

Senate Bill No. 1682

An act relating to the Florida Statutes; amending ss. 14.20195, 16.615, 39.001, 39.303, 110.205, 112.061, 112.3145, 114.04, 120.80, 154.02, 154.04, 154.505, 215.5601, 215.5602, 335.067, 377.901, 381.0057, 381.0303, 381.0403, 381.4018, 381.7353, 381.78, 381.79, 381.84, 381.853, 381.855, 381.86, 381.90, 381.911, 381.912, 381.92, 381.922, 381.98, 381.983, 381.984, 381.985, 383.14, 383.216, 383.2162, 383.336, 383.402, 385.203, 385.210, 388.46, 391.028, 391.221, 391.223, 397.333, 400.235, 401.23, 401.245, 401.421, 402.56, 403.862, 406.02, 408.916, 409.352, 409.91255, 413.271, 420.622, 456.005, 456.011, 456.012, 456.072, 456.073, 456.074, 456.076, 457.109, 458.311, 458.313, 458.316, 458.3165, 458.331, 458.346, 458.347, 459.0055, 459.015, 459.022, 460.413, 461.004, 463.0055, 464.003, 464.018, 464.2085, 466.004, 466.028, 467.003, 467.004, 468.1295, 468.1755, 468.301, 468.314, 468.354, 468.506, 478.44, 480.042, 483.825, 483.901, 484.042, 486.125, 487.041, 490.009, 491.009, 499.012, 499.01211, 499.024, 499.065, 500.033, 514.0231, 768.1326, 943.0313, and 1004.435, F.S., pursuant to the directive of the Legislature in s. 3, ch. 2007-40, Laws of Florida, to redesignate the Secretary of Health as the State Surgeon General wherever the term appears in the Florida Statutes.

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

Section 1. Paragraph (b) of subsection (2) of section 14.20195, Florida Statutes, is amended to read:

14.20195 Suicide Prevention Coordinating Council; creation; membership; duties.—There is created within the Statewide Office for Suicide Prevention a Suicide Prevention Coordinating Council. The council shall develop strategies for preventing suicide.

(2) MEMBERSHIP.—The Suicide Prevention Coordinating Council shall consist of 28 voting members.

(b) The following state officials or their designees shall serve on the coordinating council:

1. The Secretary of Elderly Affairs.
2. The State Surgeon General ~~Secretary of Health~~.
3. The Commissioner of Education.
4. The Secretary of Health Care Administration.
5. The Secretary of Juvenile Justice.
6. The Secretary of Corrections.

7. The executive director of the Department of Law Enforcement.
8. The executive director of the Department of Veterans' Affairs.
9. The Secretary of Children and Family Services.
10. The director of the Agency for Workforce Innovation.

Section 2. Paragraph (e) of subsection (1) of section 16.615, Florida Statutes, is amended to read:

16.615 Council on the Social Status of Black Men and Boys.—

(1) The Council on the Social Status of Black Men and Boys is established within the Department of Legal Affairs and shall consist of 19 members appointed as follows:

- (e) The State Surgeon General ~~Secretary of Health~~ or his or her designee.

Section 3. Paragraph (c) of subsection (7) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

- (c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (8) and revise and update the state plan as necessary.

2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

d. Efforts to promote adoption.

e. Postadoptive services to support adoptive families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the ~~head secretary~~ of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

- a. A summary of the activities of the office.
 - b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.
 - c. A summary of the child abuse prevention data collected and reported to the National Child Abuse and Neglect Data System (NCANDS) and the federal Administration for Children and Families.
 - d. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system.
 - e. Recommendations, by state agency, for the further development and improvement of services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.
 - f. Budget requests, adoption promotion and support needs, and child abuse prevention program needs by state agency.
6. Work with the direct-support organization established under s. 39.0011 to receive financial assistance.

Section 4. Section 39.303, Florida Statutes, is amended to read:

39.303 Child protection teams; services; eligible cases.—The Children’s Medical Services Program in the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The ~~State Surgeon General Secretary of Health~~ and the Deputy Secretary for Children’s Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall utilize and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Family Services. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Family Services, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully

to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(j) Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.

All medical personnel participating on a child protection team must successfully complete the required child protection team training curriculum as set forth in protocols determined by the Deputy Secretary for Children's Medical Services and the Statewide Medical Director for Child Protection.

(2) The child abuse, abandonment, and neglect reports that must be referred by the department to child protection teams of the Department of Health for an assessment and other appropriate available support services as set forth in subsection (1) must include cases involving:

(a) Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.

(b) Bruises anywhere on a child 5 years of age or under.

(c) Any report alleging sexual abuse of a child.

(d) Any sexually transmitted disease in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(3) All abuse and neglect cases transmitted for investigation to a district by the hotline must be simultaneously transmitted to the Department of Health child protection team for review. For the purpose of determining whether face-to-face medical evaluation by a child protection team is necessary, all cases transmitted to the child protection team which meet the criteria in subsection (2) must be timely reviewed by:

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(c) An advanced registered nurse practitioner licensed under chapter 464 who has a speciality in pediatrics or family medicine and is a member of a child protection team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of a physician licensed under chapter 458 or chapter 459 who holds certification in pediatrics and is a member of a child protection team.

(4) A face-to-face medical evaluation by a child protection team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team board-certified pediatrician, advanced registered nurse practitioner, physician assistant working under the supervision of a child protection team board-certified pediatrician, or registered nurse working under the direct supervision of a child protection team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in paragraphs (2)(a)-(h) as reported; or

(c) The child protection team board-certified pediatrician, as authorized in subsection (3), determines that a medical evaluation is not required.

Notwithstanding paragraphs (a), (b), and (c), a child protection team pediatrician, as authorized in subsection (3), may determine that a face-to-face medical evaluation is necessary.

(5) In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Family Services, shall avoid duplicating the provision of those services.

(6) The Department of Health child protection team quality assurance program and the Department of Children and Family Services' Family Safety Program Office quality assurance program shall collaborate to ensure referrals and responses to child abuse, abandonment, and neglect reports are appropriate. Each quality assurance program shall include a review of records in which there are no findings of abuse, abandonment, or neglect, and the findings of these reviews shall be included in each department's quality assurance reports.

Section 5. Paragraph (j) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(j) The appointed secretaries and the State Surgeon General, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, the State Transportation Development Administrator, State Public Transportation and Modal Administrator, district secretaries, district directors of transportation development, transportation operations, transportation support, and the managers of the offices specified in s. 20.23(3)(b), of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service; and the county health department directors and county health department administrators of the Department of Health.

Section 6. Paragraph (h) of subsection (3) of section 112.061, Florida Statutes, is amended to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

(h) The State Surgeon General ~~secretary of the Department of Health~~ or a designee may authorize travel expenses incidental to the rendering of medical services for and on behalf of clients of the Department of Health. The Department of Health may establish rates lower than the rate provided in this section for these travel expenses.

Section 7. Paragraph (b) of subsection (1) of section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(b) “Specified state employee” means:

1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a full-time state employee who serves as counsel

or assistant counsel to any state agency, the Deputy Chief Judge of Compensation Claims, a judge of compensation claims, an administrative law judge, or a hearing officer.

2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. The State Surgeon General or each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the warden or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. Any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch of government, except persons employed in maintenance, clerical, secretarial, or similar positions.

7. Each employee of the Commission on Ethics.

Section 8. Section 114.04, Florida Statutes, is amended to read:

114.04 Filling vacancies.—Except as otherwise provided in the State Constitution, the Governor shall fill by appointment any vacancy in a state, district, or county office, other than a member or officer of the Legislature, for the remainder of the term of an appointive officer and for the remainder of the term of an elective office, if there is less than 28 months remaining in the term; otherwise, until the first Tuesday after the first Monday following the next general election. With respect to any office which requires confirmation by the Senate, the person so appointed may hold an ad interim term of office subject to the provisions of s. 114.05. Each secretary or division director of a department of the executive branch, or the State Surgeon General, who is required by law to be appointed by the Governor and confirmed by the Senate shall serve at the pleasure of the Governor, unless otherwise provided by law, and the appointment of such person shall run concurrently with the term of the Governor making the appointment. In the event a Governor is elected to a second term of office pursuant to s. 5, Art. IV of the State Constitution, each secretary or division director, or the State Surgeon General, so appointed shall be reappointed or, at the discretion of

the Governor, replaced by a new appointee. Reappointments to the same office shall be subject to confirmation by the Senate as provided in s. 114.05.

Section 9. Subsection (15) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(15) DEPARTMENT OF HEALTH.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the State Surgeon General ~~Secretary of Health~~, the Secretary of Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by chapter 456. Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child Care Food Program; Children's Medical Services Program; the Brain and Spinal Cord Injury Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Family Services for a hearing officer in these matters.

Section 10. Paragraph (c) of subsection (5) of section 154.02, Florida Statutes, is amended to read:

154.02 County Health Department Trust Fund.—

(5) At a minimum, the trust fund shall consist of:

(c) A fixed capital outlay reserve for nonrecurring expenses that are needed for the renovation and expansion of facilities, and for the construction of new and replacement facilities identified by the Department of Health in conjunction with the board of county commissioners in their annual state-county contract and approved by the State Surgeon General ~~secretary of the department~~. These funds may not be used for construction projects unless there is a specific appropriation included in the General Appropriations Act for this purpose.

Section 11. Paragraph (b) of subsection (1) of section 154.04, Florida Statutes, is amended to read:

154.04 Personnel of county health departments; duties; compensation.—

(1)

(b) The county health department director shall be a physician licensed under chapter 458 or chapter 459 who is trained in public health administration and shall be appointed by the State Surgeon General ~~Secretary of Health~~ after the concurrence of the boards of county commissioners of the respective counties. A county health department administrator trained in public health administration may be appointed by the State Surgeon General ~~Secretary of Health~~ after the concurrence of the boards of county commissioners of the respective counties.

Section 12. Subsection (2) of section 154.505, Florida Statutes, is amended to read:

154.505 Proposals; application process; minimum requirements.—

(2) Applications shall be competitively reviewed by an independent panel appointed by the State Surgeon General ~~secretary of the department~~. This panel shall determine the relative weight for scoring and evaluating each of the following elements to be used in the evaluation process:

- (a) The target population to be served.
- (b) The health benefits to be provided.
- (c) The proposed service network, including specific health care providers and health care facilities that will participate in the service network on a paid or voluntary basis.
- (d) The methods that will be used to measure cost-effectiveness.
- (e) How patient and provider satisfaction will be measured.
- (f) The proposed internal quality assurance process.
- (g) Projected health status outcomes.
- (h) The way in which data to measure the cost-effectiveness, outcomes, and overall performance of the program will be collected, including a description of the proposed information system.
- (i) All local resources, including cash, in-kind, voluntary, or other resources, that will be dedicated to the proposal.

Section 13. Paragraph (c) of subsection (5) and paragraph (b) of subsection (6) of section 215.5601, Florida Statutes, are amended to read:

215.5601 Lawton Chiles Endowment Fund.—

(5) AVAILABILITY OF FUNDS; USES.—

(c) The secretaries of the state agencies and the State Surgeon General shall conduct meetings to discuss priorities for endowment funding for health and human services programs for children and elders before submitting their legislative budget requests to the Executive Office of the Governor and the Legislature. The purpose of the meetings is to gain consensus for priority requests and recommended endowment funding levels for those priority requests. No later than September 1 of each year, the secretaries of the state agencies and the State Surgeon General shall also submit their consensus priority requests to the Lawton Chiles Endowment Fund Advisory Council created in subsection (6).

(6) ADVISORY COUNCIL.—The Lawton Chiles Endowment Fund Advisory Council is established for the purpose of reviewing the funding priorities of the state agencies, evaluating their requests against the mission and

goals of the agencies and legislative intent for the use of endowment funds, and allowing for public input and advocacy.

(b) Before November 1 of each year, the advisory council shall advise the Governor and the Legislature as to its recommendations with respect to the priorities submitted by the secretaries of the state agencies and the State Surgeon General with respect to endowment funding for health and human services programs for children and elders. The responsibilities of the advisory council include:

1. Evaluating the value of programs and services submitted by the state agencies as they relate to the overall enhancement of services to children and elders;
2. Developing criteria and guiding principles for ranking the priorities submitted by the state agencies;
3. Providing recommendations with respect to funding levels for the programs ranked by the advisory council;
4. Participating in periodic evaluation of programs funded by the endowment to determine the need for continued funding; and
5. Soliciting input from child and elder advocacy organizations, community stakeholders, providers, and the public with respect to statewide child and elder needs and the effectiveness of program service delivery systems.

Section 14. Subsection (4), paragraph (b) of subsection (5), and subsections (6) and (10) of section 215.5602, Florida Statutes, are amended to read:

215.5602 James and Esther King Biomedical Research Program.—

(4) The council shall advise the State Surgeon General ~~Secretary of Health~~ as to the direction and scope of the biomedical research program. The responsibilities of the council may include, but are not limited to:

- (a) Providing advice on program priorities and emphases.
- (b) Providing advice on the overall program budget.
- (c) Participating in periodic program evaluation.
- (d) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.
- (e) Assisting in the development of appropriate linkages to nonacademic entities, such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials.
- (f) Developing criteria and standards for the award of research grants.
- (g) Developing administrative procedures relating to solicitation, review, and award of research grants and fellowships, to ensure an impartial, high-quality peer review system.

(h) Developing and supervising research peer review panels.

(i) Reviewing reports of peer review panels and making recommendations for research grants and fellowships.

(j) Developing and providing oversight regarding mechanisms for the dissemination of research results.

(5)

(b) Grants and fellowships shall be awarded by the State Surgeon General Secretary of Health, after consultation with the council, on the basis of scientific merit, as determined by an open competitive peer review process that ensures objectivity, consistency, and high quality. The following types of applications shall be considered for funding:

1. Investigator-initiated research grants.
2. Institutional research grants.
3. Predoctoral and postdoctoral research fellowships.

(6) To ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, the State Surgeon General Secretary of Health, in consultation with the council, shall appoint a peer review panel of independent, scientifically qualified individuals to review the scientific content of each proposal and establish its scientific priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(10) The council shall submit an annual progress report on the state of biomedical research in this state to the Florida Center for Universal Research to Eradicate Disease and to the Governor, the State Surgeon General Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1. The report must include:

(a) A list of research projects supported by grants or fellowships awarded under the program.

(b) A list of recipients of program grants or fellowships.

(c) A list of publications in peer reviewed journals involving research supported by grants or fellowships awarded under the program.

(d) The total amount of biomedical research funding currently flowing into the state.

(e) New grants for biomedical research which were funded based on research supported by grants or fellowships awarded under the program.

(f) Progress in the prevention, diagnosis, treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

Section 15. Subsection (5) of section 335.067, Florida Statutes, is amended to read:

335.067 Conserve by Bicycle Program.—There is created within the Department of Transportation the Conserve by Bicycle Program.

(5) By July 1, 2007, if sufficient funds are available in the department's budget or from the Federal Government, the study shall be completed and shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Transportation, the Secretary of Environmental Protection, and the State Surgeon General ~~Secretary of Health~~.

Section 16. Paragraph (b) of subsection (1) of section 377.901, Florida Statutes, is amended to read:

377.901 Florida Energy Commission.—

(1) The Florida Energy Commission is created and shall be located within the Office of Legislative Services for administrative purposes. The commission shall be comprised of a total of nine members.

(b) The following may also attend meetings and provide information and advise at the request of the chair:

1. The chair of the Florida Public Service Commission, or his or her designee.

2. The Public Counsel, or his or her designee.

3. The Commissioner of Agriculture, or his or her designee.

4. The Director of the Office of Insurance Regulation, or his or her designee.

5. The State Surgeon General ~~Secretary of Health~~, or his or her designee.

6. The chair of the State Board of Education, or his or her designee.

7. The Secretary of Community Affairs, or his or her designee.

8. The Secretary of Transportation, or his or her designee.

9. The Secretary of Environmental Protection, or his or her designee.

It is the specific intent of the Legislature that nothing in this section shall in any way change the powers, duties, and responsibilities of the Public Service Commission or the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

Section 17. Subsections (2) and (3) of section 381.0057, Florida Statutes, are amended to read:

381.0057 Funding for school health services.—

(2) The State Surgeon General Secretary of Health, or his or her designee, in cooperation with the Commissioner of Education, or his or her designee, shall publicize the availability of funds, targeting those school districts or schools which have a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy.

(3) The State Surgeon General Secretary of Health, or his or her designees, in cooperation with the Commissioner of Education, or his or her designees, in equal representation, shall form a joint committee to evaluate and select the school districts or schools to be funded.

Section 18. Subsections (5) and (7) of section 381.0303, Florida Statutes, are amended to read:

381.0303 Special needs shelters.—

(5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The State Surgeon General Secretary of Health may establish a special needs shelter interagency committee and serve as, or appoint a designee to serve as, the committee's chair. The department shall provide any necessary staff and resources to support the committee in the performance of its duties. The committee shall address and resolve problems related to special needs shelters not addressed in the state comprehensive emergency medical plan and shall consult on the planning and operation of special needs shelters.

(a) The committee shall:

1. Develop, negotiate, and regularly review any necessary interagency agreements.

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

3. Submit recommendations to the Legislature as necessary.

(b) The special needs shelter interagency committee shall be composed of representatives of emergency management, health, medical, and social services organizations. Membership shall include, but shall not be limited to, representatives of the Departments of Health, Community Affairs, Children and Family Services, Elderly Affairs, and Education; the Agency for Health Care Administration; the Florida Medical Association; the Florida Osteopathic Medical Association; Associated Home Health Industries of Florida, Inc.; the Florida Nurses Association; the Florida Health Care Association; the Florida Assisted Living Affiliation; the Florida Hospital Association; the Florida Statutory Teaching Hospital Council; the Florida Association of Homes for the Aging; the Florida Emergency Preparedness Association; the American Red Cross; Florida Hospices and Palliative Care, Inc.; the Association of Community Hospitals and Health Systems; the Florida Association of Health Maintenance Organizations; the Florida League of Health Systems; the Private Care Association; the Salvation Army; the Florida Association of Aging Services Providers; the AARP; and the Florida Renal Coalition.

(c) Meetings of the committee shall be held in Tallahassee, and members of the committee shall serve at the expense of the agencies or organizations they represent. The committee shall make every effort to use teleconference or videoconference capabilities in order to ensure statewide input and participation.

(7) EMERGENCY MANAGEMENT PLANS.—The submission of emergency management plans to county health departments by home health agencies, nurse registries, hospice programs, and home medical equipment providers is conditional upon receipt of an appropriation by the department to establish disaster coordinator positions in county health departments unless the State Surgeon General ~~secretary of the department~~ and a local county commission jointly determine to require that such plans be submitted based on a determination that there is a special need to protect public health in the local area during an emergency.

Section 19. Paragraph (c) of subsection (6) and subsection (9) of section 381.0403, Florida Statutes, are amended to read:

381.0403 The Community Hospital Education Act.—

(6) COUNCIL AND DIRECTOR.—

(c) ~~The State Surgeon General secretary of the Department of Health~~ shall designate an administrator to serve as staff director. The council shall elect a chair from among its membership. Such other personnel as may be necessary to carry out the program shall be employed as authorized by the Department of Health.

(9) ANNUAL REPORT ON GRADUATE MEDICAL EDUCATION; COMMITTEE.—The Executive Office of the Governor, the Department of Health, and the Agency for Health Care Administration shall collaborate to establish a committee that shall produce an annual report on graduate medical education. The committee shall be comprised of 11 members: five members shall be deans of the medical schools or their designees; the Governor shall appoint two members, one of whom must be a representative of the Florida Medical Association who has supervised or currently supervises residents or interns and one of whom must be a representative of the Florida Hospital Association; the Secretary of Health Care Administration shall appoint two members, one of whom must be a representative of a statutory teaching hospital and one of whom must be a physician who has supervised or is currently supervising residents or interns; and the State Surgeon General ~~Secretary of Health~~ shall appoint two members, one of whom must be a representative of a statutory family practice teaching hospital and one of whom must be a physician who has supervised or is currently supervising residents or interns. With the exception of the deans, members shall serve 4-year terms. In order to stagger the terms, the Governor's appointees shall serve initial terms of 4 years, the State Surgeon General's ~~Secretary of Health's~~ appointees shall serve initial terms of 3 years, and the Secretary of Health Care Administration's appointees shall serve initial terms of 2 years. A member's term shall be deemed terminated when the member's representative status no longer exists. Once the committee is appointed, it shall elect a chair to serve for a 1-year term. The report shall be provided

to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15 annually. Committee members shall serve without compensation. The report shall address the following:

- (a) The role of residents and medical faculty in the provision of health care.
- (b) The relationship of graduate medical education to the state's physician workforce.
- (c) The costs of training medical residents for hospitals, medical schools, teaching hospitals, including all hospital-medical affiliations, practice plans at all of the medical schools, and municipalities.
- (d) The availability and adequacy of all sources of revenue to support graduate medical education and recommend alternative sources of funding for graduate medical education.
- (e) The use of state and federal appropriated funds for graduate medical education by hospitals receiving such funds.

Section 20. Paragraphs (g) and (h) of subsection (3) of section 381.4018, Florida Statutes, are amended to read:

381.4018 Physician workforce assessment and development.—

(3) GENERAL FUNCTIONS.—The department shall maximize the use of existing programs under the jurisdiction of the department and other state agencies and coordinate governmental and nongovernmental stakeholders and resources in order to develop a state strategic plan and assess the implementation of such strategic plan. In developing the state strategic plan, the department shall:

(g) Coordinate and enhance activities relative to physician workforce needs, undergraduate medical education, and graduate medical education provided by the Division of Medical Quality Assurance, the Community Hospital Education Program and the Graduate Medical Education Committee established pursuant to s. 381.0403, area health education center networks established pursuant to s. 381.0402, and other offices and programs within the Department of Health as designated by the State Surgeon General secretary.

(h) Work in conjunction with and act as a coordinating body for governmental and nongovernmental stakeholders to address matters relating to the state's physician workforce assessment and development for the purpose of ensuring an adequate supply of well-trained physicians to meet the state's future needs. Such governmental stakeholders shall include, but need not be limited to, the ~~State Surgeon General Secretary of Health~~ or his or her designee, the Commissioner of Education or his or her designee, the Secretary of Health Care Administration or his or her designee, and the Chancellor of the State University System or his or her designee from the Board of Governors of the State University System, and, at the discretion of the department, other representatives of state and local agencies that are involved in assessing, educating, or training the state's current or future

physicians. Other stakeholders shall include, but need not be limited to, organizations representing the state's public and private allopathic and osteopathic medical schools; organizations representing hospitals and other institutions providing health care, particularly those that have an interest in providing accredited medical education and graduate medical education to medical students and medical residents; organizations representing allopathic and osteopathic practicing physicians; and, at the discretion of the department, representatives of other organizations or entities involved in assessing, educating, or training the state's current or future physicians.

Section 21. Subsection (3) of section 381.7353, Florida Statutes, is amended to read:

381.7353 Reducing Racial and Ethnic Health Disparities: Closing the Gap grant program; administration; department duties.—

(3) Pursuant to s. 20.43(6), the State Surgeon General ~~secretary~~ may appoint an ad hoc advisory committee to: examine areas where public awareness, public education, research, and coordination regarding racial and ethnic health outcome disparities are lacking; consider access and transportation issues which contribute to health status disparities; and make recommendations for closing gaps in health outcomes and increasing the public's awareness and understanding of health disparities that exist between racial and ethnic populations.

Section 22. Subsections (2) and (7) of section 381.78, Florida Statutes, are amended to read:

381.78 Advisory council on brain and spinal cord injuries.—

(2) Members of the council shall be appointed to serve by the State Surgeon General Secretary of Health. All members' terms shall be for 4 years. An individual may not serve more than two terms. Any council member who is unwilling or unable to properly fulfill the duties of the office shall be succeeded by an individual chosen by the State Surgeon General secretary to serve out the unexpired balance of the replaced council member's term. If the unexpired balance of the replaced council member's term is less than 18 months, then, notwithstanding the provisions of this subsection, the succeeding council member may be reappointed by the State Surgeon General secretary twice.

(7) A member of the advisory council may be removed from office by the State Surgeon General Secretary of Health for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties or for pleading nolo contendere to, or being found guilty of, a crime. Malfeasance includes, but is not limited to, a violation of any specific prohibition within this part.

Section 23. Subsection (4) of section 381.79, Florida Statutes, is amended to read:

381.79 Brain and Spinal Cord Injury Program Trust Fund.—

(4) The Board of Governors of the State University System shall establish a program administration process which shall include: an annual prospective program plan with goals, research design, proposed outcomes, a proposed budget, an annual report of research activities and findings, and an annual end-of-year financial statement. Prospective program plans shall be submitted to the Board of Governors, and funds shall be released upon acceptance of the proposed program plans. The annual report of research activities and findings shall be submitted to the Board of Governors, with the executive summaries submitted to the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General Secretary of Health.

Section 24. Paragraph (a) of subsection (4) and subsections (5) and (6) of section 381.84, Florida Statutes, are amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND MEETINGS.—The Tobacco Education and Use Prevention Advisory Council is created within the department.

(a) The council shall consist of 23 members, including:

1. The State Surgeon General Secretary of Health, who shall serve as the chairperson.

2. One county health department director, appointed by the State Surgeon General Secretary of Health.

3. Two members appointed by the Commissioner of Education, of whom one must be a school district superintendent.

4. The chief executive officer of the Florida Division of the American Cancer Society, or his or her designee.

5. The chief executive officer of the Greater Southeast Affiliate of the American Heart Association, or his or her designee.

6. The chief executive officer of the American Lung Association of Florida, or his or her designee.

7. The dean of the University of Miami School of Medicine, or his or her designee.

8. The dean of the University of Florida College of Medicine, or his or her designee.

9. The dean of the University of South Florida College of Medicine, or his or her designee.

10. The dean of the Florida State University College of Medicine, or his or her designee.

11. The dean of Nova Southeastern College of Osteopathic Medicine, or his or her designee.

12. The dean of the Lake Erie College of Osteopathic Medicine in Bradenton, Florida, or his or her designee.

13. The chief executive officer of the Campaign for Tobacco Free Kids, or his or her designee.

14. The chief executive officer of the Legacy Foundation, or his or her designee.

15. Four members appointed by the Governor, of whom two must have expertise in the field of tobacco-use prevention and education or smoking cessation and one individual who shall be between the ages of 16 and 21 at the time of his or her appointment.

16. Two members appointed by the President of the Senate, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

17. Two members appointed by the Speaker of the House of Representatives, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

(5) COUNCIL DUTIES AND RESPONSIBILITIES.—The council shall advise the State Surgeon General ~~Secretary of Health~~ as to the direction and scope of the Comprehensive Statewide Tobacco Education and Use Prevention Program. The responsibilities of the council include, but are not limited to:

(a) Providing advice on program priorities and emphases.

(b) Providing advice on the overall program budget.

(c) Providing advice on copyrighted material, trademark, and future transactions as they pertain to the tobacco education and use prevention program.

(d) Reviewing broadcast material prepared for the Internet, portable media players, radio, and television as it relates to the advertising component of the tobacco education and use prevention program.

(e) Participating in periodic program evaluation.

(f) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(g) Assisting in the development of administrative procedures relating to solicitation, review, and award of contracts and grants in order to ensure an impartial, high-quality peer review system.

(h) Assisting in the development and supervision of peer review panels.

(i) Reviewing reports of peer review panels and making recommendations for contracts and grants.

(j) Reviewing the activities and evaluating the performance of the AHEC network to avoid duplicative efforts using state funds.

(k) Recommending meaningful outcome measures through a regular review of tobacco-use prevention and education strategies and programs of other states and the Federal Government.

(l) Recommending policies to encourage a coordinated response to tobacco use in this state, focusing specifically on creating partnerships within and between the public and private sectors.

(6) **CONTRACT REQUIREMENTS.**—Contracts or grants for the program components or subcomponents described in paragraphs (3)(a)-(f) shall be awarded by the State Surgeon General Secretary of Health, after consultation with the council, on the basis of merit, as determined by an open, competitive, peer-reviewed process that ensures objectivity, consistency, and high quality. The department shall award such grants or contracts no later than October 1 for each fiscal year. A recipient of a contract or grant for the program component described in paragraph (3)(c) is not eligible for a contract or grant award for any other program component described in subsection (3) in the same state fiscal year. A school or college of medicine that is represented on the council is not eligible to receive a contract or grant under this section. For the 2007-2008 and 2008-2009 fiscal years only, the department shall award a contract or grant in the amount of \$10 million to the AHEC network for the purpose of developing the components described in paragraph (3)(i). The AHEC network may apply for a competitive contract or grant after the 2008-2009 fiscal year.

(a) In order to ensure that all proposals for funding are appropriate and are evaluated fairly on the basis of merit, the State Surgeon General Secretary of Health, in consultation with the council, shall appoint a peer review panel of independent, qualified experts in the field of tobacco control to review the content of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals will be recommended for funding.

(b) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest. A member of the council or panel may not participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels are subject to chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.

(c) In each contract or grant agreement, the department shall limit the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant and limit overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant. The

department, in consultation with the Department of Financial Services, shall publish guidelines for appropriate food and promotional items.

(d) In each advertising contract, the department shall limit the total of production fees, buyer commissions, and related costs to no more than 10 percent of the total contract amount.

(e) Notwithstanding the competitive process for contracts prescribed in this subsection, each county health department is eligible for core funding, on a per capita basis, to implement tobacco education and use prevention activities within that county.

Section 25. Paragraph (f) of subsection (4) and paragraph (a) of subsection (5) of section 381.853, Florida Statutes, are amended to read:

381.853 Florida Center for Brain Tumor Research.—

(4) The Florida Center for Brain Tumor Research is established within the Evelyn F. and William L. McKnight Brain Institute of the University of Florida.

(f) The center shall submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General ~~Secretary of Health~~ no later than January 15 that contains recommendations for legislative changes necessary to foster a positive climate for the pursuit of brain tumor research and the development of treatment modalities in the state.

(5) There is established within the center a scientific advisory council that includes biomedical researchers, physicians, clinicians, and representatives from public and private universities and hospitals. The council shall meet at least annually.

(a) The council shall consist of:

1. Two members from the Florida Center for Brain Tumor Research within the Evelyn F. and William L. McKnight Brain Institute of the University of Florida appointed by the Governor.

2. Two members from the Scripps Research Institute, one of whom must have expertise in basic brain tumor research, appointed by the Speaker of the House of Representatives.

3. Two members from other public and private universities and institutions directly involved in brain tumor research appointed by the President of the Senate.

4. One member from the Mayo Clinic in Jacksonville who is directly involved in the treatment of brain tumor patients or who has expertise in basic brain tumor research appointed by the State Surgeon General ~~Secretary of Health~~.

5. Two members from the Cleveland Clinic in Florida who are directly involved in basic brain tumor research appointed by the Governor.

6. One member from the H. Lee Moffitt Cancer Center and Research Institute who is directly involved in the treatment of brain tumor patients or who has expertise in basic brain tumor research appointed by the Speaker of the House of Representatives.

7. One member from the M. D. Anderson Cancer Center Orlando who is directly involved in the treatment of brain tumor patients or who has expertise in basic brain tumor research appointed by the President of the Senate.

Section 26. Paragraph (a) of subsection (5) of section 381.855, Florida Statutes, is amended to read:

381.855 Florida Center for Universal Research to Eradicate Disease.—

(5) There is established within the center an advisory council that shall meet at least annually.

(a) The council shall consist of one representative from a Florida not-for-profit institution engaged in basic and clinical biomedical research and education which receives more than \$10 million in annual grant funding from the National Institutes of Health, to be appointed by the State Surgeon General Secretary of Health from a different institution each term, and one representative from and appointed by each of the following entities:

1. Enterprise Florida, Inc.
2. BioFlorida.
3. The Biomedical Research Advisory Council.
4. The Florida Medical Foundation.
5. Pharmaceutical Research and Manufacturers of America.
6. The Florida Cancer Council.
7. The American Cancer Society, Florida Division, Inc.
8. The American Heart Association.
9. The American Lung Association of Florida.
10. The American Diabetes Association, South Coastal Region.
11. The Alzheimer's Association.
12. The Epilepsy Foundation.
13. The National Parkinson Foundation.
14. The Florida Public Health Foundation, Inc.
15. The Florida Research Consortium.

Section 27. Subsections (2) and (3) of section 381.86, Florida Statutes, are amended to read:

381.86 Institutional Review Board.—

(2) Consistent with federal requirements, the State Surgeon General 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 State Surgeon General secretary.

Section 28. Paragraph (a) of subsection (3) of section 381.90, Florida Statutes, is amended to read:

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

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

(a) The State Surgeon General Secretary of Health;

Representatives of the Federal Government may serve without voting rights.

Section 29. Paragraph (a) of subsection (3) of section 381.911, Florida Statutes, is amended to read:

381.911 Prostate Cancer Awareness Program.—

(3) A prostate cancer advisory committee is created to advise and assist the Department of Health and the Florida Public Health Foundation, Inc., in implementing the program.

(a) The State Surgeon General Secretary of Health shall appoint the advisory committee members, who shall consist of:

1. Three persons from prostate cancer survivor groups or cancer-related advocacy groups.

2. Three persons who are scientists or clinicians from public universities or research organizations.

3. Three persons who are engaged in the practice of a cancer-related medical specialty from health organizations committed to cancer research and control.

Section 30. Paragraph (a) of subsection (3) of section 381.912, Florida Statutes, is amended to read:

381.912 Cervical Cancer Elimination Task Force.—

(3) The task force shall consist of:

(a) The director of the Department of Health's Division of Disease Control or another person with expertise in epidemiology who shall serve as chair, appointed by the State Surgeon General Secretary of Health.

Section 31. Paragraph (c) of subsection (2) of section 381.92, Florida Statutes, is amended to read:

381.92 Florida Cancer Council.—

(2)

(c) The members of the council shall consist of:

1. Chair of the Florida Dialogue on Cancer, who shall serve as the chair of the council;

2. State Surgeon General ~~secretary of the Department of Health~~ or his or her designee;

3. Chief Executive Officer of the H. Lee Moffitt Cancer Center or his or her designee;

4. Director of the University of Florida Shands Cancer Center or his or her designee;

5. Chief Executive Officer of the University of Miami Sylvester Comprehensive Cancer Center or his or her designee;

6. Chief Executive Officer of the Mayo Clinic, Jacksonville, or his or her designee;

7. Chief Executive Officer of the American Cancer Society, Florida Division, Inc., or his or her designee;

8. President of the American Cancer Society, Florida Division, Inc., Board of Directors or his or her designee;

9. President of the Florida Society of Clinical Oncology or his or her designee;

10. President of the American College of Surgeons, Florida Chapter, or his or her designee;

11. Chief Executive Officer of Enterprise Florida, Inc., or his or her designee;

12. Five representatives from cancer programs approved by the American College of Surgeons. Three shall be appointed by the Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the President of the Senate;

13. One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

14. One member of the Senate, to be appointed by the President of the Senate.

Section 32. Paragraphs (a) and (b) of subsection (3) of section 381.922, Florida Statutes, are amended to read:

381.922 William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program.—

(3)(a) Applications for funding for cancer research may be submitted by any university or established research institute in the state. All qualified investigators in the state, regardless of institutional affiliation, shall have equal access and opportunity to compete for the research funding. Collaborative proposals, including those that advance the program’s goals enumerated in subsection (2), may be given preference. Grants shall be awarded by the ~~State Surgeon General~~ Secretary of Health, after consultation with the Biomedical Research Advisory Council, on the basis of scientific merit, as determined by an open, competitive peer review process that ensures objectivity, consistency, and high quality. The following types of applications shall be considered for funding:

1. Investigator-initiated research grants.
2. Institutional research grants.
3. Collaborative research grants, including those that advance the finding of cures through basic or applied research.

(b) In order to ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, the ~~State Surgeon General~~ Secretary of Health, in consultation with the council, shall appoint a peer review panel of independent, scientifically qualified individuals to review the scientific content of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

Section 33. Paragraph (a) of subsection (6) of section 381.98, Florida Statutes, is amended to read:

381.98 The Florida Public Health Foundation, Inc.; establishment; purpose; mission; duties; board of directors.—

(6) The affairs of the corporation shall be managed by an executive director appointed by a board of directors consisting of:

- (a) The ~~State Surgeon General~~ Secretary of Health or his or her designee.

Section 34. Subsection (9) of section 381.983, Florida Statutes, is repealed.

Section 35. Subsections (2) and (3) of section 381.984, Florida Statutes, are amended to read:

381.984 Educational programs.—

(2) PUBLIC INFORMATION INITIATIVE.—The Governor, in conjunction with the ~~State Surgeon General~~ 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 State Surgeon General 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 36. Section 381.985, Florida Statutes, is amended to read:

381.985 Screening program.—

(1) The State Surgeon General ~~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 State Surgeon General ~~secretary~~ shall, after consultation with recognized professional medical groups and such other sources as the State Surgeon General ~~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 State Surgeon General ~~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 State Surgeon General ~~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 State Surgeon General ~~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 State Surgeon General ~~secretary~~.

Section 37. Subsection (5) of section 383.14, Florida Statutes, is amended to read:

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

(5) **ADVISORY COUNCIL.**—There is established a Genetics and Newborn Screening Advisory Council made up of 15 members appointed by the State Surgeon General ~~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 State Surgeon General 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 Agency for Persons with Disabilities. 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.
- (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 38. Subsection (6) of section 383.216, Florida Statutes, is amended to read:

383.216 Community-based prenatal and infant health care.—

(6) Prenatal and infant health care coalitions may be established for single counties or for services delivery catchment areas. A prenatal and infant health care coalition shall be initiated at the local level on a voluntary basis. Once a coalition has been organized locally and includes the membership specified in subsection (5), the coalition must submit a list of its members to the State Surgeon General Secretary of Health to carry out the responsibilities outlined in this section.

Section 39. Subsection (7) of section 383.2162, Florida Statutes, is amended to read:

383.2162 Black infant health practice initiative.—

(7) **EVALUATIONS AND REPORTS.**—The department shall conduct an annual evaluation of the implementation of the initiative describing which areas are participating in the initiative, the number of reviews conducted by each participating coalition, grant balances, and recommendations for modifying the initiative. All participating coalitions shall produce a report on their collective findings and recommendations by January 1, 2010, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General Secretary of Health.

Section 40. Subsection (2) of section 383.336, Florida Statutes, is amended to read:

383.336 Provider hospitals; practice parameters; peer review board.—

(2) The Office of the State Surgeon General ~~Secretary of Health~~, in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society, is directed to establish practice parameters to be followed by physicians in provider hospitals in performance of a caesarean section delivery when the delivery will be paid partly or fully by state funds or federal funds administered by the state. These parameters shall be directed to reduce the number of unnecessary caesarean section deliveries. These practice parameters shall address, at a minimum, the following: feasibility of attempting a vaginal delivery for each patient with a prior caesarean section; dystocia, including arrested dilation and prolonged deceleration phase; fetal distress; and fetal malposition. The Department of Health shall adopt rules to implement the provisions of this subsection.

Section 41. Subsections (2), (4), (6), and (17) of section 383.402, Florida Statutes, are amended to read:

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

(2)(a) The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the State Surgeon General ~~Secretary of Health~~, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

1. The Department of Legal Affairs.
2. The Department of Children and Family Services.
3. The Department of Law Enforcement.
4. The Department of Education.
5. The Florida Prosecuting Attorneys Association, Inc.
6. The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

(b) In addition, the State Surgeon General ~~Secretary of Health~~ shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in paragraph (a), and ensuring that the committee represents the regional, gender, and ethnic diversity of the state to the greatest extent possible:

1. A board-certified pediatrician.
2. A public health nurse.

3. A mental health professional who treats children or adolescents.
4. An employee of the Department of Children and Family Services who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
5. The medical director of a child protection team.
6. A member of a child advocacy organization.
7. A social worker who has experience in working with victims and perpetrators of child abuse.
8. A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
9. A law enforcement officer who has at least 5 years of experience in children's issues.
10. A representative of the Florida Coalition Against Domestic Violence.
11. A representative from a private provider of programs on preventing child abuse and neglect.

(4) The members of the state committee shall be appointed to staggered terms of office which may not exceed 2 years, as determined by the State Surgeon General ~~Secretary of Health~~. Members are eligible for reappointment. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

(6) At the direction of the State Surgeon General ~~Secretary of Health~~, the director of each county health department, or the directors of two or more county health departments by agreement, may convene and support a county or multicounty child abuse death review committee in accordance with the protocols established by the State Child Abuse Death Review Committee. Each local committee must include a local state attorney, or his or her designee, and any other members that are determined by guidelines developed by the State Child Abuse Death Review Committee. The members of a local committee shall be appointed to 2-year terms and may be reappointed. The local committee shall elect a chairperson from among its members. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(17) For the purpose of carrying out the responsibilities assigned to the State Child Abuse Death Review Committee and the local review committees, the State Surgeon General ~~Secretary of Health~~ may substitute an existing entity whose function and organization include the function and organization of the committees established by this section.

Section 42. Paragraph (c) of subsection (1) and subsection (2) of section 385.203, Florida Statutes, are amended to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(1) To guide a statewide comprehensive approach to diabetes prevention, diagnosis, education, care, treatment, impact, and costs thereof, there is created a Diabetes Advisory Council that serves as the advisory unit to the Department of Health, other governmental agencies, professional and other organizations, and the general public. The council shall:

(c) By June 30 of each year, meet with the State Surgeon General ~~Secretary of Health~~ or designee to make specific recommendations regarding the public health aspects of the prevention and control of diabetes.

(2) The members of the council shall be appointed by the Governor with advice from the State Surgeon General ~~Secretary of Health~~. Members shall serve 4-year terms or until their successors are appointed or qualified.

Section 43. Subsection (5) of section 385.210, Florida Statutes, is amended to read:

385.210 Arthritis prevention and education.—

(5) FUNDING.—

(a) The State Surgeon General ~~Secretary of Health~~ may accept grants, services, and property from the Federal Government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the obligations of this program.

(b) The State Surgeon General ~~secretary~~ shall seek any federal waiver or waivers that may be necessary to maximize funds from the Federal Government to implement this program.

Section 44. Paragraph (a) of subsection (2) of section 388.46, Florida Statutes, is amended to read:

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.—

(2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

(a) Membership.—The Florida Coordinating Council on Mosquito Control shall be comprised of the following representatives or their authorized designees:

1. The Secretary of Environmental Protection and the State Surgeon General ~~Secretary of Health~~;

2. The executive director of the Fish and Wildlife Conservation Commission;

3. The state epidemiologist;

4. The Commissioner of Agriculture; and

5. Representatives from:

a. The University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory;

b. Florida Agricultural and Mechanical University;

c. The United States Environmental Protection Agency;

d. The United States Department of Agriculture, Insects Affecting Man Laboratory;

e. The United States Fish and Wildlife Service;

f. Two mosquito control directors to be nominated by the Florida Mosquito Control Association, two representatives of Florida environmental groups, and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, to be appointed to 4-year terms by the Commissioner of Agriculture; and

g. The Board of Trustees of the Internal Improvement Trust Fund.

Section 45. Subsection (1) of section 391.028, Florida Statutes, is amended to read:

391.028 Administration.—The Children’s Medical Services program shall have a central office and area offices.

(1) The Director of Children’s Medical Services must be a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children and who has recognized skills in leadership and the promotion of children’s health programs. The director shall be the deputy secretary and the Deputy State Health Officer for Children’s Medical Services and is appointed by and reports to the State Surgeon General ~~secretary~~. The director may appoint division directors subject to the approval of the State Surgeon General ~~secretary~~.

Section 46. Subsection (1) of section 391.221, Florida Statutes, is amended to read:

391.221 Statewide Children’s Medical Services Network Advisory Council.—

(1) ~~The State Surgeon General secretary of the department~~ may appoint a Statewide Children’s Medical Services Network Advisory Council for the purpose of acting as an advisory body to the department. Specifically, the duties of the council shall include, but not be limited to:

(a) Recommending standards and credentialing requirements for health care providers rendering health services to Children’s Medical Services network participants.

(b) Making recommendations to the director of Children’s Medical Services concerning the selection of health care providers for the Children’s Medical Services network.

(c) Reviewing and making recommendations concerning network health care provider or participant disputes that are brought to the attention of the advisory council.

(d) Providing input to the Children's Medical Services program on the policies governing the Children's Medical Services network.

(e) Reviewing the financial reports and financial status of the network and making recommendations concerning the methods of payment and cost controls for the network.

(f) Reviewing and recommending the scope of benefits for the network.

(g) Reviewing network performance measures and outcomes and making recommendations for improvements to the network and its maintenance and collection of data and information.

Section 47. Section 391.223, Florida Statutes, is amended to read:

391.223 Technical advisory panels.—The State Surgeon General ~~secretary of the department~~ may establish technical advisory panels to assist in developing specific policies and procedures for the Children's Medical Services program.

Section 48. Paragraph (b) of subsection (1) of section 397.333, Florida Statutes, is amended to read:

397.333 Statewide Drug Policy Advisory Council.—

(1)

(b) The following state officials shall be appointed to serve on the advisory council:

1. The Attorney General, or his or her designee.
2. The executive director of the Department of Law Enforcement, or his or her designee.
3. The Secretary of Children and Family Services, or his or her designee.
4. The State Surgeon General ~~Secretary of Health~~, or his or her designee.
5. The Secretary of Corrections, or his or her designee.
6. The Secretary of Juvenile Justice, or his or her designee.
7. The Commissioner of Education, or his or her designee.
8. The executive director of the Department of Highway Safety and Motor Vehicles, or his or her designee.
9. The Adjutant General of the state as the Chief of the Department of Military Affairs, or his or her designee.

Section 49. Paragraph (a) of subsection (3) of section 400.235, Florida Statutes, is amended to read:

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

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

Section 50. Subsection (21) of section 401.23, Florida Statutes, is repealed.

Section 51. Paragraphs (a) and (c) of subsection (2) and subsection (6) of section 401.245, Florida Statutes, are amended to read:

401.245 Emergency Medical Services Advisory Council.—

(2)(a) No more than 15 members may be appointed to this council. Members shall be appointed for 4-year terms in such a manner that each year the terms of approximately one-fourth of the members expire. The chair of the council shall be designated by the State Surgeon General secretary. Vacancies shall be filled for the remainder of unexpired terms in the same manner as the original appointment. Members shall receive no compensation but may be reimbursed for per diem and travel expenses.

(c) Appointments to the council shall be made by the State Surgeon General secretary, except that state agency representatives shall be appointed by the respective agency head.

(6) There is established a committee to advise the Department of Health on matters concerning preventative, prehospital, hospital, rehabilitative, and other posthospital medical care for children.

(a) Committee members shall be appointed by the State Surgeon General secretary, and shall include, but not be limited to, physicians and other medical professionals that have experience in emergency medicine or expertise in emergency and critical care for children.

(b) Appointments to the committee shall be for a term of 2 years. Vacancies may be filled for the unexpired term at the discretion of the State

Surgeon General secretary. The members shall serve without compensation, and shall not be reimbursed for necessary expenses incurred in the performance of their duties, unless there is funding available from the Federal Government or contributions or grants from private sources.

Section 52. Subsection (1) of section 401.421, Florida Statutes, is amended to read:

401.421 Injunctive relief; cease and desist notice; civil penalty; enforcement.—

(1) The State Surgeon General secretary may cause to be instituted a civil action in circuit court for preliminary or permanent injunctive relief to remedy or prevent a violation of this part or any rule adopted by the department under this part.

Section 53. Paragraph (a) of subsection (4) of section 402.56, Florida Statutes, is amended to read:

402.56 Children's cabinet; organization; responsibilities; annual report.—

(4) MEMBERS.—The cabinet shall consist of 15 members including the Governor and the following persons:

- (a)1. The Secretary of Children and Family Services;
2. The Secretary of Juvenile Justice;
3. The director of the Agency for Persons with Disabilities;
4. The director of the Agency for Workforce Innovation;
5. The State Surgeon General ~~Secretary of Health~~;
6. The Secretary of Health Care Administration;
7. The Commissioner of Education;
8. The director of the Statewide Guardian Ad Litem Office;
9. The director of the Office of Child Abuse Prevention; and
10. Five members representing children and youth advocacy organizations, who are not service providers and who are appointed by the Governor.

Section 54. Subsections (1), (4), and (5) of section 403.862, Florida Statutes, are amended to read:

403.862 Department of Health; public water supply duties and responsibilities; coordinated budget requests with department.—

(1) Recognizing that supervision and control of county health departments of the Department of Health is retained by the State Surgeon General ~~secretary of that agency~~, and that public health aspects of the state public

water supply program require joint participation in the program by the Department of Health and its units and the department, the Department of Health shall:

(a) Establish and maintain laboratories for the conducting of radiological, microbiological, and chemical analyses of water samples from public water systems, which are submitted to such laboratories for analysis. Copies of the reports of such analyses and quarterly summary reports shall be submitted to the appropriate department district or subdistrict office.

(b) Require each county health department to:

1. Collect such water samples for analysis as may be required by the terms of this act, from public water systems within its jurisdiction. The duty to collect such samples may be shared with the appropriate department district or subdistrict office and shall be coordinated by field personnel involved.

2. Submit the collected water samples to the appropriate laboratory for analysis.

3. Maintain reports of analyses for its own records.

4. Conduct complaint investigation of public water systems to determine compliance with federal, state, and local standards and permit compliance.

5. Notify the appropriate department district or subdistrict office of potential violations of federal, state, and local standards and permit conditions by public water systems and assist the department in enforcement actions with respect to such violations to the maximum extent practicable.

6. Review and evaluate laboratory analyses of water samples from private water systems.

(c) Require those county health departments designated by the Department of Health and approved by the department as having qualified sanitary engineering staffs and available legal resources, in addition to the duties prescribed in paragraph (b), to:

1. Review, evaluate, and approve or disapprove each application for the construction, modification, or expansion of a public water system to determine compliance with federal, state, and local requirements. A copy of the completed permit application and a report of the final action taken by the county health department shall be forwarded to the appropriate department district office.

2. Review, evaluate, and approve or disapprove applications for the expansion of distribution systems. Written notification of action taken on such applications shall be forwarded to the appropriate department district or subdistrict office.

3. Maintain inventory, operational, and bacteriological records and carry out monitoring, surveillance, and sanitary surveys of public water systems to ensure compliance with federal, state, and local regulations.

4. Participate in educational and training programs relating to drinking water and public water systems.

5. Enforce the provisions of this part and rules adopted under this part.

(d) Require those county health departments designated by the Department of Health as having the capability of performing bacteriological analyses, in addition to the duties prescribed in paragraph (b), to:

1. Perform bacteriological analyses of water samples submitted for analysis.

2. Submit copies of the reports of such analyses to the appropriate department district or subdistrict office.

(e) Make available to the central and branch laboratories funds sufficient, to the maximum extent possible, to carry out the public water supply functions and responsibilities required of such laboratories as provided in this section.

(f) Have general supervision and control over all private water systems and all public water systems not otherwise covered or included in this part. This shall include the authority to adopt and enforce rules, including definitions of terms, to protect the health, safety, or welfare of persons being served by all private water systems and all public water systems not otherwise covered by this part.

(g) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.

(h) Upon request, consult with and advise any county or municipal authority as to water supply activities.

(4) If the department determines that a county health department or other unit of the Department of Health is not performing its public water supply responsibilities satisfactorily, the secretary of the department shall certify such determination in writing to the State Surgeon General Secretary of Health. The State Surgeon General Secretary of Health shall evaluate the determination of the department and shall inform the secretary of the department of his or her evaluation. Upon concurrence, the State Surgeon General Secretary of Health shall take immediate corrective action.

(5) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the State Surgeon General Secretary of Health relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

Section 55. Paragraph (c) of subsection (1) of section 406.02, Florida Statutes, is amended to read:

406.02 Medical Examiners Commission; membership; terms; duties; staff.—

(1) There is created the Medical Examiners Commission within the Department of Law Enforcement. The commission shall consist of nine persons appointed or selected as follows:

(c) One member shall be the State Surgeon General ~~Secretary of Health~~ or her or his designated representative.

Section 56. Paragraph (d) of subsection (1) of section 408.916, Florida Statutes, is amended to read:

408.916 Steering committee.—In order to guide the implementation of the pilot project, there is created a Health Care Access Steering Committee.

(1) The steering committee shall be composed of the following members:

(d) The State Surgeon General ~~Secretary of Health~~.

Section 57. Paragraph (a) of subsection (1) of section 409.352, Florida Statutes, is amended to read:

409.352 Licensing requirements for physicians, osteopathic physicians, and chiropractic physicians employed by the department.—

(1) It is the intent of the Legislature that physicians providing services in state institutions meet the professional standards of their respective licensing boards and that such institutions make every reasonable effort to assure that all physicians employed are licensed, or will become licensed, in this state. When state-licensed physicians cannot be obtained in sufficient numbers to provide quality services, the licensing requirements in chapters 458, 459, and 460 to the contrary notwithstanding, persons employed as physicians, osteopathic physicians, or chiropractic physicians in a state institution, except those under the control of the Department of Corrections on June 28, 1977, may be exempted from licensure in accordance with the following provisions:

(a) No more than 10 percent of such persons shall be exempted from licensure during their continued employment in a state institution. Those persons who shall be so exempted shall be selected by the State Surgeon General ~~secretary of the Department of Health~~. In making the selection, the State Surgeon General ~~secretary~~ shall submit his or her recommendations to the appropriate licensing board for a determination by the board, without written examination, of whether or not the person recommended meets the professional standards required of such person in the performance of his or her duties or functions. The criteria to be used by the respective board in making its determination shall include, but not be limited to, the person's professional educational background, formal specialty training, and professional experience within the 10 years immediately preceding employment by the state institution.

Section 58. Subsection (4) of section 409.91255, Florida Statutes, is amended to read:

409.91255 Federally qualified health center access program.—

(4) EVALUATION OF APPLICATIONS.—A review panel shall be established, consisting of four persons appointed by the State Surgeon General Secretary of Health and three persons appointed by the chief executive officer of the Florida Association of Community Health Centers, Inc., to review all applications for financial assistance under the program. Applicants shall specify in the application whether the program funds will be used for the expansion of patient caseloads or services or for capital improvement projects to expand and improve patient facilities. The panel shall use the following elements in reviewing application proposals and shall determine the relative weight for scoring and evaluating these elements:

- (a) The target population to be served.
- (b) The health benefits to be provided.
- (c) The methods that will be used to measure cost-effectiveness.
- (d) How patient satisfaction will be measured.
- (e) The proposed internal quality assurance process.
- (f) Projected health status outcomes.
- (g) How data will be collected to measure cost-effectiveness, health status outcomes, and overall achievement of the goals of the proposal.
- (h) All resources, including cash, in-kind, voluntary, or other resources that will be dedicated to the proposal.

Section 59. Paragraphs (b) and (f) of subsection (2) of section 413.271, Florida Statutes, are amended to read:

413.271 Florida Coordinating Council for the Deaf and Hard of Hearing.—

(2)

(b) The coordinating council shall be composed of 17 members. The appointment of members not representing agencies shall be made by the Governor. The appointment of members representing organizations shall be made by the Governor in consultation with those organizations. The membership shall be as follows:

1. Two members representing the Florida Association of the Deaf.
2. Two members representing the Florida Association of Self Help for Hard of Hearing People.
3. A member representing the Association of Late-Deafened Adults.
4. An individual who is deaf and blind.
5. A parent of an individual who is deaf.

6. A member representing the Deaf Service Center Association.
7. A member representing the Florida Registry of Interpreters for the Deaf.
8. A member representing the Florida Alexander Graham Bell Association for the Deaf and Hard of Hearing.
9. A communication access realtime translator.
10. An audiologist licensed under part I of chapter 468.
11. A hearing aid specialist licensed under part II of chapter 484.
12. The Secretary of Children and Family Services or his or her designee.
13. The State Surgeon General ~~Secretary of Health~~ or his or her designee.
14. The Commissioner of Education or his or her designee.
15. The Secretary of Elderly Affairs or his or her designee.

If any organization from which a representative is to be drawn ceases to exist, a representative of a similar organization shall be named to the coordinating council. The Governor shall make appointments to the coordinating council no later than August 1, 2004, and may remove any member for cause. Each member shall be appointed to a term of 4 years. However, for the purpose of providing staggered terms, of the initial appointments not representing state agencies, seven members, including the audiologist and the hearing aid specialist, shall be appointed to 2-year terms and six members shall be appointed to 4-year terms. Any vacancy on the coordinating council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor. Prior to serving on the coordinating council, all appointees must attend orientation training that shall address, at a minimum, the provisions of this section; the programs operated by the coordinating council; the role and functions of the coordinating council; the current budget for the coordinating council; the results of the most recent formal audit of the coordinating council; and the requirements of the state's public records law, the code of ethics, the Administrative Procedure Act, and other laws relating to public officials, including conflict-of-interest laws.

(f) Staff of the Department of Health shall be assigned by the State Surgeon General ~~Secretary of Health~~ to assist the council in the duties assigned to it by this section.

Section 60. Subsection (2) of section 420.622, Florida Statutes, is amended to read:

420.622 State Office on Homelessness; Council on Homelessness.—

(2) The Council on Homelessness is created to consist of a 15-member council of public and private agency representatives who shall develop policy and advise the State Office on Homelessness. The council members shall be: the Secretary of Children and Family Services, or his or her designee; the Secretary of Community Affairs, or his or her designee; the State Surgeon General Secretary of Health, or his or her designee; the Executive Director of Veterans' Affairs, or his or her designee; the Secretary of Corrections, or his or her designee; the Director of Workforce Florida, Inc., or his or her designee; one representative of the Florida Association of Counties; one representative of the Florida Coalition for Supportive Housing; the Executive Director of the Florida Housing Finance Corporation, or his or her designee; one representative of the Florida Coalition for the Homeless; one representative of the Florida State Rural Development Council; and four members appointed by the Governor. The council members shall be volunteer, nonpaid persons and shall be reimbursed for travel expenses only. The appointed members of the council shall serve staggered 2-year terms, and the council shall meet at least four times per year. The importance of minority, gender, and geographic representation must be considered when appointing members to the council.

Section 61. Section 456.005, Florida Statutes, is amended to read:

456.005 Long-range policy planning; plans, reports, and recommendations.—To facilitate efficient and cost-effective regulation, the department and the board, where appropriate, shall develop and implement a long-range policy planning and monitoring process to include recommendations specific to each profession. Such process shall include estimates of revenues, expenditures, cash balances, and performance statistics for each profession. The period covered shall not be less than 5 years. The department, with input from the boards, shall develop the long-range plan and must obtain the approval of the State Surgeon General secretary. The department shall monitor compliance with the approved long-range plan and, with input from the boards, shall annually update the plans for approval by the State Surgeon General secretary. The department shall provide concise management reports to the boards quarterly. As part of the review process, the department shall evaluate:

(1) Whether the department, including the boards and the various functions performed by the department, is operating efficiently and effectively and if there is a need for a board or council to assist in cost-effective regulation.

(2) How and why the various professions are regulated.

(3) Whether there is a need to continue regulation, and to what degree.

(4) Whether or not consumer protection is adequate, and how it can be improved.

(5) Whether there is consistency between the various practice acts.

(6) Whether unlicensed activity is adequately enforced.

Such plans should include conclusions and recommendations on these and other issues as appropriate. Such plans shall be provided to the Governor and the Legislature by November 1 of each year.

Section 62. Subsections (4) and (5) of section 456.011, Florida Statutes, are amended to read:

456.011 Boards; organization; meetings; compensation and travel expenses.—

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase “other business involving the board,” but the phrase may not routinely be defined to include telephone conference calls that last less than 4 hours. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the State Surgeon General secretary.

(5) When two or more boards have differences between them, the boards may elect to, or the State Surgeon General secretary may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the State Surgeon General secretary may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

Section 63. Subsections (1) and (2) of section 456.012, Florida Statutes, are amended to read:

456.012 Board rules; final agency action; challenges.—

(1) The State Surgeon General secretary ~~of the department~~ shall have standing to challenge any rule or proposed rule of a board under its jurisdiction pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the State Surgeon General secretary, may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the State Surgeon General secretary or the board shall be a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

Section 64. Paragraph (z) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General secretary or the State Surgeon General's secretary's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

Section 65. Subsections (1), (4), and (8) of section 456.073, Florida Statutes, are amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the Department of Health determines after a preliminary inquiry of a

state prisoner's complaint that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the Department of Health may determine legal sufficiency and proceed with discipline. The Department of Health shall be notified within 15 days after the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Notwithstanding subsection (13), the department may investigate information filed pursuant to s. 456.041(4) relating to liability actions with respect to practitioners licensed under chapter 458 or chapter 459 which have been reported under s. 456.049 or s. 627.912 within the previous 6 years for any paid claim that exceeds \$50,000. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the State Surgeon General ~~secretary~~, or the State Surgeon General's ~~secretary's~~ designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by

rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The State Surgeon General ~~secretary~~ may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, in consultation with the applicable probable cause panel, must establish a plan to expedite or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable

cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the State Surgeon General ~~secretary of the Department of Health~~ or his or her designee, as appropriate, who shall issue the final summary order.

Section 66. Subsection (2) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the State Surgeon General ~~Secretary of Health~~ shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the State Surgeon General ~~secretary of the department~~ to issue an emergency order.

Section 67. Paragraph (b) of subsection (5) of section 456.076, Florida Statutes, is amended to read:

456.076 Treatment programs for impaired practitioners.—

(5)

(b) If in the opinion of the consultant, after consultation with the treatment provider, an impaired licensee has not progressed satisfactorily in a treatment program, all information regarding the issue of a licensee's impairment and participation in a treatment program in the consultant's possession shall be disclosed to the department. Such disclosure shall constitute a complaint pursuant to the general provisions of s. 456.073. Whenever the consultant concludes that impairment affects a licensee's practice and constitutes an immediate, serious danger to the public health, safety, or welfare, that conclusion shall be communicated to the State Surgeon General ~~secretary of the department~~.

Section 68. Paragraph (o) of subsection (1) of section 457.109, Florida Statutes, is amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

Section 69. Subsection (4) of section 458.311, Florida Statutes, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(4) The department and the board shall assure that applicants for licensure meet the criteria in subsection (1) through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

Section 70. Subsection (3) of section 458.313, Florida Statutes, is amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(3) The department and the board shall ensure that applicants for licensure by endorsement meet applicable criteria in this chapter through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

Section 71. Paragraph (b) of subsection (2) of section 458.316, Florida Statutes, is amended to read:

458.316 Public health certificate.—

(2) Such certificate shall be issued pursuant to the following conditions:

(b) The certificate is subject to biennial renewal and shall be renewable only if the State Surgeon General ~~secretary of the Department of Health~~ recommends in writing that the certificate be renewed.

Section 72. Paragraph (b) of subsection (1) of section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed \$300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(g) and (5). A recipient of a public psychiatry certificate may use the certificate to work at any public mental health facility or program funded in part or entirely by state funds.

(1) Such certificate shall:

(b) Be issued and renewable biennially if the State Surgeon General ~~secretary of the Department of Health~~ and the chair of the department of psychiatry at one of the public medical schools or the chair of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

Section 73. Paragraph (s) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings

shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

Section 74. Subsection (2) of section 458.346, Florida Statutes, is amended to read:

458.346 Public Sector Physician Advisory Committee.—

(2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.—There is hereby created a Public Sector Physician Advisory Committee which shall be comprised of three physicians. One physician shall be appointed by the chair of the Board of Medicine. The two remaining physicians shall be appointed by the State Surgeon General ~~secretary of the department~~ from recommendations of the appropriate organization, if any, representing such physicians for the purpose of collective bargaining. The chair of the committee shall be one of the two public sector physicians who shall be elected by majority vote of the committee members. Members of the committee shall serve 3-year terms and shall meet at least once each year or upon the call of the committee chair. The initial term for one public sector physician shall be for 2 years, and the other for 3 years. Members of the committee are subject to reappointment. Committee members shall receive reimbursement for per diem and travel expenses.

Section 75. Paragraph (f) of subsection (4) and paragraph (a) of subsection (9) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(f)1. The council shall establish a formulary of medicinal drugs that a fully licensed physician assistant, licensed under this section or s. 459.022, may not prescribe. The formulary must include controlled substances as defined in chapter 893, antipsychotics, general anesthetics and radiographic contrast materials, and all parenteral preparations except insulin and epinephrine.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General ~~Secretary of Health~~.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule

shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant, licensed under this section or s. 459.022, and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed \$200 to fund the provisions of this paragraph and paragraph (e).

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician and a member of the Board of Osteopathic Medicine.

3. The State Surgeon General ~~secretary of the department~~ or his or her designee shall appoint a fully licensed physician assistant licensed under this chapter or chapter 459.

Section 76. Subsection (6) of section 459.0055, Florida Statutes, is amended to read:

459.0055 General licensure requirements.—

(6) When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

Section 77. Paragraph (w) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to

submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificate-holder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

Section 78. Paragraph (a) of subsection (9) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician and a member of the Board of Osteopathic Medicine.

3. The State Surgeon General ~~secretary of the department~~ or her or his designee shall appoint a fully licensed physician assistant licensed under chapter 458 or this chapter.

Section 79. Paragraph (q) of subsection (1) of section 460.413, Florida Statutes, is amended to read:

460.413 Grounds for disciplinary action; action by board or department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(q) Being unable to practice chiropractic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the State Surgeon General ~~secretary of the department~~, or his or her designee, or the probable cause panel of the board that probable cause exists to believe that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's

order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. The record of proceedings to obtain a compelled mental or physical examination shall not be used against a licensee in any other proceedings. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of chiropractic medicine with reasonable skill and safety to patients.

Section 80. Subsection (4) of section 461.004, Florida Statutes, is amended to read:

461.004 Board of Podiatric Medicine; membership; appointment; terms.—

(4) All provisions of chapter 456 relating to the board shall apply. However, notwithstanding the requirement of s. 456.073(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed podiatric physician in good standing. The past board member must be appointed to the panel by the chair of the board with the approval of the State Surgeon General secretary for a maximum of 2 years.

Section 81. Paragraphs (a) and (c) of subsection (2) of section 463.0055, Florida Statutes, are amended to read:

463.0055 Administration and prescription of topical ocular pharmaceutical agents; committee.—

(2)(a) There is hereby created a committee composed of two optometrists licensed pursuant to this chapter, appointed by the Board of Optometry, two board-certified ophthalmologists licensed pursuant to chapter 458 or chapter 459, appointed by the Board of Medicine, and one additional person with a doctorate degree in pharmacology who is not licensed pursuant to chapter 458, chapter 459, or this chapter, appointed by the State Surgeon General secretary. The committee shall review requests for additions to, deletions from, or modifications of a formulary of topical ocular pharmaceutical agents for administration and prescription by certified optometrists and shall provide to the board advisory opinions and recommendations on such requests. The formulary shall consist of those topical ocular pharmaceutical agents which the certified optometrist is qualified to use in the practice of optometry. The board shall establish, add to, delete from, or modify the formulary by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall become effective 60 days from the date it is filed with the Secretary of State.

(c) ~~The State Surgeon General secretary of the department~~ shall have standing to challenge any rule or proposed rule of the board pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the

State Surgeon General secretary, may declare all or part of a rule or proposed rule invalid if it:

1. Does not protect the public from any significant and discernible harm or damages;
2. Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or
3. Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

Section 82. Paragraph (d) of subsection (3) of section 464.003, Florida Statutes, is amended to read:

464.003 Definitions.—As used in this part, the term:

(3)

(d) “Advanced or specialized nursing practice” means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General secretary of the department or the State Surgeon General’s secretary’s designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

Section 83. Paragraph (j) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General ~~secretary~~ or the State Surgeon General's ~~secretary's~~ designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

Section 84. Paragraph (c) of subsection (1) of section 464.2085, Florida Statutes, is amended to read:

464.2085 Council on Certified Nursing Assistants.—The Council on Certified Nursing Assistants is created within the department, under the Board of Nursing.

(1) The council shall consist of five members appointed as follows:

(c) The State Surgeon General ~~secretary of the department~~ or his or her designee shall appoint two certified nursing assistants currently certified under this chapter, at least one of whom is currently working in a licensed nursing home.

Section 85. Paragraph (c) of subsection (2) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a), (b), and (c). The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include nonboard members. All council members shall be appointed by the board chair. Council members shall be appointed for 4-year terms, and all members shall be eligible for reimbursement of expenses in the manner of board members.

(c) With the concurrence of the State Surgeon General secretary, the board chair may create and abolish other advisory councils relating to dental subjects, including, but not limited to: examinations, access to dental care, indigent care, nursing home and institutional care, public health, disciplinary guidelines, and other subjects as appropriate. Such councils shall be appointed by the board chair and shall include at least one board member who shall serve as chair.

Section 86. Paragraph (s) of subsection (1) of section 466.028, Florida Statutes, is amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General secretary or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

Section 87. Subsection (14) of section 467.003, Florida Statutes, is repealed.

Section 88. Subsection (1) of section 467.004, Florida Statutes, is amended to read:

467.004 Council of Licensed Midwifery.—

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

Section 89. Paragraph (aa) of subsection (1) of section 468.1295, Florida Statutes, is amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(aa) Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

Section 90. Paragraph (1) of subsection (1) of section 468.1755, Florida Statutes, is amended to read:

468.1755 Disciplinary proceedings.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(l) Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the State Surgeon General secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he or she can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

Section 91. Subsection (18) of section 468.301, Florida Statutes, is repealed.

Section 92. Subsections (1) and (3) of section 468.314, Florida Statutes, are amended to read:

468.314 Advisory Council on Radiation Protection; appointment; terms; powers; duties.—

(1) The Advisory Council on Radiation Protection is created within the Department of Health and shall consist of 16 persons to be appointed by the State Surgeon General secretary for 3-year terms.

(3) The council shall meet at least twice a year, but no more than four times per year unless authorized by the State Surgeon General secretary.

Section 93. Paragraph (c) of subsection (4) of section 468.354, Florida Statutes, is amended to read:

468.354 Board of Respiratory Care; organization; function.—

(4)

(c) Unless otherwise provided by law, a board member shall be compensated \$50 for each day he or she attends an official board meeting and for each day he or she participates in any other board business. A board member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the State Surgeon General secretary of the department.

Section 94. Section 468.506, Florida Statutes, is amended to read:

468.506 Dietetics and Nutrition Practice Council.—There is created the Dietetics and Nutrition Practice Council under the supervision of the board. The council shall consist of four persons licensed under this part and one consumer who is 60 years of age or older. Council members shall be appointed by the board. Licensed members shall be appointed based on the proportion of licensees within each of the respective disciplines. Members shall be appointed for 4-year staggered terms. In order to be eligible for appointment, each licensed member must have been a licensee under this part for at least 3 years prior to his or her appointment. No council member shall serve more than two successive terms. The board may delegate such powers and duties to the council as it may deem proper to carry out the operations and procedures necessary to effectuate the provisions of this part. However, the powers and duties delegated to the council by the board must encompass both dietetics and nutrition practice and nutrition counseling. Any time there is a vacancy on the council, any professional association composed of persons licensed under this part may recommend licensees to fill the vacancy to the board in a number at least twice the number of vacancies to be filled, and the board may appoint from the submitted list, in its discretion, any of those persons so recommended. Any professional association composed of persons licensed under this part may file an appeal regarding a council appointment with the State Surgeon General secretary

of the department, whose decision shall be final. The board shall fix council members' compensation and pay their expenses in the same manner as provided in s. 456.011.

Section 95. Paragraph (c) of subsection (4) of section 478.44, Florida Statutes, is amended to read:

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

(4)

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

Section 96. Subsection (5) of section 480.042, Florida Statutes, is amended to read:

480.042 Examinations.—

(5) All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the State Surgeon General secretary of the department and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

Section 97. Paragraph (1) of subsection (1) of section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(1) Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable inter-

vals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

Section 98. Paragraphs (a), (b), (c), (d), (e), and (g) of subsection (4) of section 483.901, Florida Statutes, are amended to read:

483.901 Medical physicists; definitions; licensure.—

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Department of Health to advise the department in regulating the practice of medical physics in this state.

(a) The council shall be composed of nine members appointed by the State Surgeon General ~~secretary of the department~~ as follows:

1. A licensed medical physicist who specializes in diagnostic radiological physics.

2. A licensed medical physicist who specializes in therapeutic radiological physics.

3. A licensed medical physicist who specializes in medical nuclear radiological physics.

4. A physician who is board certified by the American Board of Radiology or its equivalent.

5. A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.

6. A chiropractic physician who practices radiology.

7. Three consumer members who are not, and have never been, licensed as a medical physicist or licensed in any closely related profession.

(b) The State Surgeon General ~~secretary of the department~~ shall appoint the medical physicist members of the council from a list of candidates who are licensed to practice medical physics.

(c) The State Surgeon General ~~secretary of the department~~ shall appoint the physician members of the council from a list of candidates who are licensed to practice medicine in this state and are board certified in diagnostic radiology, therapeutic radiology, or radiation oncology.

(d) The State Surgeon General ~~secretary of the department~~ shall appoint the public members of the council.

(e) As the term of each member expires, the State Surgeon General ~~secretary of the department~~ shall appoint the successor for a term of 4 years. A member shall serve until the member's successor is appointed, unless physically unable to do so.

(g) If a vacancy on the council occurs, the State Surgeon General ~~secretary~~ shall appoint a member to serve for a 4-year term.

Section 99. Subsection (4) of section 484.042, Florida Statutes, is amended to read:

484.042 Board of Hearing Aid Specialists; membership, appointment, terms.—

(4) All provisions of chapter 456 relating to activities of regulatory boards apply to the board. However, notwithstanding the requirement of s. 456.073(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed hearing aid specialist in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the chair of the board with the approval of the State Surgeon General secretary.

Section 100. Paragraph (a) of subsection (1) of section 486.125, Florida Statutes, is amended to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the State Surgeon General secretary or the State Surgeon General's secretary's designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

Section 101. Subsection (3) of section 487.041, Florida Statutes, is amended to read:

487.041 Registration.—

(3) The department shall adopt rules governing the procedures for the registration of a brand of pesticide and for the review of data submitted by an applicant for registration of the brand of pesticide. The department shall determine whether the brand of pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine whether each request for registration of a brand of pesticide meets the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this part, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department may review and evaluate a registered pesticide if new information is made available that indicates that use of the pesticide has caused an unreasonable adverse effect on public health or the environment. Such review shall be conducted upon the request of the State Surgeon General ~~Secretary of Health~~ in the event of an unreasonable adverse effect on public health or the Secretary of Environmental Protection in the event of an unreasonable adverse effect on the environment. Such review may result in modifications, revocation, cancellation, or suspension of the registration of a brand of pesticide. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of the brand of any pesticide after notice to the applicant or registrant giving the reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. The registration of a brand of pesticide may not be construed as a defense for the commission of any offense prohibited under this part.

Section 102. Paragraph (p) of subsection (1) of section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General ~~secretary~~, the State Surgeon General's ~~secretary's~~ designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession

because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

Section 103. Paragraph (p) of subsection (1) of section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General secretary, the State Surgeon General's secretary's designee, or the board that probable cause exists to believe that the licensee, registered intern, or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee, registered intern, or certificateholder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee, registered intern, or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed, registered, or certified with reasonable skill and safety to patients.

Section 104. Paragraph (a) of subsection (1) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; applications; general requirements.—

(1) As used in this section, the term:

(a) “Wholesale distribution” means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

1. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.014:

a. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended and revised, to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

c. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control. For purposes of this section, “common control” means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise.

d. The sale, purchase, trade, or other transfer of a prescription drug from or for any federal, state, or local government agency or any entity eligible to purchase prescription drugs at public health services prices pursuant to Pub. L. No. 102-585, s. 602 to a contract provider or its subcontractor for eligible patients of the agency or entity under the following conditions:

(I) The agency or entity must obtain written authorization for the sale, purchase, trade, or other transfer of a prescription drug under this subparagraph from the State Surgeon General ~~Secretary of Health~~ or his or her designee.

(II) The contract provider or subcontractor must be authorized by law to administer or dispense prescription drugs.

(III) In the case of a subcontractor, the agency or entity must be a party to and execute the subcontract.

(IV) A contract provider or subcontractor must maintain separate and apart from other prescription drug inventory any prescription drugs of the agency or entity in its possession.

(V) The contract provider and subcontractor must maintain and produce immediately for inspection all records of movement or transfer of all the prescription drugs belonging to the agency or entity, including, but not limited to, the records of receipt and disposition of prescription drugs. Each contractor and subcontractor dispensing or administering these drugs must maintain and produce records documenting the dispensing or administration. Records that are required to be maintained include, but are not limited

to, a perpetual inventory itemizing drugs received and drugs dispensed by prescription number or administered by patient identifier, which must be submitted to the agency or entity quarterly.

(VI) The contract provider or subcontractor may administer or dispense the prescription drugs only to the eligible patients of the agency or entity or must return the prescription drugs for or to the agency or entity. The contract provider or subcontractor must require proof from each person seeking to fill a prescription or obtain treatment that the person is an eligible patient of the agency or entity and must, at a minimum, maintain a copy of this proof as part of the records of the contractor or subcontractor required under sub-sub-subparagraph (V).

(VII) In addition to the departmental inspection authority set forth in s. 499.051, the establishment of the contract provider and subcontractor and all records pertaining to prescription drugs subject to this sub-subparagraph shall be subject to inspection by the agency or entity. All records relating to prescription drugs of a manufacturer under this sub-subparagraph shall be subject to audit by the manufacturer of those drugs, without identifying individual patient information.

2. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

a. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons. For purposes of this sub-subparagraph, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

c. The transfer of a prescription drug acquired by a medical director on behalf of a licensed emergency medical services provider to that emergency medical services provider and its transport vehicles for use in accordance with the provider's license under chapter 401.

d. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

e. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

f. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

g. The transfer of a prescription drug by a hospital or other health care entity to a person licensed under this chapter to repackage prescription drugs for the purpose of repackaging the prescription drug for use by that hospital, or other health care entity and other health care entities that are under common control, if ownership of the prescription drugs remains with the hospital or other health care entity at all times. In addition to the recordkeeping requirements of s. 499.0121(6), the hospital or health care entity that transfers prescription drugs pursuant to this sub-subparagraph must reconcile all drugs transferred and returned and resolve any discrepancies in a timely manner.

3. The distribution of prescription drug samples by manufacturers' representatives or distributors' representatives conducted in accordance with s. 499.028.

4. The sale, purchase, or trade of blood and blood components intended for transfusion. As used in this subparagraph, the term "blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing, and the term "blood components" means that part of the blood separated by physical or mechanical means.

5. The lawful dispensing of a prescription drug in accordance with chapter 465.

6. The sale, purchase, or trade of a prescription drug between pharmacies as a result of a sale, transfer, merger, or consolidation of all or part of the business of the pharmacies from or with another pharmacy, whether accomplished as a purchase and sale of stock or of business assets.

Section 105. Subsection (2) of section 499.01211, Florida Statutes, is amended to read:

499.01211 Drug Wholesaler Advisory Council.—

(2) ~~The State Surgeon General secretary of the department~~, or his or her designee, and the Secretary of Health Care Administration, or her or his designee, shall be members of the council. ~~The State Surgeon General Secretary of Health~~ shall appoint nine additional members to the council who shall be appointed to a term of 4 years each, as follows:

(a) Three different persons each of whom is employed by a different prescription drug wholesaler licensed under this chapter which operates nationally and is a primary wholesaler, as defined in s. 499.012(1)(d).

(b) One person employed by a prescription drug wholesaler licensed under this chapter which is a secondary wholesaler, as defined in s. 499.012(1)(f).

(c) One person employed by a retail pharmacy chain located in this state.

(d) One person who is a member of the Board of Pharmacy and is a pharmacist licensed under chapter 465.

- (e) One person who is a physician licensed pursuant to chapter 458 or chapter 459.
- (f) One person who is an employee of a hospital licensed pursuant to chapter 395 and is a pharmacist licensed pursuant to chapter 465.

(g) One person who is an employee of a pharmaceutical manufacturer.

Section 106. Section 499.024, Florida Statutes, is amended to read:

499.024 Drug product classification.—The State Surgeon General ~~secretary~~ shall adopt rules to classify drug products intended for use by humans which the United States Food and Drug Administration has not classified in the federal act or the Code of Federal Regulations.

(1) Drug products must be classified as proprietary, prescription, or investigational drugs.

(2) If a product is distributed without required labeling, it is misbranded while held for sale.

(3) Any product that falls under the drug definition, s. 499.003(17), may be classified under the authority of this section. This section does not subject portable emergency oxygen inhalators to classification; however, this section does not exempt any person from ss. 499.01 and 499.015.

(4) Any product classified under the authority of this section reverts to the federal classification, if different, upon the federal regulation or act becoming effective.

(5) The department may by rule reclassify drugs subject to ss. 499.001-499.081 when such classification action is necessary to protect the public health.

(6) The department may adopt rules that exempt from any labeling or packaging requirements of ss. 499.001-499.081 drugs classified under this section if those requirements are not necessary to protect the public health.

Section 107. Subsection (2) of section 499.065, Florida Statutes, is amended to read:

499.065 Imminent danger.—

(2) To protect the public from prescription drugs that are adulterated or otherwise unfit for human or animal consumption, the department may examine, sample, seize, and stop the sale or use of prescription drugs to determine the condition of those drugs. The department may immediately seize and remove any prescription drugs if the State Surgeon General ~~Secretary of Health~~ or his or her designee determines that the prescription drugs represent a threat to the public health. The owner of any property seized under this section may, within 10 days after the seizure, apply to a court of competent jurisdiction for whatever relief is appropriate. At any time after 10 days, the department may destroy the drugs as contraband.

For purposes of this section, a refusal to allow entry to the department for inspection at reasonable times, or a failure or refusal to provide the department with required documentation for purposes of inspection, constitutes an imminent danger to the public health.

Section 108. Subsection (1) of section 500.033, Florida Statutes, is amended to read:

500.033 Florida Food Safety and Food Defense Advisory Council.—

(1) There is created the Florida Food Safety and Food Defense Advisory Council for the purpose of serving as a forum for presenting, investigating, and evaluating issues of current importance to the assurance of a safe and secure food supply to the citizens of Florida. The Florida Food Safety and Food Defense Advisory Council shall consist of, but not be limited to: the Commissioner of Agriculture or his or her designee; the State Surgeon General ~~Secretary of Health~~ or his or her designee; the Secretary of Business and Professional Regulation or his or her designee; the person responsible for domestic security with the Department of Law Enforcement; members representing the production, processing, distribution, and sale of foods; consumers or members of citizens groups; representatives of food industry groups; scientists or other experts in aspects of food safety from state universities; representatives from local, state, and federal agencies that are charged with responsibilities for food safety or food defense; the chairs of the Agriculture Committees of the Senate and the House of Representatives or their designees; and the chairs of the committees of the Senate and the House of Representatives with jurisdictional oversight of home defense issues or their designees. The Commissioner of Agriculture shall appoint the remaining members. The council shall make periodic reports to the Department of Agriculture and Consumer Services concerning findings and recommendations in the area of food safety and food defense.

Section 109. Section 514.0231, Florida Statutes, is amended to read:

514.0231 Advisory committee to oversee sampling of beach waters.—The Department of Health shall form an interagency technical advisory committee to oversee the performance of the study required in s. 514.023 and to advise it in rulemaking pertaining to standards for public bathing places along the coastal and intracoastal beaches and shores of the state. Membership on the committee shall consist of equal numbers of staff of the Department of Health and the Department of Environmental Protection with expertise in the subject matter of the study. Members shall be appointed by the State Surgeon General and the Secretary of Environmental Protection ~~respective secretaries of these departments~~. The committee shall be chaired by a representative from the Department of Health.

Section 110. Section 768.1326, Florida Statutes, is amended to read:

768.1326 Placement of automated external defibrillators in state buildings; rulemaking authority.—No later than January 1, 2003, the State Surgeon General ~~Secretary of the Department of Health~~ shall adopt rules to establish guidelines on the appropriate placement of automated external defibrillator devices in buildings or portions of buildings owned or leased by

the state, and shall establish, by rule, recommendations on procedures for the deployment of automated external defibrillator devices in such buildings in accordance with the guidelines. The Secretary of Management Services shall assist the State Surgeon General ~~Secretary of the Department of Health~~ in the development of the guidelines. The guidelines for the placement of the automated external defibrillators shall take into account the typical number of employees and visitors in the buildings, the extent of the need for security measures regarding the buildings, special circumstances in buildings or portions of buildings such as high electrical voltages or extreme heat or cold, and such other factors as the State Surgeon General and Secretary of Management Services ~~Secretaries~~ determine to be appropriate. The State Surgeon General's ~~Secretary of the Department of Health's~~ recommendations for deployment of automated external defibrillators in buildings or portions of buildings owned or leased by the state shall include:

- (1) A reference list of appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation;
- (2) The extent to which such devices may be used by laypersons;
- (3) Manufacturer recommended maintenance and testing of the devices; and
- (4) Coordination with local emergency medical services systems regarding the incidents of use of the devices.

In formulating these guidelines and recommendations, the State Surgeon General ~~Secretary~~ may consult with all appropriate public and private entities, including national and local public health organizations that seek to improve the survival rates of individuals who experience cardiac arrest.

Section 111. Paragraph (a) of subsection (1) and paragraph (a) of subsection (4) of section 943.0313, Florida Statutes, are amended to read:

943.0313 Domestic Security Oversight Council.—The Legislature finds that there exists a need to provide executive direction and leadership with respect to terrorism prevention, preparation, protection, response, and recovery efforts by state and local agencies in this state. In recognition of this need, the Domestic Security Oversight Council is hereby created. The council shall serve as an advisory council pursuant to s. 20.03(7) to provide guidance to the state's regional domestic security task forces and other domestic security working groups and to make recommendations to the Governor and the Legislature regarding the expenditure of funds and allocation of resources related to counter-terrorism and domestic security efforts.

(1) MEMBERSHIP.—

(a) The Domestic Security Oversight Council shall consist of the following voting members:

1. The executive director of the Department of Law Enforcement.
2. The director of the Division of Emergency Management within the Department of Community Affairs.

3. The Attorney General.
4. The Commissioner of Agriculture.
5. The State Surgeon General ~~Secretary of Health~~.
6. The Commissioner of Education.
7. The State Fire Marshal.
8. The adjutant general of the Florida National Guard.
9. The state chief information officer.
10. Each sheriff or chief of police who serves as a co-chair of a regional domestic security task force pursuant to s. 943.0312(1)(b).
11. Each of the department's special agents in charge who serve as a co-chair of a regional domestic security task force.
12. Two representatives of the Florida Fire Chiefs Association.
13. One representative of the Florida Police Chiefs Association.
14. One representative of the Florida Prosecuting Attorneys Association.
15. The chair of the Statewide Domestic Security Intelligence Committee.
16. One representative of the Florida Hospital Association.
17. One representative of the Emergency Medical Services Advisory Council.
18. One representative of the Florida Emergency Preparedness Association.
19. One representative of the Florida Seaport Transportation and Economic Development Council.

(4) EXECUTIVE COMMITTEE.—

(a) The council shall establish an executive committee consisting of the following members:

1. The executive director of the Department of Law Enforcement.
2. The director of the Division of Emergency Management within the Department of Community Affairs.
3. The Attorney General.
4. The Commissioner of Agriculture.
5. The State Surgeon General ~~Secretary of Health~~.

6. The Commissioner of Education.
7. The State Fire Marshal.

Section 112. Paragraph (f) of subsection (3) of section 1004.435, Florida Statutes, is repealed, and paragraph (b) of subsection (3), paragraphs (d), (h), (j), (l), (n), and (o) of subsection (4), subsection (5), and paragraph (b) of subsection (6) of that section are amended to read:

1004.435 Cancer control and research.—

(3) DEFINITIONS.—The following words and phrases when used in this section have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

(b) “Council” means the Florida Cancer Control and Research Advisory Council, which is an advisory body appointed to function on a continuing basis for the study of cancer and which recommends solutions and policy alternatives to the Board of Governors and the State Surgeon General secretary and which is established by this section.

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(d) The council shall meet no less than semiannually at the call of the chairperson or, in his or her absence or incapacity, at the call of the State Surgeon General secretary. Sixteen members constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present is sufficient for all actions of the council.

(h) The council shall advise the Board of Governors, the State Surgeon General secretary, and the Legislature with respect to cancer control and research in this state.

(j) The council shall formulate and recommend to the State Surgeon General secretary a plan for the care and treatment of persons suffering from cancer and recommend the establishment of standard requirements for the organization, equipment, and conduct of cancer units or departments in hospitals and clinics in this state. The council may recommend to the State Surgeon General secretary the designation of cancer units following a survey of the needs and facilities for treatment of cancer in the various localities throughout the state. The State Surgeon General secretary shall consider the plan in developing departmental priorities and funding priorities and standards under chapter 395.

(l) In order to implement in whole or in part the Florida Cancer Plan, the council shall recommend to the Board of Governors or the State Surgeon General secretary the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research.

(n) The council shall have the responsibility to advise the Board of Governors and the State Surgeon General secretary on methods of enforcing and

implementing laws already enacted and concerned with cancer control, research, and education.

(o) The council may recommend to the Board of Governors or the State Surgeon General ~~secretary~~ rules not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this section.

(5) RESPONSIBILITIES OF THE BOARD OF GOVERNORS, THE H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., AND THE STATE SURGEON GENERAL ~~SECRETARY~~.—

(a) The Board of Governors or the State Surgeon General ~~secretary~~, after consultation with the council, shall award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish, or conduct programs in cancer control and prevention, cancer education and training, and cancer research.

(b) The H. Lee Moffitt Cancer Center and Research Institute, Inc., shall provide such staff, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council.

(c) The Board of Governors or the State Surgeon General ~~secretary~~, after consultation with the council, may adopt rules necessary for the implementation of this section.

(d) The State Surgeon General ~~secretary~~, after consultation with the council, shall make rules specifying to what extent and on what terms and conditions cancer patients of the state may receive financial aid for the diagnosis and treatment of cancer in any hospital or clinic selected. The department may furnish to citizens of this state who are afflicted with cancer financial aid to the extent of the appropriation provided for that purpose in a manner which in its opinion will afford the greatest benefit to those afflicted and may make arrangements with hospitals, laboratories, or clinics to afford proper care and treatment for cancer patients in this state.

(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.—

(b) The fund shall be used exclusively for grants and contracts to qualified nonprofit associations or governmental agencies for the purpose of cancer control and prevention, cancer education and training, cancer research, and all expenses incurred in connection with the administration of this section and the programs funded through the grants and contracts authorized by the State Board of Education or the State Surgeon General ~~secretary~~.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 3, ch. 2007-40, Laws of Florida, to conform the statutes to the redesignation of the Secretary of Health as the State Surgeon General by s. 1, ch. 2007-40.

Section 113. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor April 7, 2008.

Filed in Office Secretary of State April 7, 2008.