redesignation of part VIII of chapter 39 as part X by s. 22, ch. 2000-139, Laws of Florida.

Section 51. Paragraph (a) of subsection (1) and paragraph (b) of subsection (2) of section 409.908, Florida Statutes, are amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(1) Reimbursement to hospitals licensed under part I of chapter 395 must be made prospectively or on the basis of negotiation.

(a) Reimbursement for inpatient care is limited as provided for in s. 409.905(5), except for:

1. The raising of rate reimbursement caps, excluding rural hospitals.

2. Recognition of the costs of graduate medical education.

3. Other methodologies recognized in the General Appropriations Act.

During the years funds are transferred from the Board of Regents, any reimbursement supported by such funds shall be subject to certification by the Board of Regents that the hospital has complied with s. 381.0403. The agency is authorized to receive funds from state entities, including, but not limited to, the Board of Regents, local governments, and other local political subdivisions, for the purpose of making special exception payments, including federal matching funds, through the Medicaid inpatient reimbursement methodologies. Funds received from state entities or local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner. Notwithstanding this section and s. 409.915, counties are exempt from contributing toward the cost of the special exception reimbursement for hospitals serving a disproportionate share of low-income persons and providing graduate medical education.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have

reasonable geographic access to such care. Under the plan, interim rate adjustments shall not be granted to reflect increases in the cost of general or professional liability insurance for nursing homes unless the following criteria are met: have at least a 65 percent Medicaid utilization in the most recent cost report submitted to the agency, and the increase in general or professional liability costs to the facility for the most recent policy period affects the total Medicaid per diem by at least 5 percent. This rate adjustment shall not result in the per diem exceeding the class ceiling. This provision shall apply only to fiscal year 2000-2001 and shall be implemented to the extent existing appropriations are available. ~~The agency shall report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 31, 2000, on the cost of liability insurance for Florida nursing homes for fiscal years 1999 and 2000 and the extent to which these costs are not being compensated by the Medicaid program. Medicaid-participating nursing homes shall be required to report to the agency information necessary to compile this report.~~ Effective no earlier than the rate-setting period beginning April 1, 1999, the agency shall establish a case-mix reimbursement methodology for the rate of payment for long-term care services for nursing home residents. The agency shall compute a per diem rate for Medicaid residents, adjusted for case mix, which is based on a resident classification system that accounts for the relative resource utilization by different types of residents and which is based on level-of-care data and other appropriate data. The case-mix methodology developed by the agency shall take into account the medical, behavioral, and cognitive deficits of residents. In developing the reimbursement methodology, the agency shall evaluate and modify other aspects of the reimbursement plan as necessary to improve the overall effectiveness of the plan with respect to the costs of patient care, operating costs, and property costs. In the event adequate data are not available, the agency is authorized to adjust the patient's care component or the per diem rate to more adequately cover the cost of services provided in the patient's care component. The agency shall work with the Department of Elderly Affairs, the Florida Health Care Association, and the Florida Association of Homes for the Aging in developing the methodology. It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Reviser's note.—Paragraph (1)(a) is amended to improve clarity and facilitate correct interpretation. Paragraph (2)(b) is amended to delete a provision that has served its purpose.

Section 52. Paragraph (b) of subsection (3) of section 409.912, Florida Statutes, 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:

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must be licensed under chapter 624, chapter 636, or chapter 641 and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Family Services ~~Families~~ shall approve provisions of procurements related to children in the department's care or custody prior to enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services. The agency may reimburse for substance-abuse-treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. By January 1, 2001, the agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance-abuse-treatment services.

2. By December 31, 2001, the agency shall contract with entities providing comprehensive behavioral health care services to Medicaid recipients through capitated, prepaid arrangements in Charlotte, Collier, DeSoto, Escambia, Glades, Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, and Walton Counties. The agency may contract with entities providing comprehensive behavioral health care services to Medicaid recipients through capitated, prepaid arrangements in Alachua County. The agency may determine if Sarasota County shall be included as a separate catchment area or included in any other agency geographic area.

3. Children residing in a Department of Juvenile Justice residential program approved as a Medicaid behavioral health overlay services provider shall not be included in a behavioral health care prepaid health plan pursuant to this paragraph.

4. In converting to a prepaid system of delivery, the agency shall in its procurement document require an entity providing comprehensive behavioral health care services to prevent the displacement of indigent care patients by enrollees in the Medicaid prepaid health plan providing behavioral health care services from facilities receiving state funding to provide indigent behavioral health care, to facilities licensed under chapter 395 which do not receive state funding for indigent behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.

5. Traditional community mental health providers under contract with the Department of Children and Family Services ~~Families~~ pursuant to part IV of chapter 394 and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

Reviser's note.—Amended to conform to the official title of the department pursuant to s. 20.19.

Section 53. Subsection (1) of section 409.9122, Florida Statutes, is reenacted to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(1) It is the intent of the Legislature that the MediPass program be cost-effective, provide quality health care, and improve access to health services, and that the program be statewide.

Reviser's note.—Section 7, ch. 96-199, Laws of Florida, amended the text of s. 409.9122, including amendment to the language in then-existing paragraph (1)(a). Paragraph (1)(b) did not appear in text after the amendment to paragraph (1)(a), but the entire text of subsection (1) also appeared following the text of newly created subsection (3), struck-through as if it were to be deleted except for the last sentence of then-existing paragraph (1)(b) which became paragraph (4)(a). Subsection (1) is reenacted to confirm that the struck-through version of paragraph (1)(a) following the text of subsection (3) in the amendment to s. 409.9122 by s. 7, ch. 96-199, was not intended to repeal the paragraph.

Section 54. Paragraphs (f) and (g) of subsection (1) of section 409.946, Florida Statutes, are amended to read:

409.946 Inner City Redevelopment Review Panel.—In order to enhance public participation and involvement in the redevelopment of inner-city areas, there is created within the Office of Tourism, Trade, and Economic Development the Inner City Redevelopment Review Panel.

(1) The review panel shall consist of seven members who represent different areas of the state, who are appointed by the Director of the Office of Tourism, Trade, and Economic Development, and who are qualified, through the demonstration of special interest, experience, or education, in the redevelopment of the state's inner-city areas, as follows:

(f) One member must be affiliated with the Better Jobs/Better Wages Council of Workforce Florida, Inc.~~, if such body is created. Otherwise, one member must be the president and chief operating officer of the Florida Workforce Development Board~~; and

(g) One member must be affiliated with the First Jobs/First Wages Council of Workforce Florida, Inc.~~, if such body is created. Otherwise, one member must be the Secretary of Labor and Employment Security or the secretary's designee.~~

Reviser's note.—Paragraphs (1)(f) and (g) are amended to delete provisions that have served their purpose. The Better Jobs/Better Wages Council and First Jobs/First Wages Council are provided for in s. 445.005. Paragraph (f) is further amended to conform to the official title of the council.

Section 55. Paragraph (c) of subsection (9) of section 411.01, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision; the Partnership for School Readiness was to present recommendations by February 15, 2000, to the Legislature for combining funding streams for school readiness programs into a School Readiness Trust Fund, which report was submitted.

Section 56. Subsection (6) of section 414.105, Florida Statutes, is amended to read:

414.105 Time limitations of temporary cash assistance.—Unless otherwise expressly provided in this chapter, an applicant or current participant shall receive temporary cash assistance for episodes of not more than 24 cumulative months in any consecutive 60-month period that begins with the first month of participation and for not more than a lifetime cumulative total of 48 months as an adult, unless otherwise provided by law.

(6) The department, in cooperation with Workforce Florida, Inc., shall establish a procedure for approving hardship exemptions and for reviewing hardship cases at least once every 2 years. Regional workforce boards may assist in making these determinations. The composition of any review panel must generally reflect the racial, gender, and ethnic diversity of the community as a whole. Members of a review panel shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061 ~~112.016~~.

Reviser's note.—Amended to conform to the correct citation of the referenced material; s. 112.016 does not exist.

Section 57. Subsection (1) of section 418.302, Florida Statutes, is amended to read:

418.302 Governing body of mobile home park recreation district.—

(1) The governing body of a recreation district created pursuant to s. 418.30 ~~section 1~~ shall consist of a nine-member board of trustees elected by the electors of the district. A person desiring to have her or his name placed on the ballot for election as a trustee of the district shall be a qualified elector of the district and shall present a written petition, signed by the applicant and not fewer than 25 other electors of the district, to the supervisor of elections of the county not less than 60 days prior to the date of the election. The supervisor of elections shall be entitled to a reasonable reimbursement for conducting the election, payable out of the general funds of the district.

Reviser's note.—Amended to conform to the correct citation of the referenced material; s. 418.30 provides for creation of mobile home park recreation districts.

Section 58. Section 420.506, Florida Statutes, is amended to read:

420.506 Executive director; agents and employees.—The appointment and removal of an executive director shall be by the Secretary of Community Affairs, with the advice and consent of the corporation's board of directors. The executive director shall employ legal and technical experts and such other agents and employees, permanent and temporary, as the corporation may require, and shall communicate with and provide information to the Legislature with respect to the corporation's activities. The board is authorized, notwithstanding the provisions of s. 216.262, to develop and implement rules regarding the employment of employees of the corporation and service providers, including legal counsel. ~~The corporation may hire any individual who, as of the effective date of this act, is employed by the agency.~~ The corporation is authorized to enter into a lease agreement with the Department of Management Services or the Department of Community Affairs for the lease of state employees from such entities, wherein an employee shall retain his or her status as a state employee but shall work under the direct supervision of the corporation, and shall retain the right to participate in the Florida Retirement System. The board of directors of the corporation is entitled to establish travel procedures and guidelines for employees of the corporation. The executive director's office and the corporation's files and records must be located in Leon County.

Reviser's note.—Amended to delete a provision that has served its purpose. The stricken text, which was enacted by s. 9, ch. 97-167, Laws of Florida, effective July 1, 1997, relates to the replacement of the Florida Housing Finance Agency by the Florida Housing Finance Corporation.

Section 59. Paragraph (a) of subsection (22) of section 420.507, Florida Statutes, is amended to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(22) To develop and administer the State Apartment Incentive Loan Program. In developing and administering that program, the corporation may:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest. The corporation shall make loans exceeding 25 percent of project cost available only to nonprofit organizations and public bodies which are able to secure grants, donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Mortgage loans shall be made available at the following rates of interest:

1. Zero to 3 percent interest for sponsors of projects that maintain an 80 percent occupancy of residents qualifying as farmworkers as defined in s. 420.503(18) ~~420.306(7)~~ over the life of the loan.

2. Three to 9 percent interest for sponsors of projects targeted at populations other than farmworkers.

Reviser's note.—Amended to conform to the current location of the referenced material; s. 420.306(7) was repealed by s. 3, ch. 93-181, Laws of Florida, and s. 420.503(18) defines "farmworker."

Section 60. Sections 421.37, 421.38, 421.39, 421.40, 421.41, 421.42, 421.43, 421.44, and 421.45, Florida Statutes, are repealed.

Reviser's note.—The cited sections, relating to defense housing during World War II, are obsolete.

Section 61. Subsection (2) of section 427.0159, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, enacted by s. 21, ch. 2000-257, Laws of Florida, provides for an allocation of funds by the Department of Transportation, contingent on S.B. 854 or similar legislation becoming law. Neither of those contingencies occurred.

Section 62. Paragraph (a) of subsection (3) of section 435.03, Florida Statutes, is amended to read:

435.03 Level 1 screening standards.—

(3) Standards must also ensure that the person:

(a) For employees and employers licensed or registered pursuant to chapter 400, and for employees and employers of developmental services institutions as defined in s. 393.063, intermediate care facilities for the developmentally disabled as defined in s. 393.063, and mental health treatment facilities as defined in s. 394.455, meets the requirements of this chapter ~~part II~~.

Reviser's note.—Amended to conform to the arrangement of chapter 435, which is not divided into parts.

Section 63. Subsection (2) of section 435.05, Florida Statutes, is amended to read:

435.05 Requirements for covered employees.—Except as otherwise provided by law, the following requirements shall apply to covered employees:

(2) Unless otherwise prohibited by state or federal law, new employees may be placed on probationary status pending a determination of compliance with minimum standards set forth in this chapter ~~part~~.

Reviser's note.—Amended to conform to the arrangement of chapter 435, which is not divided into parts.

Section 64. Subsection (1) of section 435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section shall apply to exemptions from disqualification.

(1) The appropriate licensing agency may grant to any employee otherwise disqualified from employment an exemption from disqualification for:

(a) Felonies committed more than 3 years prior to the date of disqualification;

(b) Misdemeanors prohibited under any of the Florida Statutes cited in this chapter or under similar statutes of other jurisdictions;

(c) Offenses that were felonies when committed but are now misdemeanors;

(d) Findings of delinquency; or

(e) Commissions of acts of domestic violence as defined in s. 741.30.

For the purposes of this subsection, the term "felonies" means both felonies prohibited under any of the Florida Statutes cited in this chapter ~~part~~ or under similar statutes of other jurisdictions.

Reviser's note.—Amended to conform to the arrangement of chapter 435, which is not divided into parts.

Section 65. Paragraph (c) of subsection (2) of section 440.15, Florida Statutes, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(2) TEMPORARY TOTAL DISABILITY.—

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the

use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.491 ~~440.49(1)~~. Notwithstanding s. 440.02(9), the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

Reviser's note.—Amended to conform to the current location of the referenced material. Section 440.49(1) was repealed by s. 43, ch. 93-415, Laws of Florida, and s. 440.491, created by s. 44, ch. 93-415, provides for training and education.

Section 66. Subsection (2) of section 440.381, Florida Statutes, is amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(2) The application must contain a statement that the filing of an application containing false, misleading, or incomplete information with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a sworn statement by the employer attesting to the accuracy of the information submitted and acknowledging the provisions of former s. 440.37(4).

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 440.37 was repealed by s. 109, ch. 93-415, Laws of Florida.

Section 67. Paragraph (e) of subsection (1) and paragraph (a) of subsection (2) of section 440.4416, Florida Statutes, are amended to read:

440.4416 Workers' Compensation Oversight Board.—

(1) There is created within the Department of Labor and Employment Security the Workers' Compensation Oversight Board. The board shall be composed of the following members, each of whom has knowledge of, or experience with, the workers' compensation system:

(e) ~~The original appointments to the board shall be made on or before January 1, 1994.~~ Vacancies in the membership of the board shall be filled in the same manner as the original appointments. Except as to ex officio members of the board, three appointees of the Governor, two appointees of the President of the Senate, and two appointees of the Speaker of the House of Representatives shall serve for terms of 2 years, and the remaining appointees shall serve for terms of 4 years. Thereafter, all members shall serve for terms of 4 years; except that a vacancy shall be filled by appointment for the remainder of the term. ~~The board shall have an organizational meeting on or before March 1, 1994, the time and place of such meeting to be determined by the Governor.~~

(2) POWERS AND DUTIES; ORGANIZATION.—

(a) The board shall have all the powers necessary and convenient to carry out and effectuate the purposes of this section, including, but not limited to, the power to:

1. Conduct public hearings.

~~2. Report to the Legislature by January 1, 1995, as to the feasibility of a return-to-work program that includes incentives for employers who encourage such a program and disincentives for employers who hinder such a program.~~

2.~~3.~~ Prescribe qualifications for board employees.

3.~~4.~~ Appear on its own behalf before other boards, commissions, or agencies of the state or Federal Government.

4.~~5.~~ Make and execute contracts to the extent that such contracts are consistent with duties and powers set forth in this section and elsewhere in the law of this state.

Reviser's note.—Amended to delete obsolete provisions.

Section 68. Subsection (1) of section 443.1715, Florida Statutes, is amended to read:

443.1715 Disclosure of information; confidentiality.—

(1) RECORDS AND REPORTS.—Information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual pursuant to the administration of this chapter, and any determination revealing such information, must, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, be held confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be made available only to public employees in the performance of their public duties, including employees of the Department of Education in obtaining information for the Florida Education and Training Placement Information Program and the Office of Tourism, Trade, and Economic Development ~~Department of Commerce~~ in its administration of the qualified defense contractor tax refund program authorized by s. 288.1045 ~~288.104~~. Except as otherwise provided by law, public employees receiving such information must retain the confidentiality of such information. Any claimant, or the claimant's legal representative, at a hearing before an appeals referee or the commission shall be supplied with information from such records to the extent necessary for the proper presentation of her or his claim. Any employee or member of the commission or any employee of the division, or any other person receiving confidential information, who violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, the division may furnish to any employer copies of any report previously submitted by such employer, upon the request of such employer, and may furnish to any claimant copies of any report previously submitted by such claimant, upon the request of such claimant, and the division is

authorized to charge therefor such reasonable fee as the division may by rule prescribe not to exceed the actual reasonable cost of the preparation of such copies. Fees received by the division for copies as provided in this subsection must be deposited to the credit of the Employment Security Administration Trust Fund.

Reviser's note.—Amended to conform to the substitution of the Office of Tourism, Trade, and Economic Development for the Department of Commerce for purposes of s. 288.106 by s. 44, ch. 96-320, Laws of Florida, and the repeal of s. 288.104 by s. 8, ch. 96-348, Laws of Florida, and the enactment of new s. 288.1045 governing the qualified defense contractor tax refund program by s. 1, ch. 96-348.

Section 69. Paragraph (b) of subsection (6) of section 445.003, Florida Statutes, as amended by section 3 of chapter 2000-165, Laws of Florida, is reenacted to read:

445.003 Implementation of the federal Workforce Investment Act of 1998.—

(6) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—

(b) The Office of Program Policy Analysis and Government Accountability shall review the workforce development system, as established by this act. The office shall submit its final report and recommendations by December 31, 2002, to the President of the Senate and the Speaker of the House of Representatives.

Reviser's note.—Reenacted to confirm the continued existence of the paragraph despite a repeal by s. 46, ch. 2000-158, Laws of Florida, a reviser's bill. Section 3, ch. 2000-165, Laws of Florida, amended paragraph (6)(b) to require submittal of a report and recommendations by December 31, 2002; prior to amendment, submittal of the report and recommendations was required by January 31, 2000.

Section 70. Paragraph (c) of subsection (7) of section 445.009, Florida Statutes, as amended by section 9 of chapter 2000-165, Laws of Florida, is reenacted to read:

445.009 One-stop delivery system.—

(7)

(c) Workforce Florida, Inc., shall periodically review Individual Training Account pricing schedules developed by regional workforce boards and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives.

Reviser's note.—Reenacted to confirm the continued existence of the paragraph despite a repeal by s. 45, ch. 2000-158, Laws of Florida, a reviser's bill. Section 9, ch. 2000-165, Laws of Florida, amended paragraph (8)(c), redesignated as paragraph (7)(c), to provide for periodic review of Individual

Training Account pricing schedules and deleted the January 1, 2000, submittal date for findings and recommendations for process improvement.

Section 71. Paragraph (e) of subsection (3) of section 445.024, Florida Statutes, is amended to read:

445.024 Work requirements.—

(3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.—The following individuals are exempt from work activity requirements:

(e) An individual who is exempt from the time period pursuant to s. 414.105 ~~415.015~~.

Reviser's note.—Amended to conform to the correct citation of the referenced material; s. 415.015 does not exist.

Section 72. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 446.50, Florida Statutes, are amended to read:

446.50 Displaced homemakers; multiservice programs; report to the Legislature; Displaced Homemaker Trust Fund created.—

(2) DEFINITIONS.—For the purposes of this section:

(a) "Displaced homemaker" means an individual who:

1. Is 35 years of age or older;

2. Has worked in the home, providing unpaid household services for family members;

3. Is not adequately employed, as defined by rule of the agency ~~division~~;

4. Has had, or would have, difficulty in securing adequate employment; and

5. Has been dependent on the income of another family member but is no longer supported by such income, or has been dependent on federal assistance.

(3) AGENCY POWERS AND DUTIES.—

(a) The agency, under plans established by Workforce Florida, Inc., shall establish, or contract for the establishment of, programs for displaced homemakers which shall include:

1. Job counseling, by professionals and peers, specifically designed for a person entering the job market after a number of years as a homemaker.

2. Job training and placement services, including:

a. Training programs for available jobs in the public and private sectors, taking into account the skills and job experiences of a homemaker and developed by working with public and private employers.

b. Assistance in locating available employment for displaced homemakers, some of whom could be employed in existing job training and placement programs.

c. Utilization of the services of the state employment service in locating employment opportunities.

3. Financial management services providing information and assistance with respect to insurance, including, but not limited to, life, health, home, and automobile insurance, and taxes, estate and probate problems, mortgages, loans, and other related financial matters.

4. Educational services, including high school equivalency degree and such other courses as the agency determines would be of interest and benefit to displaced homemakers.

5. Outreach and information services with respect to federal and state employment, education, health, and unemployment assistance programs which the agency ~~division~~ determines would be of interest and benefit to displaced homemakers.

Reviser's note.—Amended to conform to the substitution of the term "agency" for the term "division" made elsewhere in the section by s. 126, ch. 2000-165, Laws of Florida.

Section 73. Subsection (5) of section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(5) All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter ~~part~~, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay

for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. The department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

Reviser's note.—Amended to conform to the arrangement of chapter 456, which is not divided into parts.

Section 74. Paragraph (a) of subsection (1) of section 456.039, Florida Statutes, is amended to read:

456.039 Designated health care professionals; information required for licensure.—

(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, except a person applying for registration pursuant to ss. 458.345 and 459.021, must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, except a person registered pursuant to ss. 458.345 and 459.021, must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

(a)1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent 10 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialties ~~Specialities~~, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

Reviser's note.—Amended to conform to the correct title of the board.

Section 75. Paragraph (d) of subsection (2) and subsections (6) and (7) of section 458.3135, Florida Statutes, are amended to read:

458.3135 Temporary certificate for visiting physicians to practice in approved cancer centers.—

(2) A temporary certificate for practice in an approved cancer center may be issued without examination to an individual who:

(d) Has not committed any act in this or any other jurisdiction which would constitute the basis for disciplining a physician under s. 456.072 ~~455.624~~ or s. 458.331;

(6) The board shall not issue a temporary certificate for practice in an approved cancer center to any physician who is under investigation in another jurisdiction for an act that would constitute a violation of this chapter or chapter 456 ~~455~~ until such time as the investigation is complete and the physician is found innocent of all charges.

(7) A physician applying under this section is exempt from the requirements of ss. 456.039-456.046 ~~455.565-455.5656~~. All other provisions of chapters 456 ~~455~~ and 458 apply.

Reviser's note.—Paragraph (2)(d) is amended to conform to the redesignation of s. 455.624 as s. 456.072 by s. 90, ch. 2000-160, Laws of Florida. Subsections (6) and (7) are amended to conform to the redesignation of sections comprising part II of chapter 455 as chapter 456 by ch. 2000-160. Subsection (7) is further amended to conform to the redesignation of ss. 455.565-455.5656 as ss. 456.039 and 456.041-456.046 by ss. 66-71, ch. 2000-160; and the enactment of s. 455.56503, renumbered as s. 456.0391 by the reviser, by s. 152, ch. 2000-318, Laws of Florida.

Section 76. Subsection (5) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(5)(a) Notwithstanding any provision of this chapter or ~~part II of~~ chapter 456 ~~455~~, the requirements for the biennial renewal of the license of any licensee who is a member of the Legislature shall stand continued and extended without the requirement of any filing by such a licensee of any notice or application for renewal with the board or the department and such licensee's license shall be an active status license under this chapter, throughout the period that the licensee is a member of the Legislature and for a period of 60 days after the licensee ceases to be a member of the Legislature.

(b) At any time during the licensee's legislative term of office and during the period of 60 days after the licensee ceases to be a member of the Legislature, the licensee may file a completed renewal application that shall consist solely of:

1. A license renewal fee of $250 for each year the licensee's license renewal has been continued and extended pursuant to the terms of this subsection since the last otherwise regularly scheduled biennial renewal year and each year during which the renewed license shall be effective until the next regularly scheduled biennial renewal date;

2. Documentation of the completion by the licensee of 10 hours of continuing medical education credits for each year from the effective date of the last renewed license for the licensee until the year in which the application is filed;

3. The information from the licensee expressly required in s. 456.039(1)(a)1.-8. and (b), and (4)(a), (b), and (c) ~~455.565(1)(a)1.-8. and (b), and (4)(a), (b), and (c)~~.

(c) The department and board may not impose any additional requirements for the renewal of such licenses and, not later than 20 days after receipt of a completed application as specified in paragraph (b), shall renew the active status license of the licensee, effective on and retroactive to the last previous renewal date of the licensee's license. Said license renewal shall be valid until the next regularly scheduled biennial renewal date for said license, and thereafter shall be subject to the biennial requirements for renewal in this chapter and ~~part II of~~ chapter 456 ~~455~~.

Reviser's note.—Paragraphs (5)(a) and (c) are amended to conform to the redesignation of sections comprising part II of chapter 455 as chapter 456 by ch. 2000-160, Laws of Florida. Paragraph (5)(b) is amended to conform to the redesignation of s. 455.565 as s. 456.039 by s. 66, ch. 2000-160.

Section 77. Paragraph (c) of subsection (9) of section 460.403, Florida Statutes, is amended to read:

460.403 Definitions.—As used in this chapter, the term:

(9)

(c)1. Chiropractic physicians may adjust, manipulate, or treat the human body by manual, mechanical, electrical, or natural methods; by the use of physical means or physiotherapy, including light, heat, water, or exercise; by the use of acupuncture; or by the administration of foods, food concentrates, food extracts, and items for which a prescription is not required and may apply first aid and hygiene, but chiropractic physicians are expressly prohibited from prescribing or administering to any person any legend drug except as authorized under subparagraph 2., from performing any surgery except as stated herein, or from practicing obstetrics.

2. Notwithstanding the prohibition against prescribing and administering legend drugs under subparagraph 1., or s. 499.0122 ~~449.0122~~, pursuant to board rule chiropractic physicians may order, store, and administer, for emergency purposes only at the chiropractic physician's office or place of business, prescription medical oxygen and may also order, store, and administer the following topical anesthetics in aerosol form:

a. Any solution consisting of 25 percent ethylchloride and 75 percent dichlorodifluoromethane.

b. Any solution consisting of 15 percent dichlorodifluoromethane and 85 percent trichloromonofluoromethane.

However, this paragraph does not authorize a chiropractic physician to prescribe medical oxygen as defined in chapter 499.

Reviser's note.—Amended to conform to the correct citation of the referenced material; s. 449.0122 does not exist.

Section 78. Section 464.0045, Florida Statutes, is repealed.

Reviser's note.—The cited section authorizes the Governor to appoint one or more new members of the Board of Nursing added to the board pursuant to ch. 96-274, Laws of Florida, for a period of less than 4 years to achieve staggered terms. Chapter 96-274 took effect May 29, 1996.

Section 79. Effective October 1, 2002, sections 467.001, 467.002, 467.004, 467.011, 467.0125, 467.014, 467.015, 467.016, 467.017, 467.201, 467.203, 467.205, and 467.207, Florida Statutes, are reenacted to read:

467.001 Short title.—This chapter shall be known and may be cited as the "Midwifery Practice Act."

467.002 Legislative intent.—The Legislature recognizes the need for a person to have the freedom to choose the manner, cost, and setting for giving birth. The Legislature finds that access to prenatal care and delivery services is limited by the inadequate number of providers of such services and that the regulated practice of midwifery may help to reduce this shortage. The Legislature also recognizes the need for the safe and effective delivery of newborn babies and the health, safety, and welfare of their mothers in the delivery process. The Legislature finds that the interests of public health require the regulation of the practice of midwifery in this state for the purpose of protecting the health and welfare of mothers and infants. Therefore, it is unlawful for any person to practice midwifery in this state unless such person is licensed pursuant to the provisions of this chapter or s. 464.012.

467.004 Council of Licensed Midwifery.—

(1) The Council of Licensed Midwifery is created within the department and shall consist of nine members to be appointed by the secretary.

(2) One member of the council shall be a certified nurse midwife. One member of the council shall be a physician who is an obstetrician certified by the American Board of Obstetrics and Gynecology and one family physician certified by the American Board of Family Practice. One member of the council shall be a physician who is a pediatrician certified by the American Board of Pediatrics. Four members of the council shall be licensed midwives. The one remaining member shall be a resident of this state who has never been a licensed midwife and who has no financial interest in the practice of midwifery or in any health care facility, agency, or insurer. The council members shall serve staggered 4-year terms as determined by rule.

(3) The council shall:

(a) Assist and advise the department in developing rules relating to: training requirements, including core competencies, for persons training to become licensed midwives; the licensure examination; fees; the informed consent form; responsibilities of midwives; emergency care plans; records and reports to be filed by licensed midwives; and other regulatory requirements developed by the department.

(b) Assist the department in developing rules to implement s. 467.205, relating to approval of midwifery training programs.

(c) Monitor and inform the department on the practice of midwifery in other states and countries by persons who are not nurses.

(d) Educate the public and other providers of obstetrical care about the role of licensed midwives.

(e) Collect and review data regarding licensed midwifery.

(f) Recommend changes in the Midwifery Practice Act to the department and the Legislature.

(g) Address concerns and problems of practicing licensed midwives in order to promote improved safety in the practice of midwifery.

(4) Members of the council shall serve without pay. The council members shall be entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

467.011 Licensure by examination.—

(1) The department shall administer an examination to test the proficiency of applicants in the core competencies required to practice midwifery as specified in s. 467.009.

(2) The department shall develop, publish, and make available to interested parties at a reasonable cost a bibliography and guide for the examination.

(3) The department shall issue a license to practice midwifery to an applicant who has graduated from an approved midwifery program and successfully completed the examination, upon payment of the required licensure fee.

467.0125 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to practice midwifery to an applicant who, upon applying to the department, demonstrates to the department that she or he:

(a)1. Holds a valid certificate or diploma from a foreign institution of medicine or midwifery or from a midwifery program offered in another state, bearing the seal of the institution or otherwise authenticated, which renders the individual eligible to practice midwifery in the country or state in which it was issued, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter, and submits therewith a certified translation of the foreign certificate or diploma; or

2. Holds a valid certificate or license to practice midwifery in another state, issued by that state, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter.

(b) Has completed a 4-month prelicensure course conducted by an approved program and has submitted documentation to the department of successful completion. The department shall determine by rule the content of the prelicensure course.

(c) Has successfully passed the licensed midwifery examination.

(2) The department may issue a temporary certificate to practice in areas of critical need to any midwife who is qualifying for licensure by endorsement under subsection (1), with the following restrictions:

(a) The Department of Health shall determine the areas of critical need, and the midwife so certified shall practice only in those specific areas, under the auspices of a physician licensed pursuant to chapter 458 or chapter 459, a certified nurse midwife licensed pursuant to part I of chapter 464, or a midwife licensed under this chapter, who has a minimum of 3 years' professional experience. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(b) A temporary certificate issued under this section shall be valid only as long as an area for which it is issued remains an area of critical need, but no longer than 2 years, and shall not be renewable.

(c) The department may administer an abbreviated oral examination to determine the midwife's competency, but no written regular examination shall be necessary.

(d) The department shall not issue a temporary certificate to any midwife who is under investigation in another state for an act which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of this section shall apply.

(e) The department shall review the practice under a temporary certificate at least annually to ascertain that the minimum requirements of the midwifery rules promulgated under this chapter are being met. If is is determined that the minimum requirements are not being met, the department shall immediately revoke the temporary certificate.

(f) The fee for a temporary certificate shall not exceed $50 and shall be in addition to the fee required for licensure.

467.014 Financial responsibility.—A licensed midwife shall include in the informed consent plan presented to the parents the status of the midwife's malpractice insurance, including the amount of malpractice insurance, if any.

467.015 Responsibilities of the midwife.—

(1) A midwife shall accept and provide care for only those mothers who are expected to have a normal pregnancy, labor, and delivery and shall ensure that the following conditions are met:

(a) The patient has signed an informed consent form approved by the department pursuant to s. 467.016.

(b) If the patient is delivering at home, the home is safe and hygienic and meets standards set forth by the department.

(2) A midwife may provide collaborative prenatal and postpartal care to pregnant women not at low risk in their pregnancy, labor, and delivery, within a written protocol of a physician currently licensed under chapter 458 or chapter 459, which physician shall maintain supervision for directing the specific course of medical treatment. The department shall by rule develop guidelines for the identification of high-risk pregnancies.

(3) A midwife licensed under this chapter may administer prophylactic ophthalmic medication, oxygen, postpartum oxytocin, vitamin K, rho immune globulin (human), and local anesthetic pursuant to a prescription issued by a practitioner licensed under chapter 458 or chapter 459, and may administer such other medicinal drugs as prescribed by such practitioner. Any such prescription for medicinal drugs shall be in a form that complies with chapter 499 and shall be dispensed in a pharmacy permitted under chapter 465 by a pharmacist licensed under chapter 465.

(4) The care of mothers and infants throughout the prenatal, intrapartal, and postpartal periods shall be in conformity with rules adopted by the department pursuant to this chapter and the public health laws of this state.

(5) The midwife shall:

(a) Prepare a written plan of action with the family to ensure continuity of medical care throughout labor and delivery and to provide for immediate medical care if an emergency arises. The family should have specific plans for medical care throughout the prenatal, intrapartal, and postpartal periods.

(b) Instruct the patient and family regarding the preparation of the environment and ensure availability of equipment and supplies needed for delivery and infant care, if a home birth is planned.

(c) Instruct the patient in the hygiene of pregnancy and nutrition as it relates to prenatal care.

(d) Maintain equipment and supplies in conformity with the rules adopted pursuant to this chapter.

(6) The midwife shall determine the progress of labor and, when birth is imminent, shall be immediately available until delivery is accomplished. During labor and delivery, the midwife shall comply with rules adopted by the department pursuant to this chapter, which shall include rules that govern:

(a) Maintaining a safe and hygienic environment;

(b) Monitoring the progress of labor and the status of the fetus;

(c) Recognizing early signs of distress or complications; and

(d) Enacting the written emergency plan when indicated.

(7)(a) The midwife shall remain with the postpartal mother until the conditions of the mother and the neonate are stabilized.

(b) The midwife shall instill into each eye of the newborn infant a prophylactic in accordance with s. 383.04.

467.016 Informed consent.—The department shall develop a uniform client informed-consent form to be used by the midwife to inform the client of the qualifications of a licensed midwife and the nature and risk of the

procedures to be used by a midwife and to obtain the client's consent for the provision of midwifery services.

467.017 Emergency care plan; immunity.—

(1) Every licensed midwife shall develop a written plan for the appropriate delivery of emergency care. A copy of the plan shall accompany any application for license issuance or renewal. The plan shall address the following:

(a) Consultation with other health care providers.

(b) Emergency transfer.

(c) Access to neonatal intensive care units and obstetrical units or other patient care areas.

(2) Any physician licensed under chapter 458 or chapter 459, or any certified nurse midwife, or any hospital licensed under chapter 395, or any osteopathic hospital, providing medical care or treatment to a woman or infant due to an emergency arising during delivery or birth as a consequence of the care received by a midwife licensed under chapter 467 shall not be held liable for any civil damages as a result of such medical care or treatment unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

467.201 Violations and penalties.—Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(1) Practicing midwifery, unless holding an active license to do so.

(2) Using or attempting to use a license which has been suspended or revoked.

(3) The willful practice of midwifery by a student midwife without a preceptor present, except in an emergency.

(4) Knowingly allowing a student midwife to practice midwifery without a preceptor present, except in an emergency.

(5) Obtaining or attempting to obtain a license under this chapter through bribery or fraudulent misrepresentation.

(6) Using the name or title "midwife" or "licensed midwife" or any other name or title which implies that a person is licensed to practice midwifery, unless such person is duly licensed as provided in this chapter.

(7) Knowingly concealing information relating to the enforcement of this chapter or rules adopted pursuant thereto.

467.203 Disciplinary actions; penalties.—

(1) The following acts shall be grounds for disciplinary action as set forth in this section:

(a) Procuring, attempting to procure, or renewing a license to practice midwifery by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice midwifery revoked, suspended, or otherwise acted against, including being denied licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of midwifery or to the ability to practice midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

(d) Making or filing a false report or record, which the licensee knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; or willfully impeding or obstructing such filing or inducing another to do so. Such reports or records shall include only those which are signed in the midwife's capacity as a licensed midwife.

(e) Advertising falsely, misleadingly, or deceptively.

(f) Engaging in unprofessional conduct, which includes, but is not limited to, any departure from, or the failure to conform to, the standards of practice of midwifery as established by the department, in which case actual injury need not be established.

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

(h) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(i) Willfully or repeatedly violating any provision of this chapter, any rule of the department, or any lawful order of the department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(2) When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to approve an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the midwife on probation for such period of time and subject to such conditions as the department may specify, including requiring the midwife to submit to treatment; undertake further relevant education or training; take an examination; or work under the supervision of another licensed midwife, a physician, or a nurse midwife licensed under part I of chapter 464.

(3) The department shall not reinstate the license of a midwife, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of midwifery.

(4) The department shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of suspension or probation, or conditions of probation or reissuance of a license.

467.205 Approval of midwifery programs.—

(1) An organization desiring to conduct an approved program for the education of midwives shall apply to the department and submit such evidence as may be required to show that it complies with s. 467.009 and with the rules of the department. Any accredited or state-licensed institution of higher learning, public or private, may provide midwifery education and training.

(2) The department shall adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and other training requirements as are necessary to ensure that approved programs graduate midwives competent to practice under this chapter.

(3) The department shall survey each organization applying for approval. If the department is satisfied that the program meets the requirements of s. 467.009 and rules adopted pursuant to that section, it shall approve the program.

(4) The department shall, at least once every 3 years, certify whether each approved midwifery program complies with the standards developed under s. 467.009.

(5) If the department finds that an approved program no longer meets the required standards, it may place the program on probationary status until such time as the standards are restored. If a program fails to correct these conditions within a specified period of time, the department may rescind the approval. Any program having its approval rescinded shall have the right to reapply.

(6) Provisional approval of a new program may be granted pending the licensure results of the first graduating class.

467.207 Exceptions.—No provision of this chapter shall be construed to prohibit:

(1) The practice of midwifery by students enrolled in an approved midwifery training program.

(2) The establishment of an independent practice by one or more midwives for the purpose of rendering to patients midwifery services within the scope of the midwife license.

(3) Assistance by any person in the case of an emergency.

Reviser's note.—Reenacted to conform to the repeal of the s. 11.61 repeal of ss. 467.001, 467.002, 467.004, 467.011, 467.0125, 467.014-467.017, and 467.201-467.207 by s. 4, ch. 91-429, Laws of Florida, and the confirmation of that repeal by s. 33, ch. 96-318, Laws of Florida. Section 467.004 is also reenacted to conform to the repeal of the s. 11.611 review of the Council of Licensed Midwifery as provided by s. 20, ch. 92-179, Laws of Florida. Section 5, ch. 91-429, repealed s. 11.611, and s. 33, ch. 96-318, confirmed the repeal of s. 11.611.

Section 80. Paragraph (b) of subsection (3) of section 468.354, Florida Statutes, as amended by section 178 of chapter 99-397, Laws of Florida, is reenacted to read:

468.354 Board of Respiratory Care; organization; function.—

(3)

(b) To achieve staggering of terms, within 120 days after July 1, 1999, the Governor shall appoint the board members as follows:

1. Two members shall be appointed for terms of 2 years.

2. Two members shall be appointed for terms of 3 years.

3. Three members shall be appointed for terms of 4 years.

Reviser's note.—Reenacted to confirm the continued existence of the paragraph despite the repeal by s. 57, ch. 99-5, Laws of Florida, a reviser's bill. Section 178, ch. 99-397, Laws of Florida, amended paragraph (3)(b) to require that, in order to achieve staggered terms, within 120 days after July 1, 1999, the Governor appoint board members for terms of office ranging from 2 to 4 years; prior to amendment, the appointments were to be made within 120 days after October 1, 1984.

Approved by the Governor May 25, 2001.

Filed in Office Secretary of State May 25, 2001.