CHAPTER 2006-269

Committee Substitute for Committee Substitute for Senate Bill No. 1324

An act relating to healthy lifestyles; providing a short title; providing legislative findings; providing definitions; providing for the establishment of a statewide comprehensive educational program on lead poisoning prevention; providing for a public information initiative; providing for distribution of literature about childhood lead poisoning; requiring the establishment of a screening program for early identification of persons at risk of elevated levels of lead in the blood; providing for screening of children; providing for prioritization of screening; providing for the maintenance of records of screenings; providing for reporting of cases of lead poisoning; providing an appropriation; providing contingencies for implementing the educational program under the act; amending s. 381.0054, F.S.; requiring the Department of Health to collaborate with other state agencies in developing policies and strategies to prevent and treat obesity which shall be incorporated into agency programs; requiring the department to advise health care practitioners regarding morbidity, mortality, and costs associated with the condition of being overweight or obese; requiring the department to inform health care practitioners about clinical best practices for obesity prevention and treatment and to encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles; amending s. 110.123, F.S.; defining the term "age-based and gender-based benefits" for purposes of the state group insurance program; creating the Florida State Employee Wellness Council within the Department of Management Services; providing for membership; providing for reimbursement of per diem and travel expenses; providing purpose and duties of the council; providing an effective date.

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

Section 1. Short title.—This act may be cited as the "Lead Poisoning Prevention Screening and Education Act."

Section 2. Legislative findings.—

(1) Nearly 300,000 American children may have levels of lead in their blood in excess of 10 micrograms per deciliter (ug/dL). Unless prevented or treated, elevated blood-lead levels in egregious cases may result in impairment of the ability to think, concentrate, and learn.

(2) A significant cause of lead poisoning in children is the ingestion of lead particles from deteriorating lead-based paint in older, poorly maintained residences.

(3) Childhood lead poisoning can be prevented if parents, property-owners, health professionals, and those who work with young children are informed about the risks of childhood lead poisoning and how to prevent it.

(4) Knowledge of lead-based-paint hazards, their control, mitigation, abatement, and risk avoidance is not sufficiently widespread.

(5) Most children who live in older homes and who otherwise may be at risk for childhood lead poisoning are not tested for the presence of elevated lead levels in their blood.

(6) Testing for elevated lead levels in the blood can lead to the mitigation or prevention of the harmful effects of childhood lead poisoning and may also prevent similar injuries to other children living in the same household.

Section 3. Definitions.—As used in this act, the term:

(1) "Affected property" means a room or group of rooms within a property constructed before January 1, 1960, or within a property constructed between January 1, 1960, and January 1, 1978, where the owner has actual knowledge of the presence of lead-based paint, that form a single independent habitable dwelling unit for occupation by one or more individuals and that has living facilities with permanent provisions for living, sleeping, eating, cooking, and sanitation. Affected property does not include:

(a) An area not used for living, sleeping, eating, cooking, or sanitation, such as an unfinished basement;

(b) A unit within a hotel, motel, or similar seasonal or transient facility, unless such unit is occupied by one or more persons at risk for a period exceeding 30 days;

(c) An area that is secured and inaccessible to occupants; or

(d) A unit that is not offered for rent.

(2) "Dust-lead hazard" means surface dust in a residential dwelling or a facility occupied by a person at risk which contains a mass-per-area concentration of lead equal to or exceeding 40 ug/ft2 on floors or 250 ug/ft2 on interior windowsills based on wipe samples.

(3) "Elevated blood-lead level" means a quantity of lead in whole venous blood, expressed in micrograms per deciliter (ug/dL), which exceeds 10 ug/dL or such other level as specifically provided in this act.

(4) "Lead-based paint" means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, or 5,000 parts per million (ppm) by weight.

(5) "Lead-based-paint hazard" means paint-lead hazards and dust-lead hazards.

(6) "Owner" means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a

reversionary interest under a ground rent lease. The term includes any authorized agent of the owner, including a property manager or leasing agent.

(7) "Paint-lead hazard" means any one of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the dust-lead levels on the nearest horizontal surface underneath the friction surface, such as the windowsill or floor, are equal to or greater than the dust-lead-hazard levels defined in subsection (2);

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building material, such as a door knob that knocks into a wall or a door that knocks against its door frame;

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks; or

(d) Any other deteriorated lead-based paint in or on the exterior of any residential building or any facility occupied by a person at risk.

(8) "Person at risk" means a child under the age of 6 years or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property.

(9) "Secretary" means the secretary of the Department of Health or a designee chosen by the secretary to administer the Lead Poisoning Prevention Screening and Education Act.

(10) "Tenant" means the individual named as the lessee in a lease, rental agreement, or occupancy agreement for a dwelling unit.

Section 4. Educational programs.—

(1) LEAD POISONING PREVENTION EDUCATIONAL PROGRAM ESTABLISHED.—In order to achieve the purposes of this act, a statewide, multifaceted, ongoing educational program designed to meet the needs of tenants, property owners, health care providers, early childhood educators, care providers, and realtors is established.

(2) PUBLIC INFORMATION INITIATIVE.—The Governor, in conjunction with the Secretary of Health and his or her designee, shall sponsor a series of public service announcements on radio, television, the Internet, and print media about the nature of lead-based-paint hazards, the importance of standards for lead poisoning prevention in properties, and the purposes and responsibilities set forth in this act. In developing and coordinating this public information initiative, the sponsors shall seek the participation and involvement of private industry organizations, including those involved in real estate, insurance, mortgage banking, and pediatrics.

(3) DISTRIBUTION OF LITERATURE ABOUT CHILDHOOD LEAD POISONING.—By January 1, 2007, the Secretary of Health or his or her designee shall develop culturally and linguistically appropriate information

pamphlets regarding childhood lead poisoning, the importance of testing for elevated blood-lead levels, prevention of childhood lead poisoning, treatment of childhood lead poisoning, and, where appropriate, the requirements of this act. These information pamphlets shall be distributed to parents or the other legal guardians of children 6 years of age or younger on the following occasions:

(a) By a health care provider at the time of a child's birth and at the time of any childhood immunization or vaccination unless it is established that such information pamphlet has been provided previously to the parent or legal guardian by the health care provider within the prior 12 months.

(b) By the owner or operator of any child care facility or preschool or kindergarten class on or before October 15 of the calendar year.

Section 5. Screening program.—

(1) The secretary shall establish a program for early identification of persons at risk of having elevated blood-lead levels. Such program shall systematically screen children under 6 years of age in the target populations identified in subsection (2) for the presence of elevated blood-lead levels. Children within the specified target populations shall be screened with a blood-lead test at age 12 months and age 24 months, or between the ages of 36 months and 72 months if they have not previously been screened. The secretary shall, after consultation with recognized professional medical groups and such other sources as the secretary deems appropriate, promulgate rules establishing:

(a) The means by which and the intervals at which such children under 6 years of age shall be screened for lead poisoning and elevated blood-lead levels.

(b) Guidelines for the medical followup on children found to have elevated blood-lead levels.

(2) In developing screening programs to identify persons at risk with elevated blood-lead levels, priority shall be given to persons within the following categories:

(a) All children enrolled in the Medicaid program at ages 12 months and 24 months, or between the ages of 36 months and 72 months if they have not previously been screened.

(b) Children under the age of 6 years exhibiting delayed cognitive development or other symptoms of childhood lead poisoning.

(c) Persons at risk residing in the same household, or recently residing in the same household, as another person at risk with a blood-lead level of 10 ug/dL or greater.

(d) Persons at risk residing, or who have recently resided, in buildings or geographical areas in which significant numbers of cases of lead poisoning or elevated blood-lead levels have recently been reported.

(e) Persons at risk residing, or who have recently resided, in an affected property contained in a building that during the preceding 3 years has been subject to enforcement for violations of lead-poisoning-prevention statutes, ordinances, rules, or regulations as specified by the secretary.

(f) Persons at risk residing, or who have recently resided, in a room or group of rooms contained in a building whose owner also owns a building containing affected properties which during the preceding 3 years has been subject to an enforcement action for a violation of lead-poisoning-prevention statutes, ordinances, rules, or regulations.

(g) Persons at risk residing in other buildings or geographical areas in which the secretary reasonably determines there to be a significant risk of affected individuals having a blood-lead level of 10 ug/dL or greater.

(3) The secretary shall maintain comprehensive records of all screenings conducted pursuant to this section. Such records shall be indexed geographically and by owner in order to determine the location of areas of relatively high incidence of lead poisoning and other elevated blood-lead levels.

All cases or probable cases of lead poisoning found in the course of screenings conducted pursuant to this section shall be reported to the affected individual, to his or her parent or legal guardian if he or she is a minor, and to the secretary.

Section 6. For the 2006-2007 fiscal year, the sum of $308,000 in recurring general revenue funds is appropriated to the Department of Health for the purpose of implementing section 5 of this act.

Section 7. Section 4 shall take effect only if the requirements in that section are consistent with requirements of any federal childhood lead-poisoning-prevention grant awarded to the Department of Health and if federal funds awarded with any such grant are permitted to be used to implement the requirements in that section.

Section 8. Subsection (1) of section 381.0054, Florida Statutes, is amended to read:

381.0054 Healthy lifestyles promotion.—

(1) The Department of Health shall promote healthy lifestyles to reduce the prevalence of excess weight gain ~~overweight~~ and obesity in Florida by implementing appropriate physical activity and nutrition programs that are directed towards ~~target~~ all Floridians by:

(a) Using all appropriate media to promote maximum public awareness of the latest research on healthy lifestyles and chronic diseases and disseminating relevant information through a statewide clearinghouse relating to wellness, physical activity, and nutrition and their impact on chronic diseases and disabling conditions.

(b) Providing technical assistance, training, and resources on healthy lifestyles and chronic diseases to the public, county health departments,

health care providers, school districts, and other persons or entities, including faith-based organizations, that request such assistance to promote physical activity, nutrition, and healthy lifestyle programs.

(c) Developing, implementing, and using all available research methods to collect data, including, but not limited to, population-specific data, and track the incidence and effects of weight gain, obesity, and related chronic diseases. The department shall include an evaluation and data collection component in all programs as appropriate.

(d) Partnering with the Department of Education, local communities, school districts, and other entities to encourage Florida schools to promote activities during and after school to help students meet a minimum goal of 60 minutes of activity per day.

(e) Partnering with the Department of Education, school districts, and the Florida Sports Foundation to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement.

(f) Collaborating with other state agencies to develop policies and strategies for preventing and treating obesity, which shall be incorporated into programs administered by each agency and shall include promoting healthy lifestyles of employees of each agency.

(g) Advising, in accordance with s. 456.081, health care practitioners licensed in this state regarding the morbidity, mortality, and costs associated with the condition of being overweight or obese, informing such practitioners of clinical best practices for preventing and treating obesity, and encouraging practitioners to counsel their patients regarding the adoption of healthy lifestyles.

(h)~~(f)~~ Maximizing all local, state, and federal funding sources, including grants, public-private partnerships, and other mechanisms, to strengthen the department's current physical activity and nutrition programs and to enhance similar county health department programs.

Section 9. Paragraph (h) of subsection (3) of section 110.123, Florida Statutes, is amended, and subsection (13) is added to that section, to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(h)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; age-based and gender-based wellness benefits; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO. As used in this paragraph, the term "age-based and gender-based wellness benefits" includes aerobic exercise, education in alcohol and substance abuse prevention, blood cholesterol screening, health risk appraisals, blood pressure screening and education, nutrition education, program planning, safety belt education, smoking cessation, stress management, weight management, and woman's health education.

b. The department may establish uniform deductibles, copayments, coverage tiers, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program may be required to contribute towards a total state group health premium that may vary depending upon the plan and coverage tier selected by the enrollee and the level of state contribution authorized by the Legislature.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department may enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25-percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal or invitation to negotiate process described in subparagraph 2.

5. All enrollees in a state group health insurance plan, a TRICARE supplemental insurance plan, or any health maintenance organization plan have the option of changing to any other health plan that is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does

not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal or invitation to negotiate for health insurance providers interested in participating in the state group insurance program, and the department shall issue a request for proposal or invitation to negotiate for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any

of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

(13) FLORIDA STATE EMPLOYEE WELLNESS COUNCIL.—

(a) There is created within the department the Florida State Employee Wellness Council.

(b) The council shall be an advisory body to the department to provide health education information to employees and to assist the department in developing minimum benefits for all health care providers when providing age-based and gender-based wellness benefits.

(c) The council shall be composed of nine members appointed by the Governor. When making appointments to the council, the Governor shall appoint persons who are residents of the state and who are highly knowledgeable concerning, active in, and recognized leaders in the health and medical field, at least one of whom must be an employee of the state. Council members shall equitably represent the broadest spectrum of the health industry and the geographic areas of the state. Not more than one member of the council may be from any one company, organization, or association.

(d)1. Council members shall be appointed to 4-year terms, except that the initial terms shall be staggered. The Governor shall appoint three members to 2-year terms, three members to 3-year terms, and three members to 4-year terms.

2. A member's absence from three consecutive meetings shall result in his or her automatic removal from the council. A vacancy on the council shall be filled for the remainder of the unexpired term.

(e) The council shall annually elect from its membership one member to serve as chair of the council and one member to serve as vice chair.

(f) The first meeting of the council shall be called by the chair not more than 60 days after the council members are appointed by the Governor. The council shall thereafter meet at least once quarterly and may meet more often as necessary. The department shall provide staff assistance to the council which shall include, but not be limited to, keeping records of the proceedings of the council and serving as custodian of all books, documents, and papers filed with the council.

(g) A majority of the members of the council constitutes a quorum.

(h) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061 while performing their duties.

(i) The council shall:

1. Work to encourage participation in wellness programs by state employees. The council may prepare informational programs and brochures for state agencies and employees.

2. In consultation with the department, develop standards and criteria for age-based and gender-based wellness programs.

Section 10. This act shall take effect July 1, 2006.

Approved by the Governor June 22, 2006.

Filed in Office Secretary of State June 22, 2006.