CHAPTER 2004-350

Committee Substitute for Senate Bill No. 2448

An act relating to public health; amending s. 17.41, F.S.; authorizing funds from the Tobacco Settlement Clearing Trust Fund to be disbursed to the Biomedical Research Trust Fund in the Department of Health; amending s. 20.43, F.S.; establishing the Officer of Women's Health Strategy in the Department of Health; establishing the Office of Minority Health in the Department of Health; designating the Division of Emergency Medical Services and Community Health Resources as the "Division of Emergency Medical Operations"; designating the Division of Information Resource Management as the "Division of Information Technology"; designating the Division of Health Awareness and Tobacco as the "Division of Health Access and Tobacco"; creating the Division of Disability Determinations; creating s. 381.04015, F.S.; providing legislative intent; providing the duties of the Officer of Women's Health Strategy; requiring an annual report to the Governor and Legislature with policy recommendations for implementing the Women's Health Strategy; requiring consideration of women's health issues and gender in state policy, planning, and budgeting; providing for responsibility and coordination; transferring and amending s. 216.341, F.S.; providing that certain positions within the Department of Health are exempt from a limitation on the number of authorized positions; amending s. 381.0011, F.S.; revising duties of the Department of Health; providing for a statewide injury prevention program; amending s. 381.006, F.S.; including within the department's environmental health program the function of investigating elevated levels of lead in blood; amending s. 381.0065, F.S., relating to onsite sewage treatment and disposal systems; revising a definition; deleting a requirement that the department make certain biennial reports to the Legislature; authorizing the department to require the submission of certain construction plans pursuant to adopted rule; continuing a requirement imposing a permit fee on new construction; amending s. 381.0072, F.S.; exempting certain schools, bars, and lounges from certification requirements for food service managers; creating s. 381.86, F.S.; establishing the Institutional Review Board within the Department of Health to review certain biomedical and behavioral research; providing for the membership of the board; authorizing board members to be reimbursed for per diem and travel expenses; authorizing the department to charge fees for the research oversight performed by the board; authorizing the department to adopt rules; amending s. 381.89, F.S.; authorizing the Department of Health to impose certain licensure fees on tanning facilities; amending s. 381.90, F.S.; revising the membership and reporting requirements of the Health Information Systems Council; amending s. 383.14, F.S.; authorizing the State Public Health Laboratory to release certain test results to a newborn's primary care physician; revising certain testing requirements for newborns; increasing the membership of the Genetics and Newborn Screening Advisory Council; amending s. 383.402, F.S.; revising the criteria under which the

state and local child abuse death review committees are required to review the death of a child; amending s. 391.021, F.S.; redefining the term "children with special health care needs" for purposes of the Children's Medical Services Act; amending ss. 391.025, 391.029, 391.035, and 391.055, F.S., relating to the Children's Medical Services program; revising the application requirements for the program; revising requirements for eligibility for services under the program; authorizing the department to contract with out-of-state health care providers to provide services to program participants; authorizing the department to adopt rules; requiring that certain newborns with abnormal screening results be referred to the program; amending s. 391.302, F.S.; revising certain definitions relating to developmental evaluation and intervention services; amending s. 391.303, F.S.; revising certain requirements for providing those services; amending s. 391.308, F.S.; creating the Infants and Toddlers Early Intervention Program within the Department of Health; requiring the department, jointly with the Department of Education, to prepare grant applications and to include certain services under the program; amending s. 395.003, F.S.; requiring a report by the Agency for Health Care Administration regarding the licensure of emergency departments located off the premises of hospitals; prohibiting the issuance of licenses for such departments before July 1, 2005; amending s. 395.1027, F.S.; authorizing certain licensed facilities to release patient information to regional poison control centers; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals, pediatric trauma referral centers, and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term "trauma center"; amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "chief financial officer," "mobile clinic," and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; assigning responsibilities for ensuring billing; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or

suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; amending s. 400.9905, F.S.; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 401.211, F.S.; providing legislative intent with respect to a statewide injury-prevention program; creating s. 401.243, F.S.; providing duties of the department for establishing such a program; authorizing the department to adopt rules; amending s. 404.056, F.S.; revising the radon testing requirements for schools and certain state-operated or state-licensed facilities; amending s. 468.302, F.S.; revising certain requirements for administering radiation and performing certain other procedures; amending s. 468.304, F.S.; revising requirements for obtaining certification from the department as an X-ray machine operator, a radiographer, or a nuclear medicine technologist; amending s. 468.306, F.S.; requiring remedial education for certain applicants for certification; amending s. 468.3065, F.S.; providing that the application fee is nonrefundable; amending s. 468.307, F.S.; revising the expiration date of a certificate; amending s. 468.309, F.S.; revising requirements for certification as a radiologic technologist; providing for a certificateholder to resign a certification; amending s. 468.3095, F.S.; revising requirements for reactivating an expired certificate; amending s. 468.3101, F.S.; authorizing the department to conduct investigations and inspections; clarifying certain grounds for disciplinary actions; amending s. 489.553, F.S.; providing requirements for registration as a master septic tank contractor; amending s. 489.554, F.S.; authorizing inactive registration as a septic tank contractor; providing for renewing a certification of registration following a period of inactive status; amending s. 784.081, F.S.; increasing certain penalties for an assault or battery that is committed against an employee of the Department of Health or against a direct service provider of the department; repealing ss. 381.0098(9), 385.103(2)(f), 385.205, 385.209, 391.301(3), 391.305(2), 393.064(5), and 445.033(7), F.S., relating to obsolete provisions governing the handling of biomedical waste, rulemaking authority with respect to community intervention programs, programs covering chronic renal disease, information on cholesterol, intervention programs for certain hearing-impaired infants, contract authority over the Raymond C. Philips Research and Education Unit, and an exemption from the Florida Biomedical and Social Research Act for certain evaluations; requiring a report relating to a disciplinary board for the onsite sewage industry; amending

s. 381.7355, F.S.; providing an additional priority area; amending s. 381.005, F.S.; requiring hospitals licensed under ch. 395, F.S., to implement a program offering immunizations against the influenza virus and pneumococcal bacteria to all patients who have attained a specified age; amending s. 409.907, F.S.; providing criteria for establishing the effective date of approval of certain applications to be a Medicaid provider; preempting the regulation, identification, and packaging of meat, poultry, and fish to the state and the Department of Agriculture and Consumer Services; providing an effective date.

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

Section 1. Subsection (5) of section 17.41, Florida Statutes, is amended to read:

17.41 Department of Financial Services Tobacco Settlement Clearing Trust Fund.—

(5) The department shall disburse funds, by nonoperating transfer, from the Tobacco Settlement Clearing Trust Fund to the tobacco settlement trust funds of the various agencies or the Biomedical Research Trust Fund in the Department of Health, as appropriate, in amounts equal to the annual appropriations made from those agencies' trust funds in the General Appropriations Act.

Section 2. Subsection (2) and paragraphs (f), (i), and (j) of subsection (3) of section 20.43, Florida Statutes, are amended, and paragraph (k) is added to that subsection, and subsection (9) is added to that section, to read:

20.43 Department of Health.—There is created a Department of Health.

(2)(a) The head of the Department of Health is the Secretary of Health and State Health Officer. The secretary must be a physician licensed under chapter 458 or chapter 459 who has advanced training or extensive experience in public health administration. The secretary is appointed by the Governor subject to confirmation by the Senate. The secretary serves at the pleasure of the Governor.

(b) The Officer of Women's Health Strategy is established within the Department of Health and shall report directly to the secretary.

(3) The following divisions of the Department of Health are established:

(f) Division of Emergency Medical Operations ~~Services and Community Health Resources~~.

(i) Division of Information Technology ~~Resource Management~~.

(j) Division of Health Access ~~Awareness~~ and Tobacco.

(k) Division of Disability Determinations.

(9) There is established within the Department of Health the Office of Minority Health.

Section 3. Section 381.04015, Florida Statutes, is created to read:

381.04015 Women's Health Strategy; legislative intent; duties of Officer of Women's Health Strategy; other state agency duties.—

(1) LEGISLATIVE INTENT.—The Legislature recognizes that the health care needs of women are gender-specific and that public policy must take into account the distinct characteristics of women's health issues. Priority shall be given to improve the overall health status of women through research and education on women's health issues. The Legislature recognizes the importance of understanding why there are such large differences between how women and men experience certain diseases and also recognizes that biomedical research is the key to finding these answers. Such research has important implications for both women and men in terms of clinical practice and disease prevention and manifestation. The Legislature recognizes that as the state's population continues to age and life expectancy for women continues to rise, it is of the utmost importance for the Legislature to encourage effective medical research on long-term health issues for women and to educate elder women about the importance of participating in medical studies. The Legislature finds and declares that the design and delivery of health care services and the medical education of health care practitioners shall be directed by the principle that health care needs are gender-specific.

(2) DUTIES.—The Officer of Women's Health Strategy in the Department of Health shall:

(a) Ensure that the state's policies and programs are responsive to sex and gender differences and to women's health needs across the life span.

(b) Organize an interagency Committee for Women's Health for the purpose of integrating women's health programs in current operating and service delivery structures and setting priorities for women's health. This committee shall be comprised of the heads or directors of state agencies with programs affecting women's health, including, but not limited to, the Department of Health, the Agency for Health Care Administration, the Department of Education, the Department of Elderly Affairs, the Department of Corrections, the Office of Insurance Regulation of the Department of Financial Services, and the Department of Juvenile Justice.

(c) Assess the health status of women in the state through the collection and review of health data and trends.

(d) Review the state's insurance code as it relates to women's health issues.

(e) Work with medical school curriculum committees to develop course requirements on women's health and promote clinical practice guidelines specific to women.

(f) Organize statewide Women's Health Month activities.

(g) Coordinate a Governor's statewide conference on women's health, cosponsored by the agencies participating in the Committee for Women's Health and other private organizations and entities impacting women's health in the state.

(h) Promote research, treatment, and collaboration on women's health issues at universities and medical centers in the state.

(i) Promote employer incentives for wellness programs targeting women's health programs.

(j) Serve as the primary state resource for women's health information.

(k) Develop a statewide women's health plan emphasizing collaborative approaches to meeting the health needs of women. The plan shall:

1. Identify activities designed to reduce the number of premature deaths in women, including:

a. Providing specific strategies for reducing the mortality rate of women.

b. Listing conditions that may cause or contribute to disease in women and the best methods by which to identify, control, and prevent these conditions from developing.

c. Identifying the best methods for ensuring an increase in the percentage of women in the state who receive diagnostic and screening testing.

2. Provide for increasing research and appropriate funding at institutions in the state studying disease in women.

3. Provide recommendations for the development of practice guidelines for addressing disease in women.

4. Provide recommendations for reducing health disparities among women in all races and ethnic groups.

5. Coordinate with existing program plans that address women's health issues.

(l) Promote clinical practice guidelines specific to women.

(m) Serve as the state's liaison with other states and federal agencies and programs to develop best practices in women's health.

(n) Develop a statewide, web-based clearinghouse on women's health issues and resources.

(o) Promote public awareness campaigns and education on the health needs of women.

(p) By January 15 of each year, provide the Governor, the President of the Senate, and the Speaker of the House of Representatives a report with policy recommendations for implementing the provisions of this section.

(3) DUTIES OF OTHER STATE AGENCIES.—

(a) Women's health issues shall be taken into consideration in the annual budget planning of the Department of Health, the Agency for Health Care Administration, and the Department of Elderly Affairs.

(b) The inclusion of gender considerations and differential impact shall be one of the criteria when assessing research and demonstration proposals for which state funding is being sought from the Department of Health, the Agency for Health Care Administration, and the Department of Elderly Affairs.

(c) Boards or advisory bodies that fall under the purview of the Department of Health, the Agency for Health Care Administration, and the Department of Elderly Affairs shall be encouraged to seek equal representation of women and men and the inclusion of persons who are knowledgeable and sensitive to gender and diversity issues.

(4) RESPONSIBILITY AND COORDINATION.—The officer and the department shall direct and carry out the Women's Health Strategy established under this section in accordance with the requirements of this section and may work with the Executive Office of the Governor and other state agencies to carry out their duties and responsibilities under this section.

Section 4. Section 216.341, Florida Statutes, is transferred, renumbered as section 216.2625, Florida Statutes, and amended to read:

216.2625 ~~216.341~~ Disbursement of ~~county health department~~ trust funds of the Department of Health; authorized positions.—

(1) County health department trust funds may be expended by the Department of Health for the respective county health departments in accordance with budgets and plans agreed upon by the county authorities of each county and the Department of Health.

(2) The limitations on the number of authorized positions ~~appropriations~~ provided in s. 216.262(1) do ~~shall~~ not apply to positions within the Department of Health which are funded by:

(a) County health department trust funds; or~~.~~

(b) The United States Trust Fund.

Section 5. Subsection (12) of section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health.—It is the duty of the Department of Health to:

(12) Maintain ~~Cooperate with other departments, local officials, and private organizations in developing and implementing~~ a statewide injury-prevention ~~injury control~~ program.

Section 6. Subsection (17) is added to section 381.006, Florida Statutes, to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(17) A function for investigating elevated levels of lead in blood. Each participating county health department may expend funds for federally mandated certification or recertification fees related to conducting investigations of elevated levels of lead in blood.

The department may adopt rules to carry out the provisions of this section.

Section 7. Paragraph (k) of subsection (2) and paragraphs (d) and (e) of subsection (4), of section 381.0065, Florida Statutes, are amended, and paragraph (v) is added to subsection (4) of that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(k) "Permanent nontidal surface water body" means a perennial stream, a perennial river, an intermittent stream, a perennial lake, a submerged marsh or swamp, a submerged wooded marsh or swamp, a spring, or a seep, as identified on the most recent quadrangle map, 7.5 minute series (topographic), produced by the United States Geological Survey, or products derived from that series. "Permanent nontidal surface water body" shall also mean an artificial surface water body that does not have an impermeable bottom and side and that is designed to hold, or does hold, visible standing water for at least 180 days of the year. However, a nontidal surface water body that is drained, either naturally or artificially, where the intent or the result is that such drainage be temporary, shall be considered a permanent nontidal surface water body. A nontidal surface water body that is drained of all visible surface water, where the lawful intent or the result of such drainage is that such drainage will be permanent, shall not be considered a permanent nontidal surface water body. The boundary of a permanent nontidal surface water body shall be the mean annual flood line.

(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 for a commercial wastewater system is valid for 1 year from the date of issuance and must

be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. 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.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph. ~~The department shall report to the Legislature by February 1 of each odd-numbered year concerning the success in meeting this intent.~~

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean ~~normal~~ annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

Section 8. Paragraph (k) of subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(k) Research: An additional $5 fee shall be added to each new system construction permit issued ~~during fiscal years 1996-2004~~ to be used for onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

The funds collected pursuant to this subsection must be deposited in a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655.

Section 9. Paragraph (a) of subsection (2), paragraph (a) of subsection (3), and paragraph (a) of subsection (4) of section 381.0072, Florida Statutes, are amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(2) DUTIES.—

(a) The department shall adopt rules, including definitions of terms which are consistent with law prescribing minimum sanitation standards

and manager certification requirements as prescribed in s. 509.039, and which shall be enforced in food service establishments as defined in this section. The sanitation standards must address the construction, operation, and maintenance of the establishment; lighting, ventilation, laundry rooms, lockers, use and storage of toxic materials and cleaning compounds, and first-aid supplies; plan review; design, construction, installation, location, maintenance, sanitation, and storage of food equipment and utensils; employee training, health, hygiene, and work practices; food supplies, preparation, storage, transportation, and service, including access to the areas where food is stored or prepared; and sanitary facilities and controls, including water supply and sewage disposal; plumbing and toilet facilities; garbage and refuse collection, storage, and disposal; and vermin control. Public and private schools, if the food service is operated by school employees; hospitals licensed under chapter 395;~~,~~ nursing homes licensed under part II of chapter 400;~~,~~ child care facilities as defined in s. 402.301;~~, and~~ residential facilities colocated with a nursing home or hospital, if all food is prepared in a central kitchen that complies with nursing or hospital regulations; and bars and lounges, as defined by department rule, are ~~shall be~~ exempt from the rules developed for manager certification. The department shall administer a comprehensive inspection, monitoring, and sampling program to ensure such standards are maintained. With respect to food service establishments permitted or licensed under chapter 500 or chapter 509, the department shall assist the Division of Hotels and Restaurants of the Department of Business and Professional Regulation and the Department of Agriculture and Consumer Services with rulemaking by providing technical information.

Section 10. Section 381.86, Florida Statutes, is created to read:

381.86 Institutional Review Board.—

(1) The Institutional Review Board is created within the Department of Health in order to satisfy federal requirements under 45 C.F.R. part 46 and 21 C.F.R. parts 50 and 56 that an institutional review board review all biomedical and behavioral research on human subjects which is funded or supported in any manner by the department.

(2) Consistent with federal requirements, the Secretary of Health shall determine and appoint the membership of the board and designate its chair.

(3) The department's Institutional Review Board may serve as an institutional review board for other agencies at the discretion of the secretary.

(4) Each board member is entitled to reimbursement for per diem and travel expenses as provided in s. 112.061 while carrying out the official business of the board.

(5) The department shall charge for costs it incurs for the research oversight it provides according to a fee schedule, except that fees shall be waived for any student who is a candidate for a degree at a university located in this state. The fee schedule shall provide fees for initial review, amendments, and continuing review. The department may adopt any rules necessary to comply with federal requirements and this section. The rules must also

prescribe procedures for submitting an application for the Institutional Review Board's review.

Section 11. Paragraphs (b) and (c) of subsection (3) of section 381.89, Florida Statutes, are amended to read:

381.89 Regulation of tanning facilities.—

(3)

(b) The department shall establish procedures for the issuance and annual renewal of licenses and shall establish annual license and renewal fees and late-payment fees in an amount necessary to cover the expenses of administering this section. Annual license and renewal fees may not ~~shall~~ be ~~not less than $125 nor~~ more than $250 per tanning device and a maximum total fee per individual tanning facility may be set by rule. ~~Effective October 1, 1991, the fee amount shall be the minimum fee proscribed in this paragraph and such fee amount shall remain in effect until the effective date of a fee schedule adopted by the department.~~

(c) The department may adopt a system under which licenses expire on staggered dates and the annual renewal fees are prorated quarterly ~~monthly~~ to reflect the actual number of months the license is valid.

Section 12. Subsection (3) and paragraph (a) of subsection (7) of section 381.90, Florida Statutes, are amended to read:

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

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

(a) The Secretary ~~of the Department~~ of Health;

(b) The Executive Director ~~secretary~~ of the Department of Veterans' Affairs ~~Business and Professional Regulation~~;

(c) The Secretary ~~of the Department~~ of Children and Family Services;

(d) The Secretary of Health Care Administration;

(e) The Secretary ~~of the Department~~ of Corrections;

(f) The Attorney General;

(g) The Executive Director of the Correctional Medical Authority;

(h) Two members representing county health departments, one from a small county and one from a large county, appointed by the Governor;

(i) A representative from the Florida Association of Counties;

(j) The Chief Financial Officer;

(k) A representative from the Florida Healthy Kids Corporation;

(l) A representative from a school of public health chosen by the Commissioner of Education ~~Board of Regents~~;

(m) The Commissioner of Education;

(n) The Secretary ~~of the Department~~ of Elderly Affairs; and

(o) The Secretary ~~of the Department~~ of Juvenile Justice.

Representatives of the Federal Government may serve without voting rights.

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

(a) By June ~~March~~ 1 of each year, to develop and approve a strategic plan pursuant to the requirements set forth in s. 186.022 ~~s. 186.022(9)~~. ~~Copies of the plan shall be transmitted electronically or in writing to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate.~~

Section 13. Subsections (1) and (2), paragraphs (f) and (g) of subsection (3), and subsection (5) of section 383.14, Florida Statutes, are amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all newborns ~~infants~~ born in Florida for ~~phenylketonuria and other~~ metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all newborns ~~infants born~~ in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(a) Prenatal screening.—The department shall develop a multilevel screening process that includes a risk assessment instrument to identify women at risk for a preterm birth or other high-risk condition. The primary

health care provider shall complete the risk assessment instrument and report the results to the Office of Vital Statistics so that the woman may immediately be notified and referred to appropriate health, education, and social services.

(b) Postnatal screening.—A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system. Tests and screenings must be performed by the State Public Health Laboratory, in coordination with Children's Medical Services, at such times and in such manner as is prescribed by the department after consultation with the Genetics and Infant Screening Advisory Council and the State Coordinating Council for School Readiness Programs.

(c) Release of screening results.—Notwithstanding any other law to the contrary, the State Public Health Laboratory may release, directly or through the Children's Medical Services program, the results of a newborn's hearing and metabolic tests or screening to the newborn's primary care physician.

(2) RULES.—After consultation with the Genetics and Newborn ~~Infant~~ Screening Advisory Council, the department shall adopt and enforce rules requiring that every newborn ~~infant born~~ in this state shall, prior to becoming 1 week ~~2 weeks~~ of age, be subjected to a test for phenylketonuria and, at the appropriate age, be tested for such other metabolic diseases and hereditary or congenital disorders as the department may deem necessary from time to time. After consultation with the State Coordinating Council for School Readiness Programs, the department shall also adopt and enforce rules requiring every newborn ~~infant born~~ in this state to be screened for environmental risk factors that place children and their families at risk for increased morbidity, mortality, and other negative outcomes. The department shall adopt such additional rules as are found necessary for the administration of this section, including rules providing definitions of terms, rules relating to the methods used and time or times for testing as accepted

medical practice indicates, rules relating to charging and collecting fees for screenings authorized by this section, rules for processing requests and releasing test and screening results, and rules requiring mandatory reporting of the results of tests and screenings for these conditions to the department.

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(f) Promote the availability of genetic studies and counseling in order that the parents, siblings, and affected newborns ~~infants~~ may benefit from available knowledge of the condition.

(g) Have the authority to charge and collect fees for screenings authorized in this section, as follows:

1. A fee of $20 will be charged for each live birth, as recorded by the Office of Vital Statistics, occurring in a hospital licensed under part I of chapter 395 or a birth center licensed under s. 383.305, up to 3,000 live births per licensed hospital per year or over 60 births per birth center per year. The department shall calculate the annual assessment for each hospital and birth center, and this assessment must be paid in equal amounts quarterly. Quarterly, the department shall generate and mail to each hospital and birth center a statement of the amount due.

2. As part of the department's legislative budget request prepared pursuant to chapter 216, the department shall submit a certification by the department's inspector general, or the director of auditing within the inspector general's office, of the annual costs of the uniform testing and reporting procedures of the newborn ~~infant~~ screening program. In certifying the annual costs, the department's inspector general or the director of auditing within the inspector general's office shall calculate the direct costs of the uniform testing and reporting procedures, including applicable administrative costs. Administrative costs shall be limited to those department costs which are reasonably and directly associated with the administration of the uniform testing and reporting procedures of the newborn ~~infant~~ screening program.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(5) ADVISORY COUNCIL.—There is established a Genetics and Newborn ~~Infant~~ Screening Advisory Council made up of 15 ~~12~~ members appointed by the Secretary of Health. The council shall be composed of two consumer members, three practicing pediatricians, at least one of whom must be a pediatric hematologist, one representative from each of the four medical schools in the state, the Secretary of Health or his or her designee, one representative from the Department of Health representing Children's Medical Services, one representative from the Florida Hospital Association, one individual with experience in newborn screening programs, one individual representing audiologists, and one representative from the Developmental Disabilities Program Office of the Department of Children and Family

Services. All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

(a) Conditions for which testing should be included under the screening program and the genetics program.~~;~~

(b) Procedures for collection and transmission of specimens and recording of results.~~; and~~

(c) Methods whereby screening programs and genetics services for children now provided or proposed to be offered in the state may be more effectively evaluated, coordinated, and consolidated.

Section 14. Subsection (1) of section 383.402, Florida Statutes, is amended to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(1) It is the intent of the Legislature to establish a statewide multidisciplinary, multiagency child abuse death assessment and prevention system that consists of state and local review committees. The state and local review committees shall review the facts and circumstances of all deaths of children from birth through age 18 which occur in this state as the result of verified child abuse or neglect ~~and for whom at least one report of abuse or neglect was accepted by the central abuse hotline within the Department of Children and Family Services~~. The purpose of the review shall be to:

(a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.

(b) Whenever possible, develop a communitywide approach to address such cases and contributing factors.

(c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse.

(d) Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

Section 15. Subsection (2) of section 391.021, Florida Statutes, is amended to read:

391.021 Definitions.—When used in this act, unless the context clearly indicates otherwise:

(2) "Children with special health care needs" means those children younger than ~~under age~~ 21 years of age who have chronic physical, developmental, behavioral, or emotional conditions and who also require health care and related services of a type or amount beyond that which is generally required by children ~~whose serious or chronic physical or developmental conditions require extensive preventive and maintenance care beyond that required by typically healthy children. Health care utilization by these children exceeds the statistically expected usage of the normal child adjusted for chronological age. These children often need complex care requiring multiple providers, rehabilitation services, and specialized equipment in a number of different settings.~~

Section 16. Section 391.025, Florida Statutes, is amended to read:

391.025 Applicability and scope.—

~~(1) This act applies to health services provided to eligible individuals who are:~~

~~(a)1. Enrolled in the Medicaid program;~~

~~2. Enrolled in the Florida Kidcare program; and~~

~~3. Uninsured or underinsured, provided that they meet the financial eligibility requirements established in this act, and to the extent that resources are appropriated for their care; or~~

~~(b) Infants who receive an award of compensation under s. 766.31(1).~~

(1)~~(2)~~ The Children's Medical Services program consists of the following components:

(a) The newborn ~~infant metabolic~~ screening program established in s. 383.14.

(b) The regional perinatal intensive care centers program established in ss. 383.15-383.21.

(c) A federal or state program authorized by the Legislature.

(d) The developmental evaluation and intervention program, including the Florida Infants and Toddlers Early Intervention Program.

(e) The Children's Medical Services network.

(2)~~(3)~~ The Children's Medical Services program shall not be deemed an insurer and is not subject to the licensing requirements of the Florida Insurance Code or the rules adopted thereunder, when providing services to children who receive Medicaid benefits, other Medicaid-eligible children with special health care needs, and children participating in the Florida Kidcare program.

Section 17. Section 391.029, Florida Statutes, is amended to read:

391.029 Program eligibility.—

(1) The department shall establish the medical criteria to determine if an applicant for the Children's Medical Services program is an eligible individual.

(2) The following individuals are financially eligible to receive services through ~~for~~ the program:

(a) A high-risk pregnant female who is eligible for Medicaid.

(b) Children ~~A child~~ with special health care needs from birth to ~~age~~ 21 years of age who are ~~is~~ eligible for Medicaid.

(c) Children ~~A child~~ with special health care needs from birth to ~~age~~ 19 years of age who are ~~is~~ eligible for a program under Title XXI of the Social Security Act.

(3) Subject to the availability of funds, the following individuals may receive services through the program:

(a)~~(d)~~ Children ~~A child~~ with special health care needs from birth to ~~age~~ 21 years of age whose family income is above the requirements for financial eligibility under Title XXI of the Social Security Act and whose projected annual cost of care adjusts the family income to Medicaid financial criteria. In cases where the family income is adjusted based on a projected annual cost of care, the family shall participate financially in the cost of care based on criteria established by the department.

(b)~~(e)~~ Children ~~A child~~ with special health care needs from birth to 21 years of age, as provided ~~defined~~ in Title V of the Social Security Act ~~relating to children with special health care needs~~.

(c)~~(f)~~ An infant who receives an award of compensation under s. 766.31(1). The Florida Birth-Related Neurological Injury Compensation Association shall reimburse the Children's Medical Services Network the state's share of funding, which must thereafter be used to obtain matching federal funds under Title XXI of the Social Security Act.

~~The department may continue to serve certain children with special health care needs who are 21 years of age or older and who were receiving services from the program prior to April 1, 1998. Such children may be served by the department until July 1, 2000.~~

(4)~~(3)~~ The department shall determine the financial and medical eligibility of children for the program. The department shall also determine the financial ability of the parents, or persons or other agencies having legal custody over such individuals, to pay the costs of health services under the program. The department may pay reasonable travel expenses related to the determination of eligibility for or the provision of health services.

(5)~~(4)~~ Any child who has been provided with surgical or medical care or treatment under this act prior to being adopted shall continue to be eligible

to be provided with such care or treatment after his or her adoption, regardless of the financial ability of the persons adopting the child.

Section 18. Subsection (4) is added to section 391.035, Florida Statutes, to read:

391.035 Provider qualifications.—

(4) Notwithstanding any other law, the department may contract with health care providers licensed in another state to provide health services to participants in the Children's Medical Services program when necessary due to an emergency or in order to provide specialty services or greater convenience to the participants for receiving timely and effective health care services. The department may adopt rules to administer this subsection.

Section 19. Subsection (4) is added to section 391.055, Florida Statutes, to read:

391.055 Service delivery systems.—

(4) If a newborn has an abnormal screening result for metabolic or other hereditary and congenital disorders which is identified through the newborn screening program pursuant to s. 383.14, the newborn shall be referred to the Children's Medical Services program for additional testing, medical management, early intervention services, or medical referral.

Section 20. Section 391.302, Florida Statutes, is amended to read:

391.302 Definitions.—As used in ss. 391.301-391.307, the term:

(1) "Developmental intervention" means individualized therapies and services needed to enhance both the infant's or toddler's growth and development and family functioning.

~~(2) "Hearing-impaired infant" means an infant who is born with or who has acquired prelingually a hearing loss so severe that, unaided, the infant cannot learn speech and language through normal means.~~

~~(3) "High-risk hearing-impaired infant" means an infant who exhibits conditions and factors that include, but are not limited to, a family history of hearing impairment or anatomic malformation which place the infant at an increased risk for hearing impairment.~~

(2)~~(4)~~ "Infant or toddler" means a child from birth until the child's third birthday.

(3)~~(5)~~ "In-hospital intervention services" means the provision of assessments; the provision of individualized services ~~therapies~~; monitoring and modifying the delivery of medical interventions; and enhancing the environment for the high-risk, developmentally disabled, or medically involved~~, or hearing-impaired~~ infant or toddler in order to achieve optimum growth and development.

(4)~~(6)~~ "Parent support and training" means a range of services to families of high-risk, developmentally disabled, or medically involved~~, or hearing-~~

~~impaired~~ infants or toddlers, including family counseling; financial planning; agency referral; development of parent-to-parent support groups; education concerning growth, development, and developmental intervention and objective measurable skills, including abuse avoidance skills; training of parents to advocate for their child; and bereavement counseling.

Section 21. Section 391.303, Florida Statutes, is amended to read:

391.303 Program requirements.—

(1) Developmental evaluation and intervention services shall be established at each hospital that provides Level II or Level III neonatal intensive care services. Program services shall be made available to an infant or toddler identified as being at risk for developmental disabilities, or identified as medically involved, who, along with his or her family, would benefit from program services. Program services shall be made available to infants or toddlers in a Level II or Level III neonatal intensive care unit or in a pediatric intensive care unit, ~~infants who are identified as being at high risk for hearing impairment or who are hearing-impaired,~~ or infants who have a metabolic or genetic disorder or a condition identified through the newborn screening program. The developmental evaluation and intervention programs are subject to the availability of moneys and the limitations established by the General Appropriations Act or chapter 216. ~~Hearing screening,~~ Evaluation and referral services, and initial developmental assessments services shall be provided to each infant or toddler. Other program services may be provided to an infant or toddler, and the family of the infant or toddler, who do not meet the financial eligibility criteria for the Children's Medical Services program based on the availability of funding, including insurance and fees.

(2) Each developmental evaluation and intervention program shall have a program director, a medical director, and necessary staff to carry out the program. The program director shall establish and coordinate the developmental evaluation and intervention program. The program shall include, but is not limited to:

(a) In-hospital evaluation and intervention services, parent support and training, and family support planning and case management.

~~(b) Screening and evaluation services to identify each infant at risk of hearing impairment, and a medical and educational followup and care management program for an infant who is identified as hearing-impaired, with management beginning as soon after birth as practicable. The medical management program must include the genetic evaluation of an infant suspected to have genetically determined deafness and an evaluation of the relative risk.~~

(b)~~(c)~~ Regularly held multidisciplinary team meetings to develop and update the family support plan. In addition to the family, a multidisciplinary team may include a physician, physician assistant, psychologist, psychotherapist, educator, social worker, nurse, physical or occupational therapist, speech pathologist, developmental evaluation and intervention program director, case manager, others who are involved with the in-hospital

and posthospital discharge care plan, and anyone the family wishes to include as a member of the team. The family support plan is a written plan that describes the infant or toddler, the ~~therapies and~~ services the infant or toddler and his or her family need, and the intended outcomes of the services.

(c)~~(d)~~ Discharge planning by the multidisciplinary team, including referral and followup to primary medical care and modification of the family support plan.

(d)~~(e)~~ Education and training for neonatal and pediatric intensive care services staff, volunteers, and others, as needed, in order to expand the services provided to high-risk, developmentally disabled, or medically involved~~, or hearing-impaired~~ infants and toddlers and their families.

(e)~~(f)~~ Followup intervention services after hospital discharge, to aid the family and the high-risk, developmentally disabled, or medically involved~~, or hearing-impaired~~ infant's or toddler's transition into the community. Support services shall be coordinated at the request of the family and within the context of the family support plan.

(f)~~(g)~~ Referral to and coordination of services with community providers.

(g)~~(h)~~ Educational materials about infant care, infant growth and development, community resources, medical conditions and treatments, and family advocacy. ~~Materials regarding hearing impairments shall be provided to each parent or guardian of a hearing-impaired infant or toddler.~~

(h)~~(i)~~ Involvement of the parents and guardians of each identified high-risk, developmentally disabled, or medically involved~~, or hearing-impaired~~ infant or toddler.

Section 22. Section 391.308, Florida Statutes, is created to read:

391.308 Infants and Toddlers Early Intervention Program.—The Department of Health may implement and administer Part C of the federal Individuals with Disabilities Education Act (IDEA).

(1) The department, jointly with the Department of Education, shall annually prepare a grant application to the United States Department of Education for funding early intervention services for infants and toddlers with disabilities, from birth through 36 months of age, and their families pursuant to Part C of the federal Individuals with Disabilities Education Act.

(2) The department, jointly with the Department of Education, shall include a reading initiative as an early intervention service for infants and toddlers.

Section 23. Subsection (1) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; issuance, renewal, denial, modification, suspension, and revocation.—

(1)(a) A ~~No~~ person may not ~~shall~~ establish, conduct, or maintain a hospital, ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for a ~~any~~ person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," "ambulatory surgical center," or "mobile surgical facility" unless such facility has first secured a license under the provisions of this part.

2. ~~Nothing in~~ This part does not apply ~~applies~~ to veterinary hospitals or to commercial business establishments using the word "hospital," "ambulatory surgical center," or "mobile surgical facility" as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

3. By December 31, 2004, the agency shall submit a report to the President of the Senate and the Speaker of the House of Representatives recommending whether it is in the public interest to allow a hospital to license or operate an emergency department located off the premises of the hospital. If the agency finds it to be in the public interest, the report shall also recommend licensure criteria for such medical facilities, including criteria related to quality of care and, if deemed necessary, the elimination of the possibility of confusion related to the service capabilities of such facility in comparison to the service capabilities of an emergency department located on the premises of the hospital. Until July 1, 2005, additional emergency departments located off the premises of licensed hospitals may not be authorized by the agency.

Section 24. Present subsections (3) and (4) of section 395.1027, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

395.1027 Regional poison control centers.—

(3) Upon request, a licensed facility shall release to a regional poison control center any patient information that is necessary for case management of poison cases.

Section 25. Section 395.404, Florida Statutes, is amended to read:

395.404 Review of trauma registry data; report to central registry; confidentiality and limited release.—

(1)(a) Each trauma center shall furnish, and, upon request of the department, all acute care hospitals shall furnish for department review~~,~~ trauma registry data as prescribed by rule of the department for the purpose of monitoring patient outcome and ensuring compliance with the standards of approval.

(b) Trauma registry data obtained pursuant to this subsection are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the department may provide such trauma registry data to the person, trauma center, hospital, emergency medical

service provider, local or regional trauma agency, medical examiner, or other entity from which the data were obtained. The department may also use or provide trauma registry data for purposes of research in accordance with the provisions of chapter 405.

(2) Each trauma center, pediatric trauma referral center, and acute care hospital shall report to the department's brain and spinal cord injury central registry, consistent with the procedures and timeframes of s. 381.74, any person who has a moderate-to-severe brain or spinal cord injury, and shall include in the report the name, age, residence, and type of disability of the individual and any additional information that the department finds necessary. ~~Notwithstanding the provisions of s. 381.74, each trauma center and acute care hospital shall submit severe disability and head-injury registry data to the department as provided by rule. Each trauma center and acute care hospital shall continue to provide initial notification of persons who have severe disabilities and head injuries to the Department of Health within timeframes provided in chapter 413. Such initial notification shall be made in the manner prescribed by the Department of Health for the purpose of providing timely vocational rehabilitation services to the severely disabled or head-injured person.~~

~~(3) Trauma registry data obtained pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the department may provide such trauma registry data to the person, trauma center, pediatric trauma referral center, hospital, emergency medical service provider, local or regional trauma agency, medical examiner, or other entity from which the data were obtained. The department may also use or provide trauma registry data for purposes of research in accordance with the provisions of chapter 405.~~

Section 26. Subsections (3) and (4) of section 400.9905, Florida Statutes, are amended, and subsections (5), (6), and (7) are added to that section, to read:

400.9905 Definitions.—

(3) "Clinic" means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(a) Entities licensed or registered by the state under chapter 395; or entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395,~~ chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 ~~480~~, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.

(b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; or entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395,~~ chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 ~~480~~, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.

(c) Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; or entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395,~~ chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 ~~480~~, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.

(d) Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; or entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to its respective license granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395,~~ chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 ~~480~~, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based services by licensed practitioners solely within a hospital licensed under chapter 395.

(e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), ~~and~~ any community college or university clinic, and any entity owned or operated by federal or state government, including agencies, subdivisions, or municipalities thereof.

(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.

(g)~~(f)~~ A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners

under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 480, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by one or more ~~a~~ licensed health care practitioners ~~practitioner~~, or the licensed health care practitioners set forth in this paragraph ~~practitioner~~ and the spouse, parent, ~~or~~ child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

(h)~~(g)~~ Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(i) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.

(4) "Medical director" means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic does not provide services pursuant to the respective physician practice acts listed in this subsection, it ~~is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic~~ may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practice acts listed in this subsection ~~licensed under that chapter~~ to serve as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license, except that a licensee specified in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).

(5) "Mobile clinic" means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and that otherwise meets the definition of a clinic in subsection (3).

(6) "Portable equipment provider" means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (3).

(7) "Chief financial officer" means an individual who has at least a minimum of a bachelor's degree from an accredited university in accounting,

finance, or a related field and is the person responsible for the preparation of the clinic billing.

Section 27. The creation of paragraph 400.9905(3)(i), Florida Statutes, by this act is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and paragraph 400.9905(3)(i), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001. Nothing in this section shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.053, Florida Statutes.

Section 28. Subsections (1), (2), and (3) and paragraphs (a) and (b) of subsection (7) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.—

(1)(a) Each clinic, as defined in s. 400.9905, must be licensed and shall at all times maintain a valid license with the agency. Each clinic location shall be licensed separately regardless of whether the clinic is operated under the same business name or management as another clinic.

(b) Each mobile clinic must obtain a separate health care clinic license and ~~clinics~~ must provide to the agency, at least quarterly, its ~~their~~ projected street location ~~locations~~ to enable the agency to locate and inspect such clinic ~~clinics~~. A portable equipment provider must obtain a health care clinic license for a single administrative office and is not required to submit quarterly projected street locations.

(2) The initial clinic license application shall be filed with the agency by all clinics, as defined in s. 400.9905, on or before July ~~March~~ 1, 2004. A clinic license must be renewed biennially.

(3) Applicants that submit an application on or before July ~~March~~ 1, 2004, which meets all requirements for initial licensure as specified in this section shall receive a temporary license until the completion of an initial inspection verifying that the applicant meets all requirements in rules authorized by s. 400.9925. However, a clinic engaged in magnetic resonance imaging services may not receive a temporary license unless it presents evidence satisfactory to the agency that such clinic is making a good faith effort and substantial progress in seeking accreditation required under s. 400.9935.

(7) Each applicant for licensure shall comply with the following requirements:

(a) As used in this subsection, the term "applicant" means individuals owning or controlling, directly or indirectly, 5 percent or more of an interest in a clinic; the medical or clinic director, or a similarly titled person who is responsible for the day-to-day operation of the licensed clinic; the financial officer or similarly titled individual who is responsible for the financial operation of the clinic; and licensed health care practitioners ~~medical providers~~ at the clinic.

(b) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of this paragraph. Applicants who own less than 10 percent of a health care clinic are not required to submit fingerprints under this section.

Section 29. Subsections (1), (9), and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

(a) Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic readily visible to all patients.

(b) Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.

(c) Review any patient referral contracts or agreements executed by the clinic.

(d) Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

(e) Serve as the clinic records owner as defined in s. 456.057.

(f) Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted under this part.

(g) Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director shall take immediate corrective action. If the clinic performs only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or position emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Accreditation Association for Ambulatory Health Care, and the American College of Radiology; and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to all personal injury protection insurance carriers was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgement provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.

(9) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. An exemption is not transferable. The agency may charge an applicant for a certificate of exemption $100 or the actual cost, whichever is less, for processing the certificate.

(11)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American College of Radiology, or the Accreditation Association for Ambulatory Health Care, within 1 year after licensure. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic can not be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.

(b) The agency may deny ~~disallow~~ the application or revoke the license of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may adopt rules as to the accreditation of magnetic resonance imaging clinics.

Section 30. Subsections (1) and (3) of section 400.995, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

400.995 Agency administrative penalties.—

(1) The agency may deny the application for a license renewal, revoke or suspend the license, and impose administrative fines ~~penalties against clinics~~ of up to $5,000 per violation for violations of the requirements of this part or rules of the agency. In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner, medical director, or clinic director to correct violations.

(c) Any previous violations.

(d) The financial benefit to the clinic of committing or continuing the violation.

(3) Any action taken to correct a violation shall be documented in writing by the owner, medical director, or clinic director of the clinic and verified

through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated clinic, revoke or deny a clinic's license when a clinic medical director or clinic director knowingly ~~fraudulently~~ misrepresents actions taken to correct a violation.

(10) If the agency issues a notice of intent to deny a license application after a temporary license has been issued pursuant to s. 400.991(3), the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.

Section 31. The agency shall refund 90 percent of the license application fee to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure by this act.

Section 32. Any person or entity defined as a clinic under s. 400.9905, Florida Statutes, shall not be in violation of part XIII of chapter 400, Florida Statutes, due to failure to apply for a clinic license by March 1, 2004, as previously required by s. 400.991, Florida Statutes. Payment to any such person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.

Section 33. Paragraph (h) is added to subsection (3) of section 400.9905, Florida Statutes, to read:

400.9905 Definitions.—

(3) "Clinic" means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(h) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or chapter 459.

Section 34. The amendment made by this act to section 400.9905(3), Florida Statutes, is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and section 400.9905(3)(h), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001.

Section 35. Section 401.211, Florida Statutes, is amended to read:

401.211 Legislative intent.—The Legislature recognizes that the systematic provision of emergency medical services saves lives and reduces disability associated with illness and injury. In addition, that system of care must be equally capable of assessing, treating, and transporting children, adults, and frail elderly persons. Further, it is the intent of the Legislature to encourage the development and maintenance of emergency medical services because such services are essential to the health and well-being of all citizens of the state. The Legislature also recognizes that the establishment of a comprehensive statewide injury-prevention program supports state and

community health systems by further enhancing the total delivery system of emergency medical services and reduces injuries for all persons. The purpose of this part is to protect and enhance the public health, welfare, and safety through the establishment of an emergency medical services state plan, an advisory council, a comprehensive statewide injury-prevention program, minimum standards for emergency medical services personnel, vehicles, services and medical direction, and the establishment of a statewide inspection program created to monitor the quality of patient care delivered by each licensed service and appropriately certified personnel.

Section 36. Section 401.243, Florida Statutes, is created to read:

401.243 Injury prevention.—The department shall establish an injury-prevention program with responsibility for the statewide coordination and expansion of injury-prevention activities. The duties of the department under the program may include, but are not limited to, data collection, surveillance, education, and the promotion of interventions. In addition, the department may:

(1) Provide communities, county health departments, and other state agencies with expertise and guidance in injury prevention.

(2) Seek, receive, and expend funds received from grants, donations, or contributions from public or private sources for program purposes.

(3) Develop, and revise as necessary, a comprehensive state plan for injury prevention.

(4) Adopt rules governing the implementation of grant programs. The rules may include, but need not be limited to, criteria regarding the application process, the selection of grantees, the implementation of injury-prevention activities, data collection, surveillance, education, and the promotion of interventions.

Section 37. Subsection (4) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(4) MANDATORY TESTING.—All public and private school buildings or school sites housing students in kindergarten through grade 12; all state-owned, state-operated, state-regulated, or state-licensed 24-hour care facilities; and all state-licensed day care centers for children or minors which are located in counties designated within the Department of Community Affairs' Florida Radon Protection Map Categories as "Intermediate" or "Elevated Radon Potential" shall be measured to determine the level of indoor radon, using measurement procedures established by the department. Initial measurements ~~Testing~~ shall be conducted ~~completed within the first year of construction~~ in 20 percent of the habitable first floor spaces within any of the regulated buildings and~~. Initial measurements~~ shall be completed and reported to the department within 1 ~~by July 1 of the~~ year after the date the

building is opened for occupancy or within 1 year after license approval for the entity residing in the existing building. Followup testing must be completed in 5 percent of the habitable first floor spaces within any of the regulated buildings after the building has been occupied for 5 years, and results must be reported to the department by the first day ~~July 1~~ of the 6th ~~5th~~ year of occupancy. After radon measurements have been made twice, regulated buildings need not undergo further testing unless significant structural changes occur. No funds collected pursuant to s. 553.721 shall be used to carry out the provisions of this subsection.

Section 38. Subsection (1) and paragraph (g) of subsection (3) of section 468.302, Florida Statutes, are amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(1) Except as ~~hereinafter~~ provided in this section, a ~~no~~ person may not ~~shall~~ use radiation or otherwise practice radiologic technology on a human being unless he or she:

(a) Is a licensed practitioner; or

(b) Is the holder of a certificate, as provided in this part, and is operating under the direct supervision or general supervision of a licensed practitioner in each particular case.

(3)

(g)1. A person holding a certificate as a nuclear medicine technologist may only:

a. Conduct in vivo and in vitro measurements of radioactivity and administer radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

b. Administer X radiation from a combination nuclear medicine-computed tomography device if that radiation is administered as an integral part of a nuclear medicine procedure that uses an automated computed tomography protocol for the purposes of attenuation correction and anatomical localization and the person has received device-specific training on the combination device. ~~However,~~

2. The authority of a nuclear medicine technologist under this paragraph excludes:

a. Radioimmunoassay and other clinical laboratory testing regulated pursuant to chapter 483;~~.~~

b. Creating or modifying automated computed tomography protocols; and

c. Any other operation of a computed tomography device, especially for the purposes of stand-alone diagnostic imaging, which must be performed by a general radiographer certified under this part.

Section 39. Section 468.304, Florida Statutes, is amended to read:

468.304 Certification ~~examination; admission.~~—The department shall certify ~~admit to examination for certification~~ any applicant who meets the following criteria ~~pays to the department a nonrefundable fee not to exceed $100 plus the actual per-applicant cost to the department for purchasing the examination from a national organization and submits satisfactory evidence, verified by oath or affirmation, that she or he~~:

(1) Pays to the department a nonrefundable fee that may not exceed $100, plus the actual per-applicant cost to the department for purchasing the examination from a national organization.

(2) Submits a completed application on a form specified by the department. An incomplete application expires 6 months after initial filing. The application must include the social security number of the applicant. Each applicant shall notify the department in writing of his or her current mailing address. Notwithstanding any other law, service by regular mail to an applicant's last reported mailing address constitutes adequate and sufficient notice of any official departmental communication to the applicant.

(3) Submits satisfactory evidence, verified by oath or affirmation, that she or he:

(a)~~(1)~~ Is at least 18 years of age at the time of application;

(b)~~(2)~~ Is a high school, vocational school, technical school, or college graduate or has successfully completed the requirements for a graduate equivalency diploma (GED) or its equivalent;

(c)~~(3)~~ Is of good moral character; ~~and~~

(d) Has passed an examination as specified in s. 468.306 or meets the requirements specified in s. 468.3065; and

(e)1.~~(4)(a)~~ Has successfully completed an educational program, which program may be established in a hospital licensed pursuant to chapter 395 or in an accredited postsecondary academic institution which is subject to approval by the department as maintaining a satisfactory standard; or

2.a.~~(b)1.~~ With respect to an applicant for a basic X-ray machine operator's certificate, has completed a course of study approved by the department with appropriate study material provided the applicant by the department;

b.~~2.~~ With respect to an applicant for a basic X-ray machine operator-podiatric medicine certificate, has completed a course of study approved by the department, provided that such course of study shall be limited to that information necessary to perform radiographic procedures within the scope of practice of a podiatric physician licensed pursuant to chapter 461;

c.~~3.~~ With respect only to an applicant for a general radiographer's certificate who is a basic X-ray machine operator certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily

practiced in a hospital, which educational or training program complies with the rules of the department; or

d.~~4.~~ With respect only to an applicant for a nuclear medicine technologist's certificate who is a general radiographer certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department.

(4) Submits complete documentation of any criminal offense in any jurisdiction 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.

(5) Submits complete documentation of any final disciplinary action taken against the applicant by a licensing or regulatory body in any jurisdiction, by a national organization, or by a specialty board that is recognized by the department. Disciplinary action includes revocation, suspension, probation, reprimand, or being otherwise acted against, including being denied certification or resigning from or nonrenewal of membership taken in lieu of or in settlement of a pending disciplinary case.

The department may not certify any applicant who has committed an offense that would constitute a violation of any of the provisions of s. 468.3101 or the rules adopted thereunder if the applicant had been certified by the department at the time of the offense. No application for a limited computed tomography certificate shall be accepted. All persons holding valid computed tomography certificates as of October 1, 1984, are subject to the provisions of s. 468.309.

Section 40. Section 468.306, Florida Statutes, is amended to read:

468.306 Examinations.—All applicants, except those certified pursuant to s. 468.3065, shall be required to pass an examination. The department is authorized to develop or use examinations for each type of certificate. The department may require an applicant who does not pass an examination after five attempts to complete additional remedial education, as specified by rule of the department, before admitting the applicant to subsequent examinations.

(1) The department shall have the authority to contract with organizations that develop such test examinations. Examinations may be administered by the department or the contracting organization.

(2) Examinations shall be given for each type of certificate at least twice a year at such times and places as the department may determine to be advantageous for applicants. ~~If an applicant applies less than 75 days before an examination, the department may schedule the applicant for a later examination.~~

(3) All examinations shall be written and include positioning, technique, and radiation protection. The department shall either pass or fail each

applicant on the basis of his or her final grade. The examination for a basic X-ray machine operator shall include basic positioning and basic techniques directly related to the skills necessary to safely operate radiographic equipment.

(4) A nonrefundable fee not to exceed $75 plus the actual per-applicant cost for purchasing the examination from a national organization shall be charged for any subsequent examination.

Section 41. Section 468.3065, Florida Statutes, is amended to read:

468.3065 Certification by endorsement.—The department may issue a certificate by endorsement to practice radiologic technology to an applicant who, upon applying to the department and remitting a nonrefundable fee not to exceed $50, demonstrates to the department that he or she holds a current certificate, license, or registration to practice radiologic technology, provided that the requirements for such certificate, license, or registration are deemed by the department to be substantially equivalent to those established under this part and rules adopted under this part ~~hereunder~~.

Section 42. Subsection (1) of section 468.307, Florida Statutes, is amended to read:

468.307 Certificate; issuance; display.—

(1) The department shall issue a certificate to each candidate who has met the requirements of ss. 468.304 and 468.306 or has qualified under s. 468.3065. The department may by rule establish a subcategory of a certificate issued under this part limiting the certificateholder to a specific procedure or specific type of equipment. The first regular certificate issued to a new certificateholder expires on the last day of the certificateholder's birth month and shall be valid for at least 12 months but no more than 24 months. However, if the new certificateholder already holds a regular, active certificate in a different category under this part, the new certificate shall be combined with and expire on the same date as the existing certificate.

Section 43. Section 468.309, Florida Statutes, is amended to read:

468.309 Certificate; duration; renewal; reversion to inactive status; members of Armed Forces and spouses.—

(1)(a) A radiologic technologist's certificate issued in accordance with this part expires as specified in rules adopted by the department which establish a procedure for the biennial renewal of certificates. A certificate shall be renewed by the department for a period of 2 years upon payment of a renewal fee in an amount not to exceed $75 and upon submission of a renewal application containing such information as the department deems necessary to show that the applicant for renewal is a radiologic technologist in good standing and has completed any continuing education requirements that the department establishes.

(b) Sixty days before the end of the biennium, the department shall mail a notice of renewal to the last known address of the certificateholder.

(c) Each certificateholder shall notify the department in writing of his or her current mailing address and place of practice. Notwithstanding any other law, service by regular mail to a certificateholder's last reported mailing address constitutes adequate and sufficient notice of any official departmental communication to the certificateholder.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of certificates.

(3) The department may, by rule, prescribe continuing education requirements, not to exceed 24 hours each licensure period, as a condition for renewal of a certificate. The criteria for approval of continuing education providers, courses, and programs shall be as specified ~~approved~~ by the department. Continuing education, which may be required for persons certified under this part, may be obtained through home study courses approved by the department.

(4) Any certificate that ~~which~~ is not renewed by its expiration date ~~at the end of the biennium prescribed by the department~~ shall automatically be placed in an expired status, and the certificateholder may not practice radiologic technology until the certificate has been reactivated ~~revert to an inactive status~~. ~~Such certificate may be reactivated only if the certificateholder meets the other qualifications for reactivation in s. 468.3095.~~

(5) A certificateholder in good standing remains in good standing when he or she becomes a member of the Armed Forces of the United States on active duty without paying renewal fees or accruing continuing education credits as long as he or she is a member of the Armed Forces on active duty and for a period of 6 months after discharge from active duty, if he or she is not engaged in practicing radiologic technology in the private sector for profit. The certificateholder must pay a renewal fee and complete continuing education not to exceed 12 classroom hours to renew the certificate.

(6) A certificateholder who is in good standing remains in good standing if he or she is absent from the state because of his or her spouse's active duty with the Armed Forces of the United States. The certificateholder remains in good standing without paying renewal fees or completing continuing education as long as his or her spouse is a member of the Armed Forces on active duty and for a period of 6 months after the spouse's discharge from active duty, if the certificateholder is not engaged in practicing radiologic technology in the private sector for profit. The certificateholder must pay a renewal fee and complete continuing education not to exceed 12 classroom hours to renew the certificate.

(7) A certificateholder may resign his or her certification by submitting to the department a written, notarized resignation on a form specified by the department. The resignation automatically becomes effective upon the department's receipt of the resignation form, at which time the certificateholder's certification automatically becomes null and void and may not be reactivated or renewed or used to practice radiologic technology. A certificateholder who has resigned may become certified again only by reapplying to the department for certification as a new applicant and meeting the

certification requirements pursuant to s. 468.304 or s. 468.3065. Any disciplinary action that had been imposed on the certificateholder prior to his or her resignation shall be tolled until he or she again becomes certified. Any disciplinary action proposed at the time of the certificateholder's resignation shall be tolled until he or she again becomes certified.

Section 44. Subsection (2) of section 468.3095, Florida Statutes, is amended to read:

468.3095 Inactive status; reactivation; automatic suspension; reinstatement.—

(2)(a) A certificate that ~~which~~ has been expired ~~inactive~~ for less than 10 years ~~1 year after the end of the biennium prescribed by the department~~ may be reactivated ~~renewed pursuant to s. 468.309~~ upon payment of the biennial renewal fee and a late renewal fee, not to exceed $100, and submission of a reactivation application containing any information that the department deems necessary to show that the applicant is a radiologic technologist in good standing and has met the requirements for continuing education. ~~The renewed certificate shall expire 2 years after the date the certificate automatically reverted to inactive status.~~

~~(b) A certificate which has been inactive for more than 1 year may be reactivated upon application to the department.~~ The department shall prescribe, by rule, continuing education requirements as a condition of reactivating a certificate. The continuing education requirements for reactivating a certificate may ~~shall~~ not exceed 10 classroom hours for each year the certificate was expired ~~inactive~~ and may not ~~shall in no event~~ exceed 100 classroom hours for all years in which the certificate was expired ~~inactive~~.

(b) A certificate that has been inactive for less than 10 years may be reactivated by meeting all of the requirements of paragraph (a) for expired certificates, except for payment of the fee for late renewal.

(c) A certificate that ~~which~~ has been inactive for ~~more than~~ 10 years or more ~~shall~~ automatically becomes null and void and may not be reactivated, renewed, or used to practice radiologic technology ~~be suspended~~. A certificateholder whose certificate has become null and void may become certified again only by reapplying to the department as a new applicant and meeting the requirements of s. 468.304 or s. 468.3065.

(d) When an expired or inactive certificate is reactivated, the reactivated certificate expires on the last day of the certificateholder's birth month and shall be valid for at least 12 months but no more than 24 months. However, if the reactivating certificateholder already holds a regular, active certificate in a different category under this part, the reactivated certificate shall be combined with and expire on the same date as the existing certificate. ~~One year before the suspension, the department shall give notice to the certificateholder. A suspended certificate may be reinstated as provided for original issuance in s. 468.307.~~

Section 45. Subsection (1) of section 468.3101, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

468.3101 Disciplinary grounds and actions.—

(1) The department may make or require to be made any investigations, inspections, evaluations, and tests, and require the submission of any documents and statements, which it considers necessary to determine whether a violation of this part has occurred. The following acts shall be grounds for disciplinary action as set forth in this section:

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

(b) Having a voluntary or mandatory certificate to practice radiologic technology revoked, suspended, or otherwise acted against, including being denied certification, by a national organization; by a specialty board recognized by the department; or by a ~~the~~ certification authority of another state, territory, or country.

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

(d) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime against a person. Pleading ~~A plea of~~ nolo contendere shall be considered a conviction for the purposes of this provision.

(e) Making or filing a false report or record that ~~which~~ the certificateholder 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 include only those reports or records which are signed in the capacity as a radiologic technologist.

(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 radiologic technology as established by the department, in which case actual injury need not be established.

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

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

(i) Violating any provision of this part, 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.

(j) Employing, for the purpose of applying ionizing radiation or otherwise practicing radiologic technology on a ~~to any~~ human being, any individual who is not certified under the provisions of this part.

(k) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-required drug screening when the radiologic technologist does not have a lawful prescription and legitimate medical reason for using such drug.

(l) Failing to report to the department in writing within 30 days after the certificateholder has had a voluntary or mandatory certificate to practice radiologic technology revoked, suspended, or otherwise acted against, including being denied certification, by a national organization, by a specialty board recognized by the department, or by a certification authority of another state, territory, or country.

(m) Having been found guilty of, regardless of adjudication, or pleading guilty or nolo contendere to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction.

(n) Failing to comply with the recommendations of the department's impaired practitioner program for treatment, evaluation, or monitoring. A letter from the director of the impaired practitioner program that the certificateholder is not in compliance shall be considered conclusive proof under this part.

(5) A final disciplinary action taken against a radiologic technologist in another jurisdiction, whether voluntary or mandatory, shall be considered conclusive proof of grounds for a disciplinary proceeding under this part.

(6) The department may revoke approval of a continuing education provider and its approved courses if the provider's certification has been revoked, suspended, or otherwise acted against by a national organization; by a specialty board recognized by the department; or by a certification authority of another state, territory, or country. The department may establish by rule additional guidelines and criteria for the discipline of continuing education providers, including, but not limited to, revoking approval of a continuing education provider or a continuing education course and refusing to approve a continuing education provider or continuing education course.

Section 46. Paragraph (a) of subsection (5) of section 489.553, Florida Statutes, is amended to read:

489.553 Administration of part; registration qualifications; examination.—

(5) To be eligible for registration by the department as a master septic tank contractor, the applicant must:

(a) Have been a registered septic tank contractor in Florida for at least 3 years or a plumbing contractor certified under part I of this chapter who has provided septic tank contracting services for at least 3 years. The 3 years must immediately precede the date of application and may not be inter-

rupted by any probation, suspension, or revocation imposed by the licensing agency.

Section 47. Section 489.554, Florida Statutes, is amended to read:

489.554 Registration renewal.—

(1) The department shall prescribe by rule the method for approving ~~approval of~~ continuing education courses, ~~and~~ for renewing ~~renewal of~~ annual registration, for approving inactive status for the late filing of a renewal application, for allowing a contractor to hold a registration in inactive status for a specified period, and for reactivating a registration.

(2) At a minimum, annual renewal shall include continuing education requirements of not less than 6 classroom hours annually for septic tank contractors and not less than 12 classroom hours annually for master septic tank contractors. The 12 classroom hours of continuing education required for master septic tank contractors may include the 6 classroom hours required for septic tank contractors, but at a minimum must include 6 classroom hours of approved master septic tank contractor coursework.

(3) A certificate of registration becomes inactive when a renewal application is not filed in a timely manner. A certificate that has become inactive may be reactivated under this section by application to the department. A licensed contractor may apply to the department for voluntary inactive status at any time during the period of registration.

(4) A master septic tank contractor may elect to revert to the status of a registered septic tank contractor at any time during the period of registration. The department shall prescribe by rule the method for a master septic tank contractor who has reverted to the status of a registered septic tank contractor to apply for status as a master septic tank contractor.

(5) The department shall deny an application for renewal if the applicant has failed to pay any administrative penalty imposed by the department if the penalty is final agency action and all judicial reviews have been exhausted.

Section 48. Section 784.081, Florida Statutes, is amended to read:

784.081 Assault or battery on specified officials or employees; reclassification of offenses.—Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any elected official or employee of: a school district; a private school; the Florida School for the Deaf and the Blind; a university developmental research school; a state university or any other entity of the state system of public education, as defined in s. 1000.04; an employee or protective investigator of the Department of Children and Family Services; ~~or~~ an employee of a lead community-based provider and its direct service contract providers; or an employee of the Department of Health or its direct service contract providers, when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

(1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Section 49. Paragraph (a) of subsection (2) of section 381.7355, Florida Statutes, is amended to read:

381.7355 Project requirements; review criteria.—

(2) A proposal must include each of the following elements:

(a) The purpose and objectives of the proposal, including identification of the particular racial or ethnic disparity the project will address. The proposal must address one or more of the following priority areas:

1. Decreasing racial and ethnic disparities in maternal and infant mortality rates.

2. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer.

3. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS.

4. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease.

5. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes.

6. Increasing adult and child immunization rates in certain racial and ethnic populations.

7. Decreasing racial and ethnic disparities in oral health care.

Section 50. Present subsection (2) of section 381.005, Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

381.005 Primary and preventive health services.—

(2) Between October 1, or earlier if the vaccination is available, and February 1 of each year, subject to the availability of an adequate supply of the necessary vaccine, each hospital licensed pursuant to chapter 395 shall implement a program to offer immunizations against the influenza virus and pneumococcal bacteria to all patients age 65 or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices

of the United States Centers for Disease Control and Prevention and subject to the clinical judgment of the responsible practitioner.

Section 51. Subsection (9) of section 381.0098, paragraph (f) of subsection (2) of section 385.103, sections 385.205 and 385.209, subsection (3) of section 391.301, subsection (2) of section 391.305, subsection (5) of section 393.064, and subsection (7) of section 445.033, Florida Statutes, are repealed.

Section 52. The Technical Review and Advisory Panel of the Department of Health, created by section 381.0068, Florida Statutes, shall review and advise the Legislature on the need and structure of a disciplinary board for the onsite sewage industry. The panel shall submit a report to the Legislature by January 2, 2005.

Section 53. Subsection (9) of section 409.907, Florida Statutes, is amended to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the agency.

(9) Upon receipt of a completed, signed, and dated application, and completion of any necessary background investigation and criminal history record check, the agency must either:

(a) Enroll the applicant as a Medicaid provider no earlier than the effective date of the approval of the provider application. With respect to providers who were recently granted a change of ownership and those who primarily provide emergency medical services transportation or emergency services and care pursuant to s. 395.1041 or s. 401.45, or services provided by entities under s. 409.91255, and out-of-state providers, upon approval of the provider application, the effective date of approval is considered to be the date the agency receives the provider application; or

(b) Deny the application if the agency finds that it is in the best interest of the Medicaid program to do so. The agency may consider the factors listed in subsection (10), as well as any other factor that could affect the effective and efficient administration of the program, including, but not limited to, the applicant's demonstrated ability to provide services, conduct business, and operate a financially viable concern; the current availability of medical care, services, or supplies to recipients, taking into account geographic location and reasonable travel time; the number of providers of the same type already enrolled in the same geographic area; and the credentials, experience, success, and patient outcomes of the provider for the services that it is making application to provide in the Medicaid program. The agency shall deny the application if the agency finds that a provider; any officer, director, agent, managing employee, or affiliated person; or any partner or shareholder having an ownership interest equal to 5 percent or greater in the

provider if the provider is a corporation, partnership, or other business entity, has failed to pay all outstanding fines or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless the provider agrees to a repayment plan that includes withholding Medicaid reimbursement until the amount due is paid in full.

Section 54. Notwithstanding any other law or local ordinance to the contrary and to ensure uniform health and safety standards, the regulation, identification, and packaging of meat, poultry, and fish is preempted to the state and the Department of Agriculture and Consumer Services.

Section 55. This act shall take effect July 1, 2004.

Approved by the Governor June 23, 2004.

Filed in Office Secretary of State June 23, 2004.