

CHAPTER 2012-184

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1263

An act relating to the Department of Health; amending s. 20.43, F.S.; revising the purpose of the department; revising duties of the State Surgeon General; eliminating the Officer of Women's Health Strategy; revising divisions within the department; amending s. 20.435, F.S.; eliminating the Florida Drug, Device, and Cosmetic Trust Fund as a trust fund under the department; amending s. 154.05, F.S.; providing that two or more counties may combine for the operation of a county health department under certain circumstances; providing criteria for such an agreement; specifying that an interlocal agreement may only be terminated at the end of a contract year; requiring the parties to give written notice to the department no less than 90 days before the termination; amending s. 215.5602, F.S.; conforming references; amending s. 381.001, F.S.; revising legislative intent; requiring the Department of Health to be responsible for the state public health system; requiring the department to provide leadership for a partnership involving federal, state, and local government and the private sector to accomplish public health goals; amending s. 381.0011, F.S.; revising duties and powers of the department; repealing s. 381.0013, F.S., relating to the department's authority to exercise the power of eminent domain; repealing s. 381.0014, F.S., relating to department rules that superseded regulations and ordinances enacted by other state departments, boards or commissions, or municipalities; repealing s. 381.0015, F.S., relating to judicial presumptions regarding the department's authority to enforce public health rules; amending s. 381.0016, F.S.; allowing a county to enact health regulations and ordinances consistent with state law; repealing s. 381.0017, F.S., relating to the purchase, lease, and sale of real property by the department; repealing s. 381.0025, F.S., relating to penalties; amending s. 381.003, F.S.; revising provisions relating to the department's responsibility for communicable disease prevention and control programs; amending s. 381.0031, F.S.; permitting the department to conduct studies concerning epidemiology of diseases of public health significance; specifying that the list of diseases of public health significance is based on the recommendations to be nationally notifiable by the Council of State and Territorial Epidemiologists and the Centers for Disease Control and Prevention; authorizing the department to expand the list if a disease emerges for which regular, frequent and timely information regarding individual cases is considered necessary for the prevention and control of a disease specific to Florida; amending s. 381.00315, F.S.; authorizing the department to declare, enforce, modify, and abolish quarantines of persons, animals, and premises for controlling communicable diseases or providing protection from unsafe conditions that pose a threat to public health; requiring the department to establish rules for conditions and procedures for imposing and releasing a quarantine; requiring specific provisions to be included in

rules; providing that the rules established under this section supersede all rules enacted by other state agencies, boards, or political subdivisions; providing that a violation of the rules established under the section, a quarantine, or requirement adopted pursuant to a declared public health emergency is a second-degree misdemeanor; providing penalties; repealing s. 381.0032, F.S., relating to epidemiological research; repealing s. 381.00325, F.S., relating to the Hepatitis A awareness program; amending s. 381.0034, F.S.; deleting an obsolete qualifying date reference; repealing s. 381.0037, F.S., relating to legislative findings and intent with respect to AIDS; amending s. 381.004, F.S.; deleting legislative intent; conforming cross-references; amending 381.0046, F.S.; requiring the department to establish dedicated HIV and AIDS regional and statewide minority coordinators; deleting the requirement that the statewide director report to the chief of the Bureau of HIV and AIDS within the department; amending s. 381.0051, F.S.; deleting legislative intent for the Comprehensive Family Planning Act; amending s. 381.0052, F.S., relating to the "Public Health Dental Program Act"; repealing unused department rulemaking authority; amending s. 381.0053, F.S., relating to the comprehensive nutrition program; repealing unused department rulemaking authority; repealing s. 381.0054, F.S., relating to healthy lifestyles promotion by the department; amending s. 381.0056, F.S., relating to the "School Health Services Act"; deleting legislative findings; deleting the requirement that school health programs funded by health care districts or entities be supplementary to and consistent with the act and other applicable statutes; amending s. 381.0057, F.S., relating to funding for school health services; deleting legislative intent; amending s. 381.00591, F.S.; permitting the department to apply for and become a National Environmental Laboratory Accreditation Program accreditation body; eliminating rulemaking authority of the department to implement standards of the National Environmental Laboratory Accreditation Program; amending s. 381.00593, F.S.; removing unused rulemaking authority relating to the public school volunteer health care practitioner program; amending s. 381.0062, F.S., relating to the "Comprehensive Family Planning Act"; deleting legislative intent; conforming a cross-reference; amending s. 381.0065, F.S., relating to regulation of onsite sewage treatment and disposal systems; deleting legislative intent; defining the term "bedroom"; conforming cross-references; conforming provisions to changes made by the act; providing for any permit issued and approved by the Department of Health for the installation, modification, or repair of an onsite sewage treatment and disposal system to transfer with the title of the property; providing conditions under which governmental entities are prohibited from requiring certain inspections and systems; providing applicability; providing an exception; providing circumstances in which an onsite sewage treatment and disposal system is not considered abandoned; providing for the validity of an onsite sewage treatment and disposal system permit if rules change before final approval of the constructed system, under certain conditions; providing that a system modification, replacement, or upgrade is not required unless a bedroom is added to a single-family home; deleting provisions requiring the

department to administer an evaluation and assessment program of onsite sewage treatment and disposal systems and requiring property owners to have such systems evaluated at least once every 5 years; deleting obsolete provisions; creating s. 381.00651, F.S.; requiring a county or municipality containing a first magnitude spring to adopt by ordinance, under certain circumstances, the program for the periodic evaluation and assessment of onsite sewage treatment and disposal systems; requiring the county or municipality to notify the Secretary of State of the ordinance; authorizing a county or municipality, in specified circumstances, to opt out by a vote of 60 percent of the governing board; authorizing a county or municipality to adopt or repeal, after a specified date, an ordinance creating an evaluation and assessment program, subject to notification of the Secretary of State; providing criteria for evaluations, qualified contractors, and repair of systems; providing for certain procedures and exemptions in special circumstances; defining the term “system failure”; requiring that certain procedures be used for conducting tank and drainfield evaluations; providing for certain procedures in special circumstances; providing for contractor immunity from liability under certain conditions; providing for assessment procedures; providing requirements for county health departments; requiring the Department of Health to allow county health departments and qualified contractors to access the state database to track data and evaluation reports; requiring counties and municipalities to notify the Secretary of Environmental Protection and the Department of Health when an evaluation program ordinance is adopted; requiring the Department of Environmental Protection to notify those counties or municipalities of the use of, and access to, certain state and federal program funds and to provide certain guidance and technical assistance upon request; prohibiting the adoption of certain rules by the Department of Health; providing for applicability; repealing s. 381.00656, F.S., relating to a grant program for the repair of onsite sewage treatment and disposal systems; amending s. 381.0066, F.S.; lowering the fees imposed by the department for certain permits; conforming cross-references; amending s. 381.0068, F.S.; deleting a date by which a technical review and advisory panel must be established within the department for assistance with rule adoption; deleting the authority of the chair of the panel to advise affected persons or the Legislature of the panel’s position on legislation, proposed state policy, or other issue; amending s. 381.0072, F.S.; revising the definition of the term “food establishment” to include certain facilities participating in the United States Department of Agriculture Afterschool Meal Program; amending s. 381.00781, F.S.; eliminating authority of the department to annually adjust maximum fees according to the Consumer Price Index; amending s. 381.0086, F.S.; revising department rulemaking authority relating to migrant farmworkers and other migrant labor camp or residential migrant housing occupants; removing lighting and maintenance and operation of roads from the list of health and safety standards to be created by the department; conforming a cross-reference; amending s. 381.0098, F.S.; deleting legislative intent with respect to standards for the safe packaging, transport, storage, treatment, and disposal of biomedical waste; conforming a cross-reference; amending s. 381.0101, F.S.; deleting

legislative intent regarding certification of environmental health professionals; providing for the State Surgeon General, rather than the Division Director for Emergency Preparedness and Community Support, to serve on an environmental health professionals advisory board; conforming a cross-reference; amending s. 381.0203, F.S.; eliminating the regulation of drugs, cosmetics, and household products under ch. 499, F.S., from the pharmacy services program; eliminating the contraception distribution program at county health departments; amending s. 381.0261, F.S.; requiring the department, rather than the Agency for Health Care Administration, to publish a summary of the Florida Patient's Bill of Rights and Responsibilities on its Internet website; deleting the requirement to print and distribute the summary; repealing s. 381.0301, F.S., relating to the Centers for Disease Control and Prevention, the State University System, Florida medical schools, and the College of Public Health of the University of South Florida; deleting the requirement that the College of Public Health be consulted by state officials in the management of public health; repealing s. 381.0302, F.S.; eliminating the Florida Health Services Corps; amending s. 381.0303, F.S.; eliminating the requirement that the Special Needs Shelter Interagency Committee submit recommendations to the Legislature; repealing s. 381.04015, F.S.; eliminating the Women's Health Strategy Office and Officer of Women's Health Strategy; amending s. 381.0403, F.S., relating to the "Community Hospital Education Act"; deleting legislative findings and intent; revising the mission of the program; requiring minimum funding for graduate education in family practice; deleting reference to an intent to establish a statewide graduate medical education program; amending s. 381.0405, F.S.; deleting an appropriation to the Office of Rural Health; amending s. 381.0406, F.S.; deleting unnecessary introductory language in provisions relating to rural health networks; repealing s. 381.0407, F.S., to eliminate the mandatory payment of claims from public health care providers and county health departments by managed care plans; repealing s. 381.045, F.S.; eliminating department authority to provide services to certain health care providers infected with Hepatitis B or HIV; amending s. 381.06015, F.S.; deleting obsolete provision that requires the department, the Agency for Health Care Administration, and private consortium members seeking private or federal funds to initiate certain program actions relating to the Public Cord Blood Tissue Bank; repealing s. 381.0605, F.S., relating to designating the Agency for Health Care Administration as the state agency to administer the Federal Hospital and Medical Facilities Amendments of 1964; eliminating authority of the Governor to provide for administration of the amendments; repealing ss. 381.1001-381.103, F.S., the Florida Community Health Protection Act; amending s. 381.4018, F.S.; deleting legislative findings and intent with respect to physician workforce assessment and development; conforming a cross-reference; repealing s. 381.60225, F.S., to eliminate background screening requirements for health care professionals and owners, operators, and employees of certain health care providers, services, and programs; repealing ss. 381.732-381.734, F.S., the "Healthy People, Healthy Communities Act"; amending s. 381.7352, F.S.; deleting

legislative findings relating to the “Reducing Racial and Ethnic Health Disparities: Closing the Gap Act”; amending s. 381.7353, F.S.; removing the authority of the State Surgeon General to appoint an ad hoc committee to study certain aspects of racial and ethnic health outcome disparities and make recommendations; amending s. 381.7356, F.S.; deleting a provision requiring dissemination of Closing the Gap grant awards to begin on a date certain; amending s. 381.765, F.S.; repealing unused rulemaking authority relating to records and recordkeeping for department-owned property; repealing s. 381.77, F.S., to eliminate the annual survey of nursing home residents age 55 and under; repealing s. 381.795, F.S., to eliminate the requirement that the department establish a program of long-term community-based supports and services for individuals with traumatic brain or spinal cord injuries; amending s. 381.853, F.S.; deleting legislative findings relating to brain tumor research; repealing s. 381.855, F.S., which established the Florida Center for Universal Research to Eradicate Disease; repealing s. 381.87, F.S., to eliminate the osteoporosis prevention and education program; repealing s. 381.90, F.S., to eliminate the Health Information Systems Council; amending s. 381.91, F.S., relating to the Jesse Trice Cancer Program; revising legislative intent; amending 381.922, F.S.; conforming a reference; amending s. 383.011, F.S.; requiring the Department of Health to establish an interagency agreement with the Department of Children and Family Services for management of the Special Supplemental Nutrition program for Women, Infants, and Children; specifying responsibilities of each department; creating s. 383.141, F.S.; providing legislative findings; providing definitions; requiring that health care providers provide pregnant women with current information about the nature of the developmental disabilities tested for in certain prenatal tests, the accuracy of such tests, and resources for obtaining support services for Down syndrome and other prenatally diagnosed developmental disabilities; providing duties for the Department of Health concerning establishment of an information clearinghouse; creating an advocacy council within the Department of Health to provide technical assistance in forming the clearinghouse; providing membership for the council; providing duties of the council; providing terms for members of the council; providing for election of a chairperson and vice chairperson; providing meeting times for the council; requiring the members to serve without compensation or reimbursement for travel expenses; authorizing meetings by teleconference or other electronic means; requiring the Department of Health to provide administrative support; repealing s. 385.210, F.S., the Arthritis Prevention and Education Act by a specific date; amending s. 391.016, F.S.; clarifying the purposes and functions of the Children’s Medical Services program; requiring the coordination and maintenance of a medical home for participating children; amending s. 391.021, F.S.; revising definitions; amending s. 391.025, F.S.; revising the components of the Children’s Medical Services program; amending s. 391.026, F.S.; revising the powers and duties of the department in administering the Children’s Medical Services network; amending s. 391.028, F.S.; eliminating the central office and area offices of the Children’s Medical Services program; authorizing the Director of

Children's Medical Services to appoint necessary staff and contract with providers to establish a system to provide certain program activities on a statewide basis; amending s. 391.029, F.S.; specifying eligibility for services provided under the Children's Medical Services program; clarifying who may receive services under the program; deleting the requirement that the department determine financial and medical eligibility for program; deleting the requirement that the department determine the financial ability of parents to pay for services; eliminating discretion of the department to pay reasonable travel expenses; amending s. 391.0315, F.S.; deleting a prohibition against a child eligible under Title XIX or XXI of the Social Security Act from receiving services under the program until the child is enrolled in Medicaid or a Title XXI program; amending s. 392.51, F.S., relating to tuberculosis control; removing legislative findings and intent; amending s. 392.61, F.S.; eliminating the requirement that the department develop a methodology for distributing funds appropriated for community tuberculosis control programs; amending s. 392.62, F.S.; requiring a contractor to use licensed community hospitals and other facilities for the care and treatment of persons who have active tuberculosis or a history of noncompliance with prescribed drug regimens and require inpatient or other residential services; removing authority of the department to operate a licensed hospital to treat tuberculosis patients; requiring the tuberculosis control program to fund participating facilities; requiring facilities to meet specific conditions; requiring the department to develop a transition plan for the closure of A.G. Holley State Hospital; specifying content of transition plan; requiring submission of the plan to the Governor and Legislature; requiring full implementation of the transition plan by a certain date; amending s. 401.243, F.S.; repealing unused rulemaking authority governing the implementation of injury-prevention grant programs; amending s. 401.245, F.S.; repealing unused rulemaking authority relating to operating procedures for the Emergency Medical Services Advisory Council; amending s. 401.271, F.S.; repealing unused rulemaking authority relating to an exemption for the spouse of a member of the Armed Forces of the United States on active duty from certification renewal provisions while the spouse is absent from the state because of the member's active duty with the Armed Forces; repealing s. 402.45, F.S.; repealing unused rulemaking authority relating to the community resource mother or father program; amending s. 403.863, F.S.; directing the department to contract to perform state public water supply laboratory certification application review and evaluation and laboratory inspections; adding certain actions to the list of acts constituting grounds for which disciplinary actions may be taken under the section; amending ss. 400.914 and 409.256, F.S.; conforming references; amending ss. 458.309 and 459.005, F.S.; requiring that a physician or osteopathic physician who performs certain medical procedures in an office setting register the office with the Department of Health unless that office is licensed as a facility under ch. 395, F.S., relating to hospital licensing and regulation; repealing s. 458.346, F.S., which created the Public Sector Physician Advisory Committee and established its responsibilities; amending s. 462.19, F.S., relating to the renewal of licenses for

practitioners of naturopathy; repealing unused rulemaking authority; amending s. 464.019, F.S., requiring the Board of Nursing to deny a program application for new prelicensure nursing education program while the existing program is on probationary status; repealing s. 464.0197, F.S., relating to state budget support for the Florida Center for Nursing; amending s. 464.203, F.S.; revising the certification requirements for certified nursing assistants; amending s. 464.208, F.S.; repealing unused rulemaking authority relating to background screening information of certified nursing assistants; repealing s. 466.00775, F.S., relating to unused rulemaking authority relating to dental health access and dental laboratory registration provisions; amending ss. 212.08, 499.003, 499.601, and 499.61, F.S.; updating departmental designation; amending s. 514.011, F.S.; revising the definition of “public bathing place”; amending s. 514.021, F.S.; restricting rulemaking authority of the department; limiting scope of standards for public pools and public bathing places; prohibiting the department from adopting by rule any regulation regarding the design, alteration, or repair of a public pool or public bathing; eliminating authority of the department to review plans, issue approvals, and enforce occupancy provisions of the Florida Building Code; amending s. 514.023, F.S.; adding public bathing places to the provisions allowing sampling of beach waters to determine sanitation and allowing health advisories to be issued for elevated levels of bacteria in such waters; deleting an obsolete provision; amending s. 514.025, F.S.; requiring the department to review applications and plans for the construction or placement of public pools or bathing places; providing for the department to review applications and plans if no qualified staff are employed at the county health department; establishing that the department is responsible to monitor water quality in public pools and bathing places; amending s. 514.03, F.S.; permitting local governments or local enforcement districts to determine compliance with general construction provisions of the Florida Building Code; permitting local governments or local enforcement districts to conduct plan reviews and inspections of public pools and bathing places to determine compliance; eliminating an application process for review of building plans for a public pool or bathing place by the department; amending s. 514.031, F.S.; requiring a valid permit from the department to operate a public pool; revising the list of documents that must accompany an application for a permit to operate a public pool; providing the department with authority to review, approve, and deny an application for a permit to operate a public pool; amending s. 514.033, F.S.; deleting authority of the department to establish a fee schedule; requiring fees collected by the department or county health department to be deposited into the Grants and Donations Trust Fund or the County Health Department Trust Fund; amending s. 514.05, F.S.; requiring all amounts collected to be deposited in the Grants and Donations Trust Fund or the County Health Department Trust Fund; granting the county health department the authority to close a public pool that is not in compliance with ch. 514, F.S., or applicable rules; amending s. 514.06, F.S.; deeming a public pool or bathing place to present a significant risk to public health by failing to meet sanitation and safety to be a public nuisance; allowing for a

public nuisance to be abated or enjoined; amending s. 633.115, F.S.; making conforming changes; amending s. 1009.66, F.S.; reassigning responsibility for the Nursing Student Loan Forgiveness Program from the Department of Health to the Department of Education; amending s. 1009.67, F.S.; reassigning responsibility for the nursing scholarship program from the Department of Health to the Department of Education; providing type two transfers of the programs; providing for transfer of a trust fund; providing applicability to contracts; authorizing transfer of funds and positions between departments; requiring the Division of Medical Quality and Assurance to create a plan to improve efficiency of the function of the division; directing the division to take certain actions in creating the plan; directing the division to address particular topics in the plan; requiring all executive branch agencies to assist the department in creating the plan; requesting all other state agencies to assist the department in creating the plan; amending ss. 154.503, 381.0041, 384.25, 392.56, 395.1027, 411.203, 456.032, 513.10, 768.28, and 775.0877, F.S.; conforming cross-references; providing effective dates.

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

Section 1. Subsections (1), (2), and (3) of section 20.43, Florida Statutes, are amended to read:

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

(1) The purpose of the Department of Health is to protect and promote ~~and protect~~ the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(a) Identify, diagnose, and conduct surveillance of diseases and health conditions in the state and accumulate the health statistics necessary to establish trends ~~Prevent to the fullest extent possible, the occurrence and progression of communicable and noncommunicable diseases and disabilities.~~

(b) Implement interventions that prevent or limit the impact or spread of diseases and health conditions ~~Maintain a constant surveillance of disease occurrence and accumulate health statistics necessary to establish disease trends and to design health programs.~~

(c) Collect, manage, and analyze vital statistics and other health data to inform the public and formulate public health policy and planning ~~Conduct special studies of the causes of diseases and formulate preventive strategies.~~

(d) Maintain and coordinate preparedness for and responses to public health emergencies in the state ~~Promote the maintenance and improvement of the environment as it affects public health.~~

~~(e) Provide or ensure the provision of quality health care and related services to identified populations in the state Promote the maintenance and improvement of health in the residents of the state.~~

~~(f) Regulate environmental activities that have a direct impact on public health in the state Provide leadership, in cooperation with the public and private sectors, in establishing statewide and community public health delivery systems.~~

~~(g) Regulate health practitioners for the preservation of the health, safety, and welfare of the public Provide health care and early intervention services to infants, toddlers, children, adolescents, and high-risk perinatal patients who are at risk for disabling conditions or have chronic illnesses.~~

~~(h) Provide services to abused and neglected children through child protection teams and sexual abuse treatment programs.~~

~~(i) Develop working associations with all agencies and organizations involved and interested in health and health care delivery.~~

~~(j) Analyze trends in the evolution of health systems, and identify and promote the use of innovative, cost-effective health delivery systems.~~

~~(k) Serve as the statewide repository of all aggregate data accumulated by state agencies related to health care; analyze that data and issue periodic reports and policy statements, as appropriate; require that all aggregated data be kept in a manner that promotes easy utilization by the public, state agencies, and all other interested parties; provide technical assistance as required; and work cooperatively with the state's higher education programs to promote further study and analysis of health care systems and health care outcomes.~~

~~(l) Include in the department's strategic plan developed under s. 186.021 an assessment of current health programs, systems, and costs; projections of future problems and opportunities; and recommended changes that are needed in the health care system to improve the public health.~~

~~(m) Regulate health practitioners, to the extent authorized by the Legislature, as necessary for the preservation of the health, safety, and welfare of the public.~~

(2)(a) The head of the Department of Health is the State Surgeon General and State Health Officer. The State Surgeon General must be a physician licensed under chapter 458 or chapter 459 who has advanced training or extensive experience in public health administration. The State Surgeon General is appointed by the Governor subject to confirmation by the Senate. The State Surgeon General serves at the pleasure of the Governor. The State Surgeon General shall serve as the leading voice on wellness and disease prevention efforts, including the promotion of healthful lifestyles, immunization practices, health literacy, and the assessment and promotion of the physician and health care workforce in order to meet the health care needs of

~~the state. The State Surgeon General shall focus on advocating healthy lifestyles, developing public health policy, and building collaborative partnerships with schools, businesses, health care practitioners, community-based organizations, and public and private institutions in order to promote health literacy and optimum quality of life for all Floridians.~~

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

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

(a) Division of Administration.

~~(b) Division of Emergency Preparedness and Community Support Environmental Health.~~

(c) Division of Disease Control and Health Protection.

(d) Division of Community Health Promotion Family Health Services.

(e) Division of Children's Medical Services Network.

~~(f) Division of Public Health Statistics and Performance Management Emergency Medical Operations.~~

(g) Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. The Board of Acupuncture, created under chapter 457.
2. The Board of Medicine, created under chapter 458.
3. The Board of Osteopathic Medicine, created under chapter 459.
4. The Board of Chiropractic Medicine, created under chapter 460.
5. The Board of Podiatric Medicine, created under chapter 461.
6. Naturopathy, as provided under chapter 462.
7. The Board of Optometry, created under chapter 463.
8. The Board of Nursing, created under part I of chapter 464.
9. Nursing assistants, as provided under part II of chapter 464.
10. The Board of Pharmacy, created under chapter 465.
11. The Board of Dentistry, created under chapter 466.
12. Midwifery, as provided under chapter 467.

13. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

14. The Board of Nursing Home Administrators, created under part II of chapter 468.

15. The Board of Occupational Therapy, created under part III of chapter 468.

16. Respiratory therapy, as provided under part V of chapter 468.

17. Dietetics and nutrition practice, as provided under part X of chapter 468.

18. The Board of Athletic Training, created under part XIII of chapter 468.

19. The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.

20. Electrolysis, as provided under chapter 478.

21. The Board of Massage Therapy, created under chapter 480.

22. The Board of Clinical Laboratory Personnel, created under part III of chapter 483.

23. Medical physicists, as provided under part IV of chapter 483.

24. The Board of Opticianry, created under part I of chapter 484.

25. The Board of Hearing Aid Specialists, created under part II of chapter 484.

26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. School psychologists, as provided under chapter 490.

29. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

30. Emergency medical technicians and paramedics, as provided under part III of chapter 401.

~~(h) Division of Children’s Medical Services Prevention and Intervention.~~

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

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

(h)(k) Division of Disability Determinations.

Section 2. Subsections (14) through (22) of section 20.435, Florida Statutes, are renumbered as subsection (13) through (21), respectively, and present subsection (13) of that section is amended to read:

20.435 Department of Health; trust funds.—The following trust funds shall be administered by the Department of Health:

~~(13) Florida Drug, Device, and Cosmetic Trust Fund.~~

~~(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with the provisions of chapter 499.~~

~~(b) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.~~

Section 3. Section 154.05, Florida Statutes, is amended to read:

154.05 Cooperation and agreements between counties.—Counties may establish cooperative arrangements for shared county health departments in the following ways:

(1) Two or more counties may combine in the establishment and maintenance of a single full-time county health department for the counties which combine for that purpose; and, pursuant to such combination or agreement, such counties may cooperate with one another and the Department of Health and contribute to a joint fund in carrying out the purpose and intent of this chapter. The duration and nature of such agreement shall be evidenced by resolutions of the boards of county commissioners of such counties and shall be submitted to and approved by the department. In the event of any such agreement, a full-time county health department shall be established and maintained by the department in and for the benefit of the counties which have entered into such an agreement; and, in such case, the funds raised by taxation pursuant to this chapter by each such county shall be paid to the Chief Financial Officer for the account of the department and shall be known as the full-time county health department trust fund of the counties so cooperating. Such trust funds shall be used and expended by the department for the purposes specified in this chapter in each county which has entered into such agreement. In case such an agreement is entered into between two or more counties, the work contemplated by this chapter shall be done by a single full-time county health department in the counties so cooperating; and the nature, extent, and location of such work shall be under the control and direction of the department.

(2) The operations of two or more county health departments may be combined when the parties agree to the specific roles and responsibilities of each county and county health department. Such an agreement shall specify the roles and responsibilities of each county and county health department, including the method of governance and executive direction; the manner by

which each county's public health needs will be addressed; an inventory of necessary facilities, equipment, and personnel; and any other needed infrastructure.

Section 4. Subsection (2) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any medical products and supplies or medicine dispensed according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Business and Professional Regulation Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses shall be exempt from the tax imposed by this chapter; however, this exemption shall apply only after \$100,000 of the tax imposed by this chapter on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, or according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of

Revenue from time to time and included in the rules promulgated by the Department of Revenue.

2. “Cosmetics” means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

3. “Toilet articles” means any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

4. “Prescription” includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term also includes a pharmacist’s order for a product selected from the formulary created pursuant to s. 465.186. A prescription may be retained in written form, or the pharmacist may cause it to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.

(c) Chlorine shall not be exempt from the tax imposed by this chapter when used for the treatment of water in swimming pools.

(d) Lithotripters are exempt.

(e) Human organs are exempt.

(f) Sales of drugs to or by physicians, dentists, veterinarians, and hospitals in connection with medical treatment are exempt.

(g) Medical products and supplies used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity which are temporarily or permanently incorporated into a patient or client by a practitioner of the healing arts licensed in the state are exempt.

(h) The purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed veterinarian, and which are applied to or consumed by animals

for alleviation of pain or the cure or prevention of sickness, disease, or suffering are exempt. Also exempt are the purchase by a veterinarian of antiseptics, absorbent cotton, gauze for bandages, lotions, vitamins, and worm remedies.

(i) X-ray opaques, also known as opaque drugs and radiopaque, such as the various opaque dyes and barium sulphate, when used in connection with medical X rays for treatment of bodies of humans and animals, are exempt.

(j) Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property so that a handicapped person can use them are exempt when such items are purchased by a person pursuant to an individual prescription.

(k) This subsection shall be strictly construed and enforced.

Section 5. Subsections (10) and (12) of section 215.5602, Florida Statutes, are amended to read:

215.5602 James and Esther King Biomedical Research Program.—

(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, 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.

(12) ~~From funds appropriated to accomplish the goals of this section, up to \$250,000 shall be available for the operating costs of the Florida Center for Universal Research to Eradicate Disease.~~ Beginning in the 2011-2012 fiscal year and thereafter, \$25 million from the revenue deposited into the Health Care Trust Fund pursuant to ss. 210.011(9) and 210.276(7) shall be reserved for research of tobacco-related or cancer-related illnesses. Of the revenue

deposited in the Health Care Trust Fund pursuant to this section, \$25 million shall be transferred to the Biomedical Research Trust Fund within the Department of Health. Subject to annual appropriations in the General Appropriations Act, \$5 million shall be appropriated to the James and Esther King Biomedical Research Program, \$5 million shall be appropriated to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program created under s. 381.922, \$5 million shall be appropriated to the H. Lee Moffitt Cancer Center and Research Institute established under s. 1004.43, \$5 million shall be appropriated to the Sylvester Comprehensive Cancer Center of the University of Miami, and \$5 million shall be appropriated to the University of Florida Shands Cancer Hospital Center.

Section 6. Section 381.001, Florida Statutes, is amended to read:

381.001 ~~Legislative intent~~; Public health system.—

(1) ~~It is the intent of the Legislature that The Department of Health is be responsible for the state's public health system which shall be designed to promote, protect, and improve the health of all people in the state. The mission of the state's public health system is to foster the conditions in which people can be healthy, by assessing state and community health needs and priorities through data collection, epidemiologic studies, and community participation; by developing comprehensive public health policies and objectives aimed at improving the health status of people in the state; and by ensuring essential health care and an environment which enhances the health of the individual and the community. The department shall provide leadership for~~ Legislature recognizes that the state's public health system must be founded on an active partnership working toward shared public health goals and involving between federal, state, and local governments and the private sector government and between the public and private sectors; and, therefore, assessment, policy development, and service provision must be shared by all of these entities to achieve its mission.

(2) ~~It is the intent of the Legislature that the department, in carrying out the mission of public health, focus attention on identifying, assessing, and controlling the presence and spread of communicable diseases; on monitoring and regulating factors in the environment which may impair the public's health, with particular attention to preventing contamination of drinking water, the air people breathe, and the food people consume; and ensuring availability of and access to preventive and primary health care, including, but not limited to, acute and episodic care, prenatal and postpartum care, child health, family planning, school health, chronic disease prevention, child and adult immunization, dental health, nutrition, and health education and promotion services.~~

(3) ~~It is, furthermore, the intent of the Legislature that the public health system include comprehensive planning, data collection, technical support, and health resource development functions. These functions include, but are not limited to, state laboratory and pharmacy services, the state vital statistics system, the Florida Center for Health Information and Policy~~

~~Analysis, emergency medical services coordination and support, and recruitment, retention, and development of preventive and primary health care professionals and managers.~~

(4) ~~It is, furthermore,~~ the intent of the Legislature that the department provide public health services through the 67 county health departments in partnership with county governments, as specified in part I of chapter 154, and in so doing make every attempt possible to solicit the support and involvement of private and not-for-profit health care agencies in fulfilling the public health mission.

Section 7. Section 381.0011, Florida Statutes, is amended to read:

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

(1) ~~Assess the public health status and needs of the state through statewide data collection and other appropriate means, with special attention to future needs that may result from population growth, technological advancements, new societal priorities, or other changes.~~

~~(2) Formulate general policies affecting the public health of the state.~~

~~(2)(3) Administer and enforce laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and the general health of the people of the state.~~

~~(3)(4) Coordinate with~~ Cooperate with and accept assistance from federal, state, and local officials for the prevention and suppression of communicable and other diseases, illnesses, injuries, and hazards to human health.

~~(5) Declare, enforce, modify, and abolish quarantine of persons, animals, and premises as the circumstances indicate for controlling communicable diseases or providing protection from unsafe conditions that pose a threat to public health, except as provided in ss. 384.28 and 392.545-392.60.~~

~~(a) The department shall adopt rules to specify the conditions and procedures for imposing and releasing a quarantine. The rules must include provisions related to:~~

~~1. The closure of premises.~~

~~2. The movement of persons or animals exposed to or infected with a communicable disease.~~

~~3. The tests or treatment, including vaccination, for communicable disease required prior to employment or admission to the premises or to comply with a quarantine.~~

~~4.— Testing or destruction of animals with or suspected of having a disease transmissible to humans.~~

~~5.— Access by the department to quarantined premises.~~

~~6.— The disinfection of quarantined animals, persons, or premises.~~

~~7.— Methods of quarantine.~~

~~(b) Any health regulation that restricts travel or trade within the state may not be adopted or enforced in this state except by authority of the department.~~

~~(4)(6) Provide for a thorough investigation and study of the incidence, causes, modes of propagation and transmission, and means of prevention, control, and cure of diseases, illnesses, and hazards to human health.~~

~~(5)(7) Provide for the dissemination of information to the public relative to the prevention, control, and cure of diseases, illnesses, and hazards to human health. The department shall conduct a workshop before issuing any health alert or advisory relating to food-borne illness or communicable disease in public lodging or food service establishments in order to inform persons, trade associations, and businesses of the risk to public health and to seek the input of affected persons, trade associations, and businesses on the best methods of informing and protecting the public, except in an emergency, in which case the workshop must be held within 14 days after the issuance of the emergency alert or advisory.~~

~~(6)(8) Act as registrar of vital statistics.~~

~~(9) Cooperate with and assist federal health officials in enforcing public health laws and regulations.~~

~~(10) Cooperate with other departments, local officials, and private boards and organizations for the improvement and preservation of the public health.~~

~~(11) Maintain a statewide injury-prevention program.~~

~~(12) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it. This subsection does not authorize the department to require a permit or license unless such requirement is specifically provided by law.~~

~~(7)(13) Manage and coordinate emergency preparedness and disaster response functions to: investigate and control the spread of disease; coordinate the availability and staffing of special needs shelters; support patient evacuation; ensure the safety of food and drugs; provide critical incident stress debriefing; and provide surveillance and control of radiological, chemical, biological, and other environmental hazards.~~

~~(14) Perform any other duties prescribed by law.~~

Section 8. Section 381.0013, Florida Statutes, is repealed.

Section 9. Section 381.0014, Florida Statutes, is repealed.

Section 10. Section 381.0015, Florida Statutes, is repealed.

Section 11. Section 381.0016, Florida Statutes, is amended to read:

381.0016 County and municipal regulations and ordinances.—Any county or municipality may enact, in a manner prescribed by law, health regulations and ordinances not inconsistent with state public health laws and rules adopted by the department.

Section 12. Section 381.0017, Florida Statutes, is repealed.

Section 13. Section 381.0025, Florida Statutes, is repealed.

Section 14. Paragraph (d) of subsection (1) of section 381.003, Florida Statutes, is amended to read:

381.003 Communicable disease and AIDS prevention and control.—

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

(d) Programs for the prevention, control, and reporting of communicable diseases of public health significance as provided for in this chapter.

Section 15. Section 381.0031, Florida Statutes, is amended to read:

381.0031 Epidemiological research; report of diseases of public health significance to department.—

(1) The department may conduct studies concerning the epidemiology of diseases of public health significance affecting people in Florida.

(2) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathy, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory licensed under chapter 483 that diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

(3)(2) Periodically the department shall issue a list of infectious or noninfectious diseases determined by it to be a threat to public health and therefore of significance to public health and shall furnish a copy of the list to the practitioners listed in subsection (2) (1). The list shall be based on the diseases recommended to be nationally notifiable by the Council of State and

Territorial Epidemiologists and the Centers for Disease Control and Prevention. The department may expand upon the list if a disease emerges for which regular, frequent, and timely information regarding individual cases is considered necessary for the prevention and control of a disease specific to Florida.

~~(4)(3)~~ Reports required by this section must be in accordance with methods specified by rule of the department.

~~(5)(4)~~ Information submitted in reports required by this section is confidential, exempt from the provisions of s. 119.07(1), and is to be made public only when necessary to public health. A report so submitted is not a violation of the confidential relationship between practitioner and patient.

~~(6)(5)~~ The department may obtain and inspect copies of medical records, records of laboratory tests, and other medical-related information for reported cases of diseases of public health significance described in subsection (2). The department shall examine the records of a person who has a disease of public health significance only for purposes of preventing and eliminating outbreaks of disease and making epidemiological investigations of reported cases of diseases of public health significance, notwithstanding any other law to the contrary. Health care practitioners, licensed health care facilities, and laboratories shall allow the department to inspect and obtain copies of such medical records and medical-related information, notwithstanding any other law to the contrary. Release of medical records and medical-related information to the department by a health care practitioner, licensed health care facility, or laboratory, or by an authorized employee or agent thereof, does not constitute a violation of the confidentiality of patient records. A health care practitioner, health care facility, or laboratory, or any employee or agent thereof, may not be held liable in any manner for damages and is not subject to criminal penalties for providing patient records to the department as authorized by this section.

~~(7)(6)~~ The department may adopt rules related to reporting diseases of significance to public health, which must specify the information to be included in the report, who is required to report, the method and time period for reporting, requirements for enforcement, and required followup activities by the department which are necessary to protect public health.

~~(8)~~ This section does not affect s. 384.25.

Section 16. Subsections (4), (5), and (6) are added to section 381.00315, Florida Statutes, to read:

381.00315 Public health advisories; public health emergencies; quarantines.—The State Health Officer is responsible for declaring public health emergencies and quarantines and issuing public health advisories.

~~(4)~~ The department has the duty and the authority to declare, enforce, modify, and abolish quarantines of persons, animals, and premises as the

circumstances indicate for controlling communicable diseases or providing protection from unsafe conditions that pose a threat to public health, except as provided in ss. 384.28 and 392.545-392.60.

(5) The department shall adopt rules to specify the conditions and procedures for imposing and releasing a quarantine. The rules must include provisions related to:

(a) The closure of premises.

(b) The movement of persons or animals exposed to or infected with a communicable disease.

(c) The tests or treatment, including vaccination, for communicable disease required prior to employment or admission to the premises or to comply with a quarantine.

(d) Testing or destruction of animals with or suspected of having a disease transmissible to humans.

(e) Access by the department to quarantined premises.

(f) The disinfection of quarantined animals, persons, or premises.

(g) Methods of quarantine.

(6) The rules adopted under this section and actions taken by the department pursuant to a declared public health emergency or quarantine shall supersede all rules enacted by other state departments, boards or commissions, and ordinances and regulations enacted by political subdivisions of the state. Any person who violates any rule adopted under this section, any quarantine, or any requirement adopted by the department pursuant to a declared public health emergency, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Section 381.0032, Florida Statutes, is repealed.

Section 18. Section 381.00325, Florida Statutes, is repealed.

Section 19. Subsection (1) of section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on HIV and AIDS.—

(1) ~~As of July 1, 1991,~~ The Department of Health shall require each person licensed or certified under chapter 401, chapter 467, part IV of chapter 468, or chapter 483, as a condition of biennial relicensure, to complete an educational course approved by the department on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing,

confidentiality of test results, and treatment of patients. Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form provided by the department, when submitting fees or application for each biennial renewal.

Section 20. Section 381.0037, Florida Statutes, is repealed.

Section 21. Subsections (2) through (11) of section 381.004, Florida Statutes, are renumbered as subsections (1) through (10), respectively, and present subsection (1), paragraph (a) of present subsection (3), paragraph (d) of present subsection (5), present subsection (7), and paragraph (c) of present subsection (11) of that section are amended to read:

381.004 HIV testing.—

~~(1) LEGISLATIVE INTENT.—The Legislature finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus infection can be a valuable tool in protecting the public health. The Legislature finds that despite existing laws, regulations, and professional standards which require or promote the informed, voluntary, and confidential use of tests designed to reveal human immunodeficiency virus infection, many members of the public are deterred from seeking such testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The Legislature finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.~~

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

(a) No person in this state shall order a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in paragraph (h). Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of the test to the extent provided by law. Information shall also be provided on the fact that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and on the availability and location of sites at which anonymous testing is performed. As required in paragraph (3)(c) ~~(4)(e)~~, each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, phone numbers, and hours of operation of the sites. Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained.

~~(4)(5) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM REGISTRATION.—No county health department~~

and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome or human immunodeficiency virus status without first registering with the Department of Health, reregistering each year, complying with all other applicable provisions of state law, and meeting the following requirements:

(d) The program must meet all the informed consent criteria contained in subsection ~~(2)~~ (3).

(7) EXEMPTIONS.—Except as provided in paragraph ~~(3)(d)~~ (4)(d) and ss. 627.429 and 641.3007, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

~~(10)(11)~~ TESTING AS A CONDITION OF TREATMENT OR ADMISSION.—

(c) Any violation of this subsection or the rules implementing it shall be punishable as provided in subsection ~~(5)~~ (6).

Section 22. Subsection (2) of section 381.0046, Florida Statutes, is amended to read:

381.0046 Statewide HIV and AIDS prevention campaign.—

(2) The Department of Health shall establish dedicated ~~four~~ positions within the department for HIV and AIDS regional minority coordinators and ~~one position for~~ a statewide HIV and AIDS minority coordinator. The coordinators shall facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment programs. ~~The statewide coordinator shall report directly to the chief of the Bureau of HIV and AIDS within the Department of Health.~~

Section 23. Subsections (3) through (7) of section 381.0051, Florida Statutes, are renumbered as subsections (2) through (6), respectively, and present subsection (2) of that section is amended to read:

381.0051 Family planning.—

~~(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to make available to citizens of the state of childbearing age comprehensive medical knowledge, assistance, and services relating to the planning of families and maternal health care.~~

Section 24. Subsection (5) of section 381.0052, Florida Statutes, is amended to read:

381.0052 Dental health.—

~~(5) The department may adopt rules to implement this section.~~

Section 25. Subsection (4) of section 381.0053, Florida Statutes, is amended to read:

381.0053 Comprehensive nutrition program.—

~~(4) The department may promulgate rules to implement the provisions of this section.~~

Section 26. Section 381.0054, Florida Statutes, is repealed.

Section 27. Subsections (3) through (11) of section 381.0056, Florida Statutes are renumbered as subsections (2) through (9), respectively, and present subsections (2), (3), and (11) of that section are amended to read:

381.0056 School health services program.—

~~(2) The Legislature finds that health services conducted as a part of the total school health program should be carried out to appraise, protect, and promote the health of students. School health services supplement, rather than replace, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage use of the services of their physicians, dentists, and community health agencies.~~

~~(2)(3)~~ As When used in or for purposes of this section:

(a) “Emergency health needs” means onsite management and aid for illness or injury pending the student’s return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) “Entity” or “health care entity” means a unit of local government or a political subdivision of the state; a hospital licensed under chapter 395; a health maintenance organization certified under chapter 641; a health insurer authorized under the Florida Insurance Code; a community health center; a migrant health center; a federally qualified health center; an organization that meets the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code; a private industry or business; or a philanthropic foundation that agrees to participate in a public-private partnership with a county health department, local school district, or school in the delivery of school health services, and agrees to the terms and conditions for the delivery of such services as required by this section and as documented in the local school health services plan.

(c) “Invasive screening” means any screening procedure in which the skin or any body orifice is penetrated.

(d) “Physical examination” means a thorough evaluation of the health status of an individual.

(e) “School health services plan” means the document that describes the services to be provided, the responsibility for provision of the services, the

anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.

(f) "Screening" means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

~~(11) School health programs funded by health care districts or entities defined in subsection (3) must be supplementary to and consistent with the requirements of this section and ss. 381.0057 and 381.0059.~~

Section 28. Subsections (2) through (7) of section 381.0057, Florida Statutes, are renumbered as subsections (1) through (6), respectively, and present subsections (1), (4), and (6) of that section are amended to read:

381.0057 Funding for school health services.—

~~(1) It is the intent of the Legislature that funds in addition to those provided under the School Health Services Act be provided to those school districts and schools where there is a high incidence of medically underserved high-risk children, low birthweight babies, infant mortality, or teenage pregnancy. The purpose of this funding is to phase in those programs which offer the greatest potential for promoting the health of students and reducing teenage pregnancy.~~

~~(3)~~(4) Any school district, school, or laboratory school which desires to receive state funding under the provisions of this section shall submit a proposal to the joint committee established in subsection ~~(2)~~ (3). The proposal shall state the goals of the program, provide specific plans for reducing teenage pregnancy, and describe all of the health services to be available to students with funds provided pursuant to this section, including a combination of initiatives such as health education, counseling, extracurricular, and self-esteem components. School health services shall not promote elective termination of pregnancy as a part of counseling services. Only those program proposals which have been developed jointly by county health departments and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:

(a) *School health improvement pilot project.*—The program shall include basic health care to an elementary school, middle school, and high school feeder system. Program services shall include, but not be limited to:

1. Planning, implementing, and evaluating school health services. Staffing shall include a full-time, trained school health aide in each elementary, middle, and high school; one full-time nurse to supervise the aides in the elementary and middle schools; and one full-time nurse in each high school.

2. Providing student health appraisals and identification of actual or potential health problems by screenings, nursing assessments, and record reviews.

3. Expanding screening activities.

4. Improving the student utilization of school health services.

5. Coordinating health services for students with parents or guardians and other agencies in the community.

(b) *Student support services team program.*—The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting, children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and followup for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and followup care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and guidance counselor at each school. A program which places all three teams in middle schools or high schools may also be proposed.

(c) *Full service schools.*—The full-service schools shall integrate the services of the Department of Health that are critical to the continuity-of-care process. The department shall provide services to students on the school grounds. Department personnel shall provide their specialized services as an extension of the educational environment. Such services may include nutritional services, medical services, aid to dependent children, parenting skills, counseling for abused children, and education for the students' parents or guardians.

Funding may also be available for any other program that is comparable to a program described in this subsection but is designed to meet the particular needs of the community.

~~(5)~~(6) Each school district or school program that is funded through the provisions of this section shall provide a mechanism through which a parent

may, by written request, exempt a child from all or certain services provided by a school health services program described in subsection (3) (4).

Section 29. Section 381.00591, Florida Statutes, is amended to read:

~~381.00591 Department of Health; National Environmental Laboratory accreditation; application; rules.—The Department of Health may apply for and become a National Environmental Laboratory Accreditation Program accreditation body accrediting authority. The department, as an accrediting entity, may adopt rules pursuant to ss. 120.536(1) and 120.54, to implement standards of the National Environmental Laboratory Accreditation Program, including requirements for proficiency testing providers and other rules that are not inconsistent with this section, including rules pertaining to fees, application procedures, standards applicable to environmental or public water supply laboratories, and compliance.~~

Section 30. Subsection (9) of section 381.00593, Florida Statutes, is renumbered as subsection (8), and present subsection (8) of that section is amended to read:

~~381.00593 Public school volunteer health care practitioner program.—~~

~~(8) The Department of Health, in cooperation with the Department of Education, may adopt rules necessary to implement this section. The rules shall include the forms to be completed and procedures to be followed by applicants and school personnel under the program.~~

Section 31. Subsections (2) through (6) of section 381.0062, Florida Statutes, are renumbered as subsections (1) through (5), respectively, and present subsections (1) and (4) of that section are amended to read:

~~381.0062 Supervision; private and certain public water systems.—~~

~~(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect the public's health by establishing standards for the construction, modification, and operation of public and private water systems to assure consumers that the water provided by those systems is potable.~~

~~(3)(4) RIGHT OF ENTRY.—For purposes of this section, department personnel may enter, at any reasonable time and if they have reasonable cause to believe a violation of this section is occurring or about to occur, upon any and all parts of the premises of such limited use public and multifamily drinking water systems, to make an examination and investigation to determine the sanitary and safety conditions of such systems. Any person who interferes with, hinders, or opposes any employee of the department in the discharge of his or her duties pursuant to the provisions of this section is subject to the penalties provided in s. 381.0025.~~

Section 32. Subsections (1), (5), (6), and (7) of section 381.0065, Florida Statutes, are amended, paragraphs (b) through (p) of subsection (2) of that section are redesignated as paragraphs (c) through (q), respectively, a new

paragraph (b) is added to that subsection, paragraphs (c) and (j) of subsection (3) and paragraphs (h), (n), and (o) of subsection (4) of that section are amended, and paragraphs (w) through (aa) are added to subsection (4) of that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(1) LEGISLATIVE INTENT.—

(a) It is the intent of the Legislature that proper management of onsite sewage treatment and disposal systems is paramount to the health, safety, and welfare of the public. ~~It is further the intent of the Legislature that the department shall administer an evaluation program to ensure the operational condition of the system and identify any failure with the system.~~

(b) It is the intent of the Legislature that where a publicly owned or investor-owned sewerage system is not available, the department shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems under conditions as described in this section and rules adopted under this section. It is further the intent of the Legislature that the installation and use of onsite sewage treatment and disposal systems not adversely affect the public health or significantly degrade the groundwater or surface water.

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

(b)1. “Bedroom” means a room that can be used for sleeping and that:

a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;

b. For manufactured homes, is constructed according to standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;

c. Is located along an exterior wall;

d. Has a closet and a door or an entrance where a door could be reasonably installed; and

e. Has an emergency means of escape and rescue opening to the outside.

2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.

3. “Bedroom” does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The department shall:

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the State Surgeon General Division Director for Environmental Health of the department, or his or her designee, shall timely assign a staff person to resolve the dispute.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. ~~381.0066(2)(k)~~ 381.0066(2)(l) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for

1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

- a. The hardship was not caused intentionally by the action of the applicant;
- b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

a. The State Surgeon General, ~~Division Director for Environmental Health of the department~~ or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry recommended by the Florida Home Builders Association.

d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

e. A representative from the Department of Environmental Protection.

f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph ~~(2)(j)~~ ~~(2)(i)~~. The department shall accept evaluations submitted by

professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the State Surgeon General, or his or her designee ~~Division of Environmental Health of the Department of Health.~~
2. A representative from the septic tank industry.
3. A representative from the home building industry.
4. A representative from an environmental interest group.
5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.
6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.
7. A representative from local government who is knowledgeable about domestic wastewater treatment.
8. A representative from the real estate profession.
9. A representative from the restaurant industry.
10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution.

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(aa) A modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition to a single-family home if a bedroom is not added.

~~(5) — EVALUATION AND ASSESSMENT. —~~

~~(a) Beginning July 1, 2011, the department shall administer an onsite sewage treatment and disposal system evaluation program for the purpose of assessing the fundamental operational condition of systems and identifying any failures within the systems. The department shall adopt rules implementing the program standards, procedures, and requirements,~~

~~including, but not limited to, a schedule for a 5-year evaluation cycle, requirements for the pump-out of a system or repair of a failing system, enforcement procedures for failure of a system owner to obtain an evaluation of the system, and failure of a contractor to timely submit evaluation results to the department and the system owner. The department shall ensure statewide implementation of the evaluation and assessment program by January 1, 2016.~~

~~(b) Owners of an onsite sewage treatment and disposal system, excluding a system that is required to obtain an operating permit, shall have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any failure within the system.~~

~~(c) All evaluation procedures must be documented and nothing in this subsection limits the amount of detail an evaluator may provide at his or her professional discretion. The evaluation must include a tank and drainfield evaluation, a written assessment of the condition of the system, and, if necessary, a disclosure statement pursuant to the department's procedure.~~

~~(d)1. Systems being evaluated that were installed prior to January 1, 1983, shall meet a minimum 6-inch separation from the bottom of the drainfield to the wettest season water table elevation as defined by department rule. All drainfield repairs, replacements or modifications to systems installed prior to January 1, 1983, shall meet a minimum 12-inch separation from the bottom of the drainfield to the wettest season water table elevation as defined by department rule.~~

~~2. Systems being evaluated that were installed on or after January 1, 1983, shall meet a minimum 12-inch separation from the bottom of the drainfield to the wettest season water table elevation as defined by department rule. All drainfield repairs, replacements or modification to systems developed on or after January 1, 1983, shall meet a minimum 24-inch separation from the bottom of the drainfield to the wettest season water table elevation.~~

~~(e) If documentation of a tank pump-out or a permitted new installation, repair, or modification of the system within the previous 5 years is provided, and states the capacity of the tank and indicates that the condition of the tank is not a sanitary or public health nuisance pursuant to department rule, a pump-out of the system is not required.~~

~~(f) Owners are responsible for paying the cost of any required pump-out, repair, or replacement pursuant to department rule, and may not request partial evaluation or the omission of portions of the evaluation.~~

~~(g) Each evaluation or pump-out required under this subsection must be performed by a septic tank contractor or master septic tank contractor registered under part III of chapter 489, a professional engineer with wastewater treatment system experience licensed pursuant to chapter 471,~~

~~or an environmental health professional certified under chapter 381 in the area of onsite sewage treatment and disposal system evaluation.~~

~~(h) The evaluation report fee collected pursuant to s. 381.0066(2)(b) shall be remitted to the department by the evaluator at the time the report is submitted.~~

~~(i) Prior to any evaluation deadline, the department must provide a minimum of 60 days' notice to owners that their systems must be evaluated by that deadline. The department may include a copy of any homeowner educational materials developed pursuant to this section which provides information on the proper maintenance of onsite sewage treatment and disposal systems.~~

(5)(6) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction.

(b)1. The department may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.

2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.

3. The fines imposed by a citation issued by the department may not exceed \$500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.

4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the

fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.

5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.

6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

7. The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any fines it collects in the county health department trust fund for use in providing services specified in those sections.

8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.

~~(6)(7) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective January 1, 2016, the land application of septage from onsite sewage treatment and disposal systems is prohibited. By February 1, 2011, the department, in consultation with the Department of Environmental Protection, shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, recommending alternative methods to establish enhanced treatment levels for the land application of septage from onsite sewage and disposal systems. The report shall include, but is not limited to, a schedule for the reduction in land application, appropriate treatment levels, alternative methods for treatment and disposal, enhanced application site permitting requirements including any requirements for nutrient management plans, and the range of costs to local governments, affected businesses, and individuals for alternative treatment and disposal methods. The report shall also include any recommendations for legislation or rule authority needed to reduce land application of septage.~~

Section 33. Section 381.00651, Florida Statutes, is created to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(1) For the purposes of this section, the term "first magnitude spring" means a spring that has a median water discharge of greater than or equal to

100 cubic feet per second for the period of record, as determined by the Department of Environmental Protection.

(2) A county or municipality that contains a first magnitude spring shall, by no later than January 1, 2013, develop and adopt by local ordinance an onsite sewage treatment and disposal system evaluation and assessment program that meets the requirements of this section. The ordinance may apply within all or part of its geographic area. Those counties or municipalities containing a first magnitude spring which have already adopted an onsite sewage treatment and disposal system evaluation and assessment program and which meet the grandfathering requirements contained in this section, or have chosen to opt out of this section in the manner provided herein, are exempt from the requirement to adopt an ordinance implementing an evaluation and assessment program. The governing body of a local government that chooses to opt out of this section, by a 60 percent vote of the voting members of the governing board, shall do so by adopting a resolution that indicates an intent on the part of such local government not to adopt an onsite sewage treatment and disposal system evaluation and assessment program. Such resolution shall be addressed and transmitted to the Secretary of State. Absent an interlocal agreement or county charter provision to the contrary, a municipality may elect to opt out of the requirements of this section, by a 60 percent vote of the voting members of the governing board, notwithstanding a contrary decision of the governing body of a county. Any local government that has properly opted out of this section but subsequently chooses to adopt an evaluation and assessment program may do so only pursuant to the requirements of this section and may not deviate from such requirements.

(3) Any county or municipality that does not contain a first magnitude spring may at any time develop and adopt by local ordinance an onsite sewage treatment and disposal system evaluation and assessment program, provided such program meets and does not deviate from the requirements of this section.

(4) Notwithstanding any other provision in this section, a county or municipality that has adopted a program before July 1, 2011, may continue to enforce its current program without having to meet the requirements of this section, provided such program does not require an evaluation at the point of sale in a real estate transaction.

(5) Any county or municipality may repeal an ordinance adopted pursuant to this section only if the county or municipality notifies the Secretary of State by letter of the repeal. No county or municipality may adopt an onsite sewage treatment and disposal system evaluation and assessment program except pursuant to this section.

(6) The requirements for an onsite sewage treatment and disposal system evaluation and assessment program are as follows:

(a) Evaluations.—An evaluation of each onsite sewage treatment and disposal system within all or part of the county's or municipality's jurisdiction must take place once every 5 years to assess the fundamental operational condition of the system and to identify system failures. The ordinance may not mandate an evaluation at the point of sale in a real estate transaction and may not require a soil examination. The location of the system shall be identified. A tank and drainfield evaluation and a written assessment of the overall condition of the system pursuant to the assessment procedure prescribed in subsection (7) are required.

(b) Qualified contractors.—Each evaluation required under this subsection must be performed by a qualified contractor, who may be a septic tank contractor or master septic tank contractor registered under part III of chapter 489, a professional engineer having wastewater treatment system experience and licensed under chapter 471, or an environmental health professional certified under this chapter in the area of onsite sewage treatment and disposal system evaluation. Evaluations and pump-outs may also be performed by an authorized employee working under the supervision of an individual listed in this paragraph; however, all evaluation forms must be signed by a qualified contractor in writing or by electronic signature.

(c) Repair of systems.—The local ordinance may not require a repair, modification, or replacement of a system as a result of an evaluation unless the evaluation identifies a system failure. For purposes of this subsection, the term “system failure” means a condition existing within an onsite sewage treatment and disposal system which results in the discharge of untreated or partially treated wastewater onto the ground surface or into surface water or that results in the failure of building plumbing to discharge properly and presents a sanitary nuisance. A system is not in failure if the system does not have a minimum separation distance between the drainfield and the wettest season water table or if an obstruction in a sanitary line or an effluent screen or filter prevents effluent from flowing into a drainfield. If a system failure is identified and several allowable remedial measures are available to resolve the failure, the system owner may choose the least costly allowable remedial measure to fix the system. There may be instances in which a pump-out is sufficient to resolve a system failure. Allowable remedial measures to resolve a system failure are limited to what is necessary to resolve the failure and must meet, to the maximum extent practicable, the requirements of the repair code in effect when the repair is made, subject to the exceptions specified in s. 381.0065(4)(g). An engineer-designed performance-based treatment system to reduce nutrients may not be required as an alternative remediation measure to resolve the failure of a conventional system.

(d) Exemptions.—

1. The local ordinance shall exempt from the evaluation requirements any system that is required to obtain an operating permit pursuant to state law or that is inspected by the department pursuant to the annual permit inspection requirements of chapter 513.

2. The local ordinance may provide for an exemption or an extension of time to obtain an evaluation and assessment if connection to a sewer system is available, connection to the sewer system is imminent, and written arrangements for payment of any utility assessments or connection fees have been made by the system owner.

3. An onsite sewage treatment and disposal system serving a residential dwelling unit on a lot with a ratio of one bedroom per acre or greater is exempt from the requirements of this section and may not be included in any onsite sewage treatment and disposal system inspection program.

(7) The following procedures shall be used for conducting evaluations:

(a) Tank evaluation.—The tank evaluation shall assess the apparent structural condition and watertightness of the tank and shall estimate the size of the tank. The evaluation must include a pump-out. However, an ordinance may not require a pump-out if there is documentation indicating that a tank pump-out or a permitted new installation, repair, or modification of the system has occurred within the previous 5 years, identifying the capacity of the tank, and indicating that the condition of the tank is structurally sound and watertight. Visual inspection of the tank must be made when the tank is empty to detect cracks, leaks, or other defects. Baffles or tees must be checked to ensure that they are intact and secure. The evaluation shall note the presence and condition of outlet devices, effluent filters, and compartment walls; any structural defect in the tank; the condition and fit of the tank lid, including manholes; whether surface water can infiltrate the tank; and whether the tank was pumped out. If the tank, in the opinion of the qualified contractor, is in danger of being damaged by leaving the tank empty after inspection, the tank shall be refilled before concluding the inspection. Broken or damaged lids or manholes shall be replaced without obtaining a repair permit.

(b) Drainfield evaluation.—The drainfield evaluation must include a determination of the approximate size and location of the drainfield. The evaluation shall state whether there is any sewage or effluent visible on the ground or discharging to a ditch or other water body and the location of any downspout or other source of water near or in the vicinity of the drainfield.

(c) Special circumstances.—If the system contains pumps, siphons, or alarms, the following information may be provided at the request of the homeowner:

1. An assessment of dosing tank integrity, including the approximate volume and the type of material used in the tank's construction;

2. Whether the pump is elevated off the bottom of the chamber and its operational status;

3. Whether the system has a check valve and purge hole; and

4. Whether the system has a high-water alarm, and if so whether the alarm is audio or visual or both, the location and operational condition of the alarm, and whether the electrical connections to the alarm appear satisfactory.

If the homeowner does not request this information, the qualified contractor and its employee are not liable for any damages directly relating from a failure of the system's pumps, siphons, or alarms. This exclusion of liability must be stated on the front cover of the report required under paragraph (d).

(d) Assessment procedure.—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the Department of Health. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report shall contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any downspout, stormwater, or other source of water directed onto or toward the system; and any other maintenance need or condition of the system at the time of the evaluation which, in the opinion of the qualified contractor, would possibly interfere with or restrict any future repair or modification to the existing system. The report shall conclude with an overall assessment of the fundamental operational condition of the system.

(8) The county health department shall administer any evaluation program on behalf of a county, or a municipality within the county, that has adopted an evaluation program pursuant to this section. In order to administer the evaluation program, the county or municipality, in consultation with the county health department, may develop a reasonable fee schedule to be used solely to pay for the costs of administering the evaluation program. Such a fee schedule shall be identified in the ordinance that adopts the evaluation program. When arriving at a reasonable fee schedule, the estimated annual revenues to be derived from fees may not exceed reasonable estimated annual costs of the program. Fees shall be assessed to the system owner during an inspection and separately identified on the invoice of the qualified contractor. Fees shall be remitted by the qualified contractor to the county health department. The county health department's administrative responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days before the system is due for an evaluation. The notice may include information on the proper maintenance of onsite sewage treatment and disposal systems.

(b) In consultation with the Department of Health, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)(a) A county or municipality that adopts an onsite sewage treatment and disposal system evaluation and assessment program pursuant to this section shall notify the Secretary of Environmental Protection, the Department of Health, and the applicable county health department upon the adoption of its ordinance establishing the program.

(b) Upon receipt of the notice under paragraph (a), the Department of Environmental Protection shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the Department of Environmental Protection to provide any county or municipality with money to fund such programs.

(c) The Department of Health may not adopt any rule that alters the provisions of this section.

(d) The Department of Health must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

(10) This section does not:

(a) Limit county and municipal home rule authority to act outside the scope of the evaluation and assessment program set forth in this section;

(b) Repeal or affect any other law relating to the subject matter of onsite sewage treatment and disposal systems; or

(c) Prohibit a county or municipality from:

1. Enforcing existing ordinances or adopting new ordinances relating to onsite sewage treatment facilities to address public health and safety if such ordinances do not repeal, suspend, or alter the requirements or limitations of this section.

2. Adopting local environmental and pollution abatement ordinances for water quality improvement as provided for by law if such ordinances do not repeal, suspend, or alter the requirements or limitations of this section.

3. Exercising its independent and existing authority to meet the requirements of s. 381.0065.

Section 34. Section 381.00656, Florida Statutes, is repealed.

Section 35. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

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

(a) Application review, permit issuance, or system inspection, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than \$25, or more than \$125.

~~(b) A 5-year evaluation report submitted pursuant to s. 381.0065(5): a fee not less than \$15, or more than \$30. At least \$1 and no more than \$5 collected pursuant to this paragraph shall be used to fund a grant program established under s. 381.00656.~~

~~(b)(e)~~ Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than \$40, or more than \$115.

~~(c)(d)~~ Biennial Operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than \$100.

~~(d)(e)~~ Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than \$150, or more than \$300.

~~(e)(f)~~ Innovative technology: a fee not to exceed \$25,000.

(f)(g) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than \$25, or more than \$200, per year.

(g)(h) Application for variance: a fee of not less than \$150, or more than \$300.

(h)(i) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than \$15 ~~\$50~~, or more than \$30 ~~\$150~~.

(i)(j) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than \$25, or more than \$150, per year.

(j)(k) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than \$25, or more than \$100.

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

(l)(m) Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than \$150, or more than \$300.

~~On or before January 1, 2011, the Surgeon General, after consultation with the Revenue Estimating Conference, shall determine a revenue neutral fee schedule for services provided pursuant to s. 381.0065(5) within the parameters set in paragraph (b). Such determination is not subject to the provisions of chapter 120. The funds collected pursuant to this subsection must be deposited in a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655.~~

Section 36. Section 381.0068, Florida Statutes, is amended to read:

381.0068 Technical review and advisory panel.—

(1) The Department of Health shall, ~~by July 1, 1996~~, establish and staff a technical review and advisory panel to assist the department with rule adoption.

(2) The primary purpose of the panel is to assist the department in rulemaking and decisionmaking by drawing on the expertise of representatives from several groups that are affected by onsite sewage treatment and disposal systems. The panel may also review and comment on any legislation or any existing or proposed state policy or issue related to onsite sewage

~~treatment and disposal systems. If requested by the panel, the chair will advise any affected person or member of the Legislature of the panel's position on the legislation or any existing or proposed state policy or issue. The chair may also take such other action as is appropriate to allow the panel to function. At a minimum, the panel shall consist of a soil scientist; a professional engineer registered in this state who is recommended by the Florida Engineering Society and who has work experience in onsite sewage treatment and disposal systems; two representatives from the home-building industry recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems; a representative from the county health departments who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state; a representative from the real estate industry who is recommended by the Florida Association of Realtors; a consumer representative with a science background; two representatives of the septic tank industry recommended by the Florida Onsite Wastewater Association, including one who is a manufacturer of onsite sewage treatment and disposal systems; a representative from local government who is knowledgeable about domestic wastewater treatment and who is recommended by the Florida Association of Counties and the Florida League of Cities; and a representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county health department. Members are to be appointed for a term of 2 years. The panel may also, as needed, be expanded to include ad hoc, nonvoting representatives who have topic-specific expertise. All rules proposed by the department which relate to onsite sewage treatment and disposal systems must be presented to the panel for review and comment prior to adoption. The panel's position on proposed rules shall be made a part of the rulemaking record that is maintained by the agency. The panel shall select a chair, who shall serve for a period of 1 year and who shall direct, coordinate, and execute the duties of the panel. The panel shall also solicit input from the department's variance review and advisory committee before submitting any comments to the department concerning proposed rules. The panel's comments must include any dissenting points of view concerning proposed rules. The panel shall hold meetings as it determines necessary to conduct its business, except that the chair, a quorum of the voting members of the panel, or the department may call meetings. The department shall keep minutes of all meetings of the panel. Panel members shall serve without remuneration, but, if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

Section 37. Subsection (1) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation,

servicing, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

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

(a) “Department” means the Department of Health or its representative county health department.

(b) “Food service establishment” means detention facilities, public or private schools, migrant labor camps, assisted living facilities, facilities participating in the United States Department of Agriculture Afterschool Meal Program that are located at a facility or site that is not inspected by another state agency for compliance with sanitation standards, adult family-care homes, adult day care centers, short-term residential treatment centers, residential treatment facilities, homes for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in this paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include any entity not expressly named in this paragraph; nor does the term include a domestic violence center certified and monitored by the Department of Children and Family Services under part XII of chapter 39 if the center does not prepare and serve food to its residents and does not advertise food or drink for public consumption.

(c) “Operator” means the owner, operator, keeper, proprietor, lessee, manager, assistant manager, agent, or employee of a food service establishment.

Section 38. Section 381.00781, Florida Statutes, is amended to read:

381.00781 Fees; disposition.—

(1) The department shall establish by rule the following fees:

(1)(a)—Fee For the initial licensure of a tattoo establishment and the renewal of such license, ~~a fee which, except as provided in subsection (2), may not to~~ exceed \$250 per year.

(2)(b)—Fee For licensure of a temporary establishment, ~~a fee which, except as provided in subsection (2), may not to~~ exceed \$250.

~~(3)(e)—Fee For the initial licensure of a tattoo artist and the renewal of such license, a fee which, except as provided in subsection (2), may not to exceed \$150 per year.~~

~~(3)(d)—Fee For registration or reregistration of a guest tattoo artist, a fee which, except as provided in subsection (2), may not to exceed \$45.~~

~~(4)(e)—Fee For reactivation of an inactive tattoo establishment license or tattoo artist license. A license becomes inactive if it is not renewed before the expiration of the current license.~~

~~(2)—The department may annually adjust the maximum fees authorized under subsection (1) according to the rate of inflation or deflation indicated by the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, as reported by the United States Department of Labor.~~

Section 39. Subsections (1) and (4) of section 381.0086, Florida Statutes, are amended to read:

381.0086 Rules; variances; penalties.—

(1) The department shall adopt rules necessary to protect the health and safety of migrant farmworkers and other migrant labor camp or residential migrant housing occupants, including rules governing field sanitation facilities. These rules must include definitions of terms, a process for provisions relating to plan review of the construction of new, expanded, or remodeled camps or residential migrant housing, sites, buildings and structures; and standards for, personal hygiene facilities, lighting, sewage disposal, safety, minimum living space per occupant, bedding, food equipment, food storage and preparation, insect and rodent control, garbage, heating equipment, water supply, maintenance and operation of the camp, housing, or roads, and such other matters as the department finds to be appropriate or necessary to protect the life and health of the occupants. Housing operated by a public housing authority is exempt from the provisions of any administrative rule that conflicts with or is more stringent than the federal standards applicable to the housing.

(4) A person who violates any provision of ss. 381.008-381.00895 or rules adopted under such sections is subject either to the penalties provided in ss. 381.0012, ~~381.0025,~~ and 381.0061 or to the penalties provided in s. 381.0087.

Section 40. Subsections (1) and (7) of section 381.0098, Florida Statutes, are amended to read:

381.0098 Biomedical waste.—

(1) LEGISLATIVE INTENT.—~~It is the intent of the Legislature to protect the public health by establishing standards for the safe packaging, transport, storage, treatment, and disposal of biomedical waste. Except as otherwise provided herein, the Department of Health shall regulate the packaging, transport, storage, and treatment of biomedical waste. The~~

Department of Environmental Protection shall regulate onsite and offsite incineration and disposal of biomedical waste. Consistent with the foregoing, the Department of Health shall have the exclusive authority to establish treatment efficacy standards for biomedical waste and the Department of Environmental Protection shall have the exclusive authority to establish statewide standards relating to environmental impacts, if any, of treatment and disposal including, but not limited to, water discharges and air emissions. An interagency agreement between the Department of Environmental Protection and the Department of Health shall be developed to ensure maximum efficiency in coordinating, administering, and regulating biomedical wastes.

(7) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012, ~~381.0025~~, and 381.0061. However, an administrative fine not to exceed \$2,500 may be imposed for each day such person or public body is in violation of this section. The department may deny, suspend, or revoke any biomedical waste permit or registration if the permittee violates this section, any rule adopted under this section, or any lawful order of the department.

Section 41. Subsections (2) through (8) of section 381.0101, Florida Statutes, are renumbered as subsection (1) through (7), respectively, and present subsections (1), (3), and (4) and paragraph (a) of present subsection (5) of that section are amended to read:

381.0101 Environmental health professionals.—

~~(1) LEGISLATIVE INTENT.—Persons responsible for providing technical and scientific evaluations of environmental health and sanitary conditions in business establishments and communities throughout the state may create a danger to the public health if they are not skilled or competent to perform such evaluations. The public relies on the judgment of environmental health professionals employed by both government agencies and industries to assure them that environmental hazards are identified and removed before they endanger the health or safety of the public. The purpose of this section is to assure the public that persons specifically responsible for performing environmental health and sanitary evaluations have been certified by examination as competent to perform such work.~~

~~(2)(3) CERTIFICATION REQUIRED.—A No person may not shall~~ perform environmental health or sanitary evaluations in any primary program area of environmental health without being certified by the department as competent to perform such evaluations. This section does not apply to:

(a) Persons performing inspections of public food service establishments licensed under chapter 509; or

(b) Persons performing site evaluations in order to determine proper placement and installation of onsite wastewater treatment and disposal

systems who have successfully completed a department-approved soils morphology course and who are working under the direct responsible charge of an engineer licensed under chapter 471.

(3)(4) ENVIRONMENTAL HEALTH PROFESSIONALS ADVISORY BOARD.—The State Health Officer shall appoint an advisory board to assist the department in the promulgation of rules for certification, testing, establishing standards, and seeking enforcement actions against certified professionals.

(a) The board shall be comprised of the State Surgeon General Division Director for Environmental Health or his or her designee, one individual who will be certified under this section, one individual not employed in a governmental capacity who will or does employ a certified environmental health professional, one individual whose business is or will be evaluated by a certified environmental health professional, a citizen of the state who neither employs nor is routinely evaluated by a person certified under this section.

(b) The board shall advise the department as to the minimum disciplinary guidelines and standards of competency and proficiency necessary to obtain certification in a primary area of environmental health practice.

1. The board shall recommend primary areas of environmental health practice in which environmental health professionals should be required to obtain certification.

2. The board shall recommend minimum standards of practice which the department shall incorporate into rule.

3. The board shall evaluate and recommend to the department existing registrations and certifications which meet or exceed minimum department standards and should, therefore, exempt holders of such certificates or registrations from compliance with this section.

4. The board shall hear appeals of certificate denials, revocation, or suspension and shall advise the department as to the disposition of such an appeal.

5. The board shall meet as often as necessary, but no less than semiannually, handle appeals to the department, and conduct other duties of the board.

6. Members of the board shall receive no compensation but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061.

(4)(5) STANDARDS FOR CERTIFICATION.—The department shall adopt rules that establish definitions of terms and minimum standards of education, training, or experience for those persons subject to this section. The rules must also address the process for application, examination,

issuance, expiration, and renewal of certification and ethical standards of practice for the profession.

(a) Persons employed as environmental health professionals shall exhibit a knowledge of rules and principles of environmental and public health law in Florida through examination. A person may not conduct environmental health evaluations in a primary program area unless he or she is currently certified in that program area or works under the direct supervision of a certified environmental health professional.

1. All persons who begin employment in a primary environmental health program on or after September 21, 1994, must be certified in that program within 6 months after employment.

2. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system prior to September 21, 1994, shall be considered certified while employed in that position and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b), complete any continuing education requirements imposed under paragraph (d), and pay the certificate renewal fee imposed under subsection (6) (7).

3. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system prior to September 21, 1994, who change positions or program areas and transfer into another primary environmental health program area on or after September 21, 1994, must be certified in that program within 6 months after such transfer, except that they will not be required to possess the college degree required under paragraph (e).

4. Registered sanitarians shall be considered certified and shall be required to adhere to any professional standards established by the department pursuant to paragraph (b).

Section 42. Section 381.0203, Florida Statutes, is amended to read:

381.0203 Pharmacy services.—

(1) The department may contract on a statewide basis for the purchase of drugs, as defined in s. 499.003, to be used by state agencies and political subdivisions, and may adopt rules to administer this section.

(2) The department shall establish and maintain a pharmacy services program, including, but not limited to:

(a) A central pharmacy to support pharmaceutical services provided by the county health departments, including pharmaceutical repackaging, dispensing, and the purchase and distribution of immunizations and other pharmaceuticals.

~~(b) Regulation of drugs, cosmetics, and household products pursuant to chapter 499.~~

~~(b)(e) Consultation to county health departments as required by s. 154.04(1)(c).~~

~~(d) A contraception distribution program which shall be implemented, to the extent resources permit, through the licensed pharmacies of county health departments. A woman who is eligible for participation in the contraceptive distribution program is deemed a patient of the county health department.~~

~~1. To be eligible for participation in the program a woman must:~~

~~a. Be a client of the department or the Department of Children and Family Services.~~

~~b. Be of childbearing age with undesired fertility.~~

~~c. Have an income between 150 and 200 percent of the federal poverty level.~~

~~d. Have no Medicaid benefits or applicable health insurance benefits.~~

~~e. Have had a medical examination by a licensed health care provider within the past 6 months.~~

~~f. Have a valid prescription for contraceptives that are available through the contraceptive distribution program.~~

~~g. Consent to the release of necessary medical information to the county health department.~~

~~2. Fees charged for the contraceptives under the program must cover the cost of purchasing and providing contraceptives to women participating in the program.~~

~~3. The department may adopt rules to administer this program.~~

Section 43. Subsection (1) of section 381.0261, Florida Statutes, is amended to read:

381.0261 Summary of patient's bill of rights; distribution; penalty.—

(1) The Department of Health shall publish on its Internet website ~~Agency for Health Care Administration shall have printed and made continuously available to health care facilities licensed under chapter 395, physicians licensed under chapter 458, osteopathic physicians licensed under chapter 459, and podiatric physicians licensed under chapter 461~~ a summary of the Florida Patient's Bill of Rights and Responsibilities. In adopting and making available to patients the summary of the Florida Patient's Bill of Rights and Responsibilities, health care providers and health care facilities

are not limited to the format in which the department publishes Agency for Health Care Administration prints and distributes the summary.

Section 44. Section 381.0301, Florida Statutes, is repealed.

Section 45. Section 381.0302, Florida Statutes, is repealed.

Section 46. Subsection (5) of section 381.0303, Florida Statutes, is amended to read:

381.0303 Special needs shelters.—

(5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The State Surgeon General 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, and—
- 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, Children and Family Services, Elderly Affairs, and Education; the Agency for Health Care Administration; the Division of Emergency Management; 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.

Section 47. Section 381.04015, Florida Statutes, is repealed.

Section 48. Subsections (2), (3), and (4) of section 381.0403, Florida Statutes, are amended to read:

381.0403 The Community Hospital Education Act.—

(2) ESTABLISHMENT OF PROGRAM LEGISLATIVE INTENT.—

(a) ~~It is the intent of the Legislature that health care services for the citizens of this state be upgraded and that a program for continuing these services be maintained through a plan for community medical education. The~~ A program is intended established to plan for community medical education, provide additional outpatient and inpatient services, increase the a continuing supply of highly trained physicians, and expand graduate medical education.

(b) ~~The Legislature further acknowledges the critical need for increased numbers of primary care physicians to provide the necessary current and projected health and medical services. In order to meet both present and anticipated needs, the Legislature supports an expansion in the number of family practice residency positions. The Legislature intends that the funding for graduate education in family practice be maintained and that funding for all primary care specialties be provided at a minimum of \$10,000 per resident per year. Should funding for this act remain constant or be reduced, it is intended that all programs funded by this act be maintained or reduced proportionately.~~

(3) PROGRAM FOR COMMUNITY HOSPITAL EDUCATION; STATE AND LOCAL PLANNING.—

(a) ~~There is established under the Department of Health a program for statewide graduate medical education. It is intended that continuing graduate medical education programs for interns and residents be established on a statewide basis. The program shall provide financial support for primary care specialty interns and residents based on recommendations of policies recommended and approved by the Community Hospital Education Council, herein established, and the Department of Health, as authorized by the General Appropriations Act. Only those programs with at least three residents or interns in each year of the training program are qualified to apply for financial support. Programs with fewer than three residents or interns per training year are qualified to apply for financial support, but only if the appropriate accrediting entity for the particular specialty has approved the program for fewer positions. New programs added after fiscal year 1997-1998 shall have 5 years to attain the requisite number of residents or interns. When feasible and to the extent allowed through the General Appropriations~~

Act, state funds shall be used to generate federal matching funds under Medicaid, or other federal programs, and the resulting combined state and federal funds shall be allocated to participating hospitals for the support of graduate medical education.

(b) For the purposes of this section, primary care specialties include emergency medicine, family practice, internal medicine, pediatrics, psychiatry, obstetrics/gynecology, and combined pediatrics and internal medicine, and other primary care specialties as may be included by the council and Department of Health.

(c) Medical institutions throughout the state may apply to the Community Hospital Education Council for grants-in-aid for financial support of their approved programs. Recommendations for funding of approved programs shall be forwarded to the Department of Health.

(d) The program shall provide a plan for community clinical teaching and training with the cooperation of the medical profession, hospitals, and clinics. The plan shall also include formal teaching opportunities for intern and resident training. In addition, the plan shall establish an off-campus medical faculty with university faculty review to be located throughout the state in local communities.

(4) PROGRAM FOR GRADUATE MEDICAL EDUCATION INNOVATIONS.—

(a) There is established under the Department of Health a program for fostering graduate medical education innovations. Funds appropriated annually by the Legislature for this purpose shall be distributed to participating hospitals or consortia of participating hospitals and Florida medical schools or to a Florida medical school for the direct costs of providing graduate medical education in community-based clinical settings on a competitive grant or formula basis to achieve state health care workforce policy objectives, including, but not limited to:

1. Increasing the number of residents in primary care and other high demand specialties or fellowships;
2. Enhancing retention of primary care physicians in Florida practice;
3. Promoting practice in medically underserved areas of the state;
4. Encouraging racial and ethnic diversity within the state's physician workforce; and
5. Encouraging increased production of geriatricians.

(b) Participating hospitals or consortia of participating hospitals and Florida medical schools or a Florida medical school providing graduate medical education in community-based clinical settings may apply to the Community Hospital Education Council for funding under this innovations

program, except when such innovations directly compete with services or programs provided by participating hospitals or consortia of participating hospitals, or by both hospitals and consortia. Innovations program funding shall be allocated ~~provide funding~~ based on recommendations of policies recommended and approved by the Community Hospital Education Council and the Department of Health, as authorized by the General Appropriations Act.

(c) Participating hospitals or consortia of participating hospitals and Florida medical schools or Florida medical schools awarded an innovations grant shall provide the Community Hospital Education Council and Department of Health with an annual report on their project.

Section 49. Subsection (7) of section 381.0405, Florida Statutes, is amended to read:

381.0405 Office of Rural Health.—

~~(7) APPROPRIATION.—The Legislature shall appropriate such sums as are necessary to support the Office of Rural Health.~~

Section 50. Subsection (3) of section 381.0406, Florida Statutes, is amended to read:

381.0406 Rural health networks.—

~~(3) Because each rural area is unique, with a different health care provider mix,~~ Health care provider membership may vary, but all networks shall include members that provide public health, comprehensive primary care, emergency medical care, and acute inpatient care.

Section 51. Effective October 1, 2014, section 381.0407, Florida Statutes, is repealed.

Section 52. Section 381.045, Florida Statutes, is repealed.

Section 53. Subsection (7) of section 381.06015, Florida Statutes, is amended to read:

381.06015 Public Cord Blood Tissue Bank.—

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

Section 54. Section 381.0605, Florida Statutes, is repealed.

Section 55. Sections 381.1001, 381.1015, 381.102, and 381.103, Florida Statutes, are repealed.

Section 56. Subsections (3) through (5) of section 381.4018, Florida Statutes, are renumbered as subsections (2) through (4), respectively, and present subsection (2) and paragraph (f) of present subsection (4) of that section are amended to read:

381.4018 Physician workforce assessment and development.—

~~(2) LEGISLATIVE INTENT.—The Legislature recognizes that physician workforce planning is an essential component of ensuring that there is an adequate and appropriate supply of well-trained physicians to meet this state's future health care service needs as the general population and elderly population of the state increase. The Legislature finds that items to consider relative to assessing the physician workforce may include physician practice status; specialty mix; geographic distribution; demographic information; including, but not limited to, age, gender, race, and cultural considerations; and needs of current or projected medically underserved areas in the state. Long-term strategic planning is essential as the period from the time a medical student enters medical school to completion of graduate medical education may range from 7 to 10 years or longer. The Legislature recognizes that strategies to provide for a well-trained supply of physicians must include ensuring the availability and capacity of quality medical schools and graduate medical education programs in this state, as well as using new or existing state and federal programs providing incentives for physicians to practice in needed specialties and in underserved areas in a manner that addresses projected needs for physician manpower.~~

~~(3)(4) 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:~~

~~(f) Develop strategies to maximize federal and state programs that provide for the use of incentives to attract physicians to this state or retain physicians within the state. Such strategies should explore and maximize federal-state partnerships that provide incentives for physicians to practice in federally designated shortage areas. Strategies shall also consider the use of state programs, such as the Florida Health Service Corps established pursuant to s. 381.0302 and the Medical Education Reimbursement and Loan Repayment Program pursuant to s. 1009.65, which provide for education loan repayment or loan forgiveness and provide monetary incentives for physicians to relocate to underserved areas of the state.~~

Section 57. Section 381.60225, Florida Statutes, is repealed.

Section 58. Sections 381.732, 381.733, and 381.734, Florida Statutes, are repealed.

Section 59. Section 381.7352, Florida Statutes, is amended to read:

381.7352 Legislative findings and intent.—

~~(1) The Legislature finds that despite state investments in health care programs, certain racial and ethnic populations in Florida continue to have significantly poorer health outcomes when compared to non-Hispanic whites. The Legislature finds that local solutions to health care problems can have a dramatic and positive effect on the health status of these populations. Local governments and communities are best equipped to identify the health education, health promotion, and disease prevention needs of the racial and ethnic populations in their communities, mobilize the community to address health outcome disparities, enlist and organize local public and private resources, and faith-based organizations to address these disparities, and evaluate the effectiveness of interventions.~~

(2) It is therefore the intent of the Legislature to provide funds within Florida counties and Front Porch Florida Communities, in the form of Reducing Racial and Ethnic Health Disparities: Closing the Gap grants, to stimulate the development of community-based and neighborhood-based projects which will improve the health outcomes of racial and ethnic populations. Further, it is the intent of the Legislature that these programs foster the development of coordinated, collaborative, and broad-based participation by public and private entities, and faith-based organizations. Finally, it is the intent of the Legislature that the grant program function as a partnership between state and local governments, faith-based organizations, and private sector health care providers, including managed care, voluntary health care resources, social service providers, and nontraditional partners.

Section 60. 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 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 61. Subsections (5) and (6) of section 381.7356, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and present subsection (4) of that section is amended to read:

381.7356 Local matching funds; grant awards.—

~~(4) Dissemination of grant awards shall begin no later than January 1, 2001.~~

Section 62. Subsection (3) of section 381.765, Florida Statutes, is amended to read:

381.765 Retention of title to and disposal of equipment.—

~~(3) The department may adopt rules relating to records and recordkeeping for department-owned property referenced in subsections (1) and (2).~~

Section 63. Section 381.77, Florida Statutes, is repealed.

Section 64. Section 381.795, Florida Statutes, is repealed.

Section 65. Subsections (2) through (5) of section 381.853, Florida Statutes, are renumbered as subsections (1) through (4), respectively, and present subsection (1) of that section is amended to read:

381.853 Florida Center for Brain Tumor Research.—

~~(1) The Legislature finds that each year an estimated 190,000 citizens of the United States are diagnosed with cancerous and noncancerous brain tumors and that biomedical research is the key to finding cures for these tumors. The Legislature further finds that, although brain tumor research is being conducted throughout the state, there is a lack of coordinated efforts among researchers and health care providers. Therefore, the Legislature finds that there is a significant need for a coordinated effort to achieve the goal of curing brain tumors. The Legislature further finds that the biomedical technology sector meets the criteria of a high-impact sector, pursuant to s. 288.108(6), having a high importance to the state's economy with a significant potential for growth and contribution to our universities and quality of life.~~

Section 66. Section 381.855, Florida Statutes, is repealed.

Section 67. Section 381.87, Florida Statutes, is repealed.

Section 68. Section 381.90, Florida Statutes, is repealed.

Section 69. Subsection (1) of section 381.91, Florida Statutes, is amended to read:

381.91 Jessie Trice Cancer Prevention Program.—

(1) It is the intent of the Legislature to:

~~(a) Reduce the rates of illness and death from lung cancer and other cancers and improve the quality of life among low-income African American and Hispanic populations through increased access to early, effective screening and diagnosis, education, and treatment programs.~~

(b) create a community faith-based disease-prevention program in conjunction with the Health Choice Network and other community health centers to build upon the natural referral and education networks in place within minority communities and to increase access to health service delivery in Florida and.

(e) establish a funding source to build upon local private participation to sustain the operation of the program.

Section 70. Subsection (5) of section 381.922, Florida Statutes, is amended to read:

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

(5) The William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program is funded pursuant to s. 215.5602(12). Funds appropriated for the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program shall be distributed pursuant to this section to provide grants to researchers seeking cures for cancer and cancer-related illnesses, with emphasis given to the goals enumerated in this section. From the total funds appropriated, an amount of up to 10 percent may be used for administrative expenses. ~~From funds appropriated to accomplish the goals of this section, up to \$250,000 shall be available for the operating costs of the Florida Center for Universal Research to Eradicate Disease.~~

Section 71. Paragraph (g) of subsection (1) of section 383.011, Florida Statutes, is amended to read:

383.011 Administration of maternal and child health programs.—

(1) The Department of Health is designated as the state agency for:

(g) Receiving the federal funds for the “Special Supplemental Nutrition Program for Women, Infants, and Children,” or WIC, authorized by the Child Nutrition Act of 1966, as amended, and for providing clinical leadership for administering the statewide WIC program.

1. The department shall establish an interagency agreement with the Department of Children and Family Services for fiscal management of the program. Responsibilities are delegated to each department, as follows:

a. The department shall provide clinical leadership, manage program eligibility, and distribute nutritional guidance and information to participants.

b. The Department of Children and Family Services shall develop and implement an electronic benefits transfer system.

c. The Department of Children and Family Services shall develop a cost containment plan that provides timely and accurate adjustments based on

wholesale price fluctuations and adjusts for the number of cash registers in calculating statewide averages.

d. The department shall coordinate submission of information to appropriate federal officials in order to obtain approval of the electronic benefits system and cost containment plan, which must include participation of WIC-only stores.

2. The department shall assist the Department of Children and Family Services in the development of the electronic benefits system to ensure full implementation no later than July 1, 2013.

Section 72. Section 383.141, Florida Statutes, is created to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.—

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

(a) “Down syndrome” means a chromosomal disorder caused by an error in cell division which results in the presence of an extra whole or partial copy of chromosome 21.

(b) “Developmental disability” includes Down syndrome and other developmental disabilities defined by s. 393.063(9).

(c) “Health care provider” means a practitioner licensed or registered under chapter 458 or chapter 459 or an advanced registered nurse practitioner certified under chapter 464.

(d) “Prenatally diagnosed condition” means an adverse fetal health condition identified by prenatal testing.

(e) “Prenatal test” or “prenatal testing” means a diagnostic procedure or screening procedure performed on a pregnant woman or her unborn offspring to obtain information about the offspring’s health or development.

(2) When a developmental disability is diagnosed based on the results of a prenatal test, the health care provider who ordered the prenatal test, or his or her designee, shall provide the patient with current information about the nature of the developmental disability, the accuracy of the prenatal test, and resources for obtaining relevant support services, including hotlines, resource centers, and information clearinghouses related to Down syndrome or other prenatally diagnosed developmental disabilities; support programs for parents and families; and developmental evaluation and intervention services under s. 391.303.

(3) The Department of Health shall establish on its Internet website a clearinghouse of information related to developmental disabilities concerning providers of supportive services, information hotlines specific to Down syndrome and other prenatally diagnosed developmental disabilities,

resource centers, educational programs, other support programs for parents and families, and developmental evaluation and intervention services under s. 391.303. Such information shall be made available to health care providers for use in counseling pregnant women whose unborn children have been prenatally diagnosed with developmental disabilities.

(a) There is established an advisory council within the Department of Health which consists of health care providers and caregivers who perform health care services for persons who have developmental disabilities, including Down syndrome and autism. This group shall consist of nine members as follows:

1. Three members appointed by the Governor;
2. Three members appointed by the President of the Senate; and
3. Three members appointed by the Speaker of the House of Representatives.

(b) The advisory council shall provide technical assistance to the Department of Health in the establishment of the information clearinghouse and give the department the benefit of the council members' knowledge and experience relating to the needs of patients and families of patients with developmental disabilities and available support services.

(c) Members of the council shall elect a chairperson and a vice chairperson. The elected chairperson and vice chairperson shall serve in these roles until their terms of appointment on the council expire.

(d) The advisory council shall meet quarterly to review this clearinghouse of information, and may meet more often at the call of the chairperson or as determined by a majority of members.

(e) The council members shall be appointed to 4-year terms, except that, to provide for staggered terms, one initial appointee each from the Governor, the President of the Senate, and the Speaker of the House of Representatives shall be appointed to a 2-year term, one appointee each from these officials shall be appointed to a 3-year term, and the remaining initial appointees shall be appointed to 4-year terms. All subsequent appointments shall be for 4-year terms. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(f) Members of the council shall serve without compensation. Meetings of the council may be held in person, without reimbursement for travel expenses, or by teleconference or other electronic means.

(g) The Department of Health shall provide administrative support for the advisory council.

Section 73. Effective July 1, 2012, section 385.210, Florida Statutes, is repealed.

Section 74. Section 391.016, Florida Statutes, is amended to read:

391.016 Purposes and functions Legislative intent.—The Legislature intends that the Children’s Medical Services program is established for the following purposes and authorized to perform the following functions:

(1) Provide to children with special health care needs a family-centered, comprehensive, and coordinated statewide managed system of care that links community-based health care with multidisciplinary, regional, and tertiary pediatric specialty care. The program shall coordinate and maintain a consistent ~~may provide for the coordination and maintenance of consistency of the medical home for participating children in families with a Children’s Medical Services program participant, in order to achieve family-centered care.~~

(2) Provide essential preventive, evaluative, and early intervention services for children at risk for or having special health care needs, in order to prevent or reduce long-term disabilities.

~~(3) Serve as a principal provider for children with special health care needs under Titles XIX and XXI of the Social Security Act.~~

~~(4) Be complementary to children’s health training programs essential for the maintenance of a skilled pediatric health care workforce for all Floridians.~~

Section 75. Section 391.021, Florida Statutes, is amended to read:

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

(1) “Children’s Medical Services network” or “network” means a state-wide managed care service system that includes health care providers, as defined in this section.

(2) “Children with special health care needs” means those children younger than 21 years of age who have chronic and serious physical, developmental, behavioral, or emotional conditions and who ~~also~~ require health care and related services of a type or amount beyond that which is generally required by children.

(3) “Department” means the Department of Health.

(4) “Eligible individual” means a child with a special health care need or a female with a high-risk pregnancy, who meets the financial and medical eligibility standards established in s. 391.029.

(5) “Health care provider” means a health care professional, health care facility, or entity licensed or certified to provide health services in this state that meets the criteria as established by the department.

(6) "Health services" includes the prevention, diagnosis, and treatment of human disease, pain, injury, deformity, or disabling conditions.

(7) "Participant" means an eligible individual who is enrolled in the Children's Medical Services program.

(8) "Program" means the Children's Medical Services program established in the department.

Section 76. Section 391.025, Florida Statutes, is amended to read:

391.025 Applicability and scope.—

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

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

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

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

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

(d)(e) The Children's Medical Services network.

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

Section 77. Section 391.026, Florida Statutes, is amended to read:

391.026 Powers and duties of the department.—The department shall have the following powers, duties, and responsibilities:

(1) To provide or contract for the provision of health services to eligible individuals.

(2) To provide services to abused and neglected children through child protective teams pursuant to s. 39.303.

~~(3)(2) To determine the medical and financial eligibility standards for the program and to determine the medical and financial eligibility of individuals seeking health services from the program.~~

~~(3) To recommend priorities for the implementation of comprehensive plans and budgets.~~

(4) To coordinate a comprehensive delivery system for eligible individuals to take maximum advantage of all available funds.

(5) To ~~promote, establish, and~~ coordinate with programs relating to children’s medical services in cooperation with other public and private agencies ~~and to coordinate funding of health care programs with federal, state, or local indigent health care funding mechanisms.~~

(6) To initiate and, coordinate, ~~and request review of~~ applications to federal agencies and private organizations ~~and state ageneies~~ for funds, services, or commodities relating to children’s medical programs.

(7) To sponsor or promote grants for projects, programs, education, or research in the field of ~~medical needs of children~~ with special health needs, with an emphasis on early diagnosis and treatment.

(8) To oversee and operate the Children’s Medical Services network.

(9) To establish reimbursement mechanisms for the Children’s Medical Services network.

(10) To establish Children’s Medical Services network standards and credentialing requirements for health care providers and health care services.

(11) To serve as a provider and principal case manager for children with special health care needs under Titles XIX and XXI of the Social Security Act.

(12) To monitor the provision of health services in the program, including the utilization and quality of health services.

(13) To administer the Children with Special Health Care Needs program in accordance with Title V of the Social Security Act.

(14) To establish and operate a grievance resolution process for participants and health care providers.

(15) To maintain program integrity in the Children’s Medical Services program.

(16) To receive and manage health care premiums, capitation payments, and funds from federal, state, local, and private entities for the program. The department may contract with a third-party administrator for processing claims, monitoring medical expenses, and other related services necessary to the efficient and cost-effective operation of the Children’s Medical Services network. The department is authorized to maintain a minimum reserve for the Children’s Medical Services network in an amount that is the greater of:

(a) Ten percent of total projected expenditures for Title XIX-funded and Title XXI-funded children; or

(b) Two percent of total annualized payments from the Agency for Health Care Administration for Title XIX and Title XXI of the Social Security Act.

~~(17) To provide or contract for appoint health care consultants for the purpose of providing peer review and other quality-improvement activities making recommendations to enhance the delivery and quality of services in the Children's Medical Services program.~~

~~(18) To adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the Children's Medical Services Act. The rules may include requirements for definitions of terms, program organization, and program description; a process for selecting an area medical director; responsibilities of applicants and clients; requirements for service applications, including required medical and financial information; eligibility requirements for initial treatment and for continued eligibility, including financial and custody issues; methodologies for resource development and allocation, including medical and financial considerations; requirements for reimbursement services rendered to a client; billing and payment requirements for providers; requirements for qualification, appointments, verification, and emergency exceptions for health professional consultants; general and diagnostic-specific standards for diagnostic and treatment facilities; and standards for the method of service delivery, including consultant services, respect for privacy considerations, examination requirements, family support plans, and clinic design.~~

Section 78. 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. The director may appoint such other staff as necessary for the operation of the program ~~division directors~~ subject to the approval of the State Surgeon General.

(2) The director shall provide for operational system using such department staff and contract providers as necessary. The program shall implement the following program activities under physician supervision on a statewide basis ~~designate Children's Medical Services area offices to perform operational activities, including, but not limited to:~~

(a) ~~Providing Case management services for the network participants;~~

(b) Management and Providing local oversight of local ~~the program activities;~~

(c) ~~Determining an individual's~~ Medical and financial eligibility deter-
mination for the program in accordance with s. 391.029;

(d) ~~Participating in the~~ Determination of a level of care and medical
complexity for long-term care services;

(e) Authorizing services in the program and developing spending plans;

(f) ~~Participating in the~~ Development of treatment plans; and-

(g) ~~Taking part in the~~ Resolution of complaints and grievances from
participants and health care providers.

(3) Each Children's Medical Services area office shall be directed by a
physician licensed under chapter 458 or chapter 459 who has specialized
training and experience in the provision of health care to children. The
director of a Children's Medical Services area office shall be appointed by the
director from the active panel of Children's Medical Services physician
consultants.

Section 79. Section 391.029, Florida Statutes, is amended to read:

391.029 Program eligibility.—

(1) ~~Eligibility The department shall establish the medical criteria to~~
~~determine if an applicant for the Children's Medical Services program is~~
based on the diagnosis of one or more chronic and serious medical conditions
and the family's need for specialized services ~~an eligible individual.~~

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

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

(b) Children with serious special health care needs from birth to 21 years
of age who are enrolled in ~~eligible for~~ Medicaid.

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

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

(a) Children with serious special health care needs from birth to 21 years
of age who do not qualify for Medicaid or whose family income is above the
requirements for financial eligibility under Title XXI of the Social Security
Act but who are unable to access, due to lack of providers or lack of financial
resources, specialized services that are medically necessary or essential
family support services ~~and whose projected annual cost of care adjusts the~~
~~family income to Medicaid financial criteria.~~ Families ~~In cases where the~~
~~family income is adjusted based on a projected annual cost of care, the family~~

shall participate financially in the cost of care based on a sliding fee scale criteria established by the department.

(b) Children with special health care needs from birth to 21 years of age, as provided in Title V of the Social Security Act.

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

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

~~(4)(5)~~ Any child who has been provided with surgical or medical care or treatment under this act prior to being adopted and has serious and chronic special health needs shall continue to be eligible to be provided with such care or treatment after his or her adoption, regardless of the financial ability of the persons adopting the child.

Section 80. Section 391.0315, Florida Statutes, is amended to read:

391.0315 Benefits.—Benefits provided under the program for children with special health care needs shall be equivalent to the same benefits provided to children as specified in ss. 409.905 and 409.906. The department may offer additional benefits for early intervention services, respite services, genetic testing, genetic and nutritional counseling, and parent support services, if such services are determined to be medically necessary. ~~No child or person determined eligible for the program who is eligible under Title XIX or Title XXI of the Social Security Act shall receive any service other than an initial health care screening or treatment of an emergency medical condition as defined in s. 395.002, until such child or person is enrolled in Medicaid or a Title XXI program.~~

Section 81. Effective January 1, 2013, section 392.51, Florida Statutes, is amended to read:

392.51 Tuberculosis control Findings and intent.—A statewide system is established to control tuberculosis infection and mitigate its effects. The system consists ~~The Legislature finds and declares that active tuberculosis is a highly contagious infection that is sometimes fatal and constitutes a serious threat to the public health. The Legislature finds that there is a significant reservoir of tuberculosis infection in this state and that there is a need to develop community programs to identify tuberculosis and to respond quickly with appropriate measures. The Legislature finds that some patients~~

~~who have active tuberculosis have complex medical, social, and economic problems that make outpatient control of the disease difficult, if not impossible, without posing a threat to the public health. The Legislature finds that in order to protect the citizenry from those few persons who pose a threat to the public, it is necessary to establish a system of mandatory contact identification, treatment to cure, hospitalization, and isolation for contagious cases, and to provide a system of voluntary, community-oriented care and surveillance in all other cases. The Legislature finds that the delivery of Tuberculosis control services shall be provided is best accomplished by the coordinated efforts of the respective county health departments and contracted or other private health care providers, the A.G. Holley State Hospital, and the private health care delivery system.~~

Section 82. Effective January 1, 2013, subsection (4) of section 392.61, Florida Statutes, is amended to read:

392.61 Community tuberculosis control programs.—

~~(4) The department shall develop, by rule, a methodology for distributing funds appropriated for tuberculosis control programs. Criteria to be considered in this methodology include, but are not limited to, the basic infrastructure available for tuberculosis control, caseload requirements, laboratory support services needed, and epidemiologic factors.~~

Section 83. Effective January 1, 2013, section 392.62, Florida Statutes, is amended to read:

392.62 Hospitalization and placement programs.—

~~(1) The department shall contract for operation of operate a program for the treatment hospitalization of persons who have active tuberculosis in hospitals licensed under chapter 395 and may provide for appropriate placement of persons who have active tuberculosis in other health care facilities or residential facilities. The department shall require the contractor to use existing licensed community hospitals and other facilities for the care and treatment to cure of persons who have active tuberculosis or a history of noncompliance with prescribed drug regimens and require inpatient or other residential services.~~

~~(2) The department may operate a licensed hospital for the care and treatment to cure of persons who have active tuberculosis. The hospital may have a forensic unit where, under medical protocol, a patient can be held in a secure or protective setting. The department shall also seek to maximize use of existing licensed community hospitals for the care and treatment to cure of persons who have active tuberculosis.~~

~~(2)(3) The program for control of tuberculosis shall provide funding for participating facilities and require any such facilities to meet the following conditions Any licensed hospital operated by the department, any licensed hospital under contract with the department, and any other health care~~

~~facility or residential facility operated by or under contract with the department for the care and treatment of patients who have active tuberculosis shall:~~

(a) Admit patients voluntarily and under court order as appropriate for each particular facility;

(b) Require that each patient pay the actual cost of care provided whether the patient is admitted voluntarily or by court order;

~~(c) Provide for a method of paying for the care of patients in the program regardless of ability to pay who cannot afford to do so;~~

(d) Require a primary clinical diagnosis of active tuberculosis by a physician licensed under chapter 458 or chapter 459 before admitting the patient; provided that there may be more than one primary diagnosis;

(e) Provide a method of notification to the county health department and to the patient's family, if any, before discharging the patient from the hospital or other facility;

(f) Provide for the necessary exchange of medical information to assure adequate community treatment to cure and followup of discharged patients, as appropriate; and

(g) Provide for a method of medical care and counseling and for housing, social service, and employment referrals, if appropriate, for all patients discharged from the hospital.

~~(3)(4)~~ A hospital may, pursuant to court order, place a patient in temporary isolation for a period of no more than 72 continuous hours. The department shall obtain a court order in the same manner as prescribed in s. 392.57. Nothing in this subsection precludes a hospital from isolating an infectious patient for medical reasons.

~~(4)(5)~~ Any person committed under s. 392.57 who leaves the tuberculosis hospital or residential facility without having been discharged by the designated medical authority, except as provided in s. 392.63, shall be apprehended by the sheriff of the county in which the person is found and immediately delivered to the facility from which he or she left.

Section 84. Subsection (1) of section 395.1027, Florida Statutes, is amended to read:

395.1027 Regional poison control centers.—

(1) There shall be created three certified regional poison control centers, one each in the north, central, and southern regions of the state. Each regional poison control center shall be affiliated with and physically located in a certified Level I trauma center. Each regional poison control center shall be affiliated with an accredited medical school or college of pharmacy. The

regional poison control centers shall be coordinated under the aegis of the Division of Children’s Medical Services ~~Prevention and Intervention~~ in the department.

Section 85. The Department of Health shall develop and implement a transition plan for the closure of A.G. Holley State Hospital. The plan shall include specific steps to end voluntary admissions; transfer patients to alternate facilities; communicate with families, providers, other affected parties, and the general public; enter into any necessary contracts with providers; and coordinate with the Department of Management Services regarding the disposition of equipment and supplies and the closure of the facility; and the Agency for Health Care Administration is directed to modify its reimbursement plans and seek federal approval, if necessary, to continue Medicaid funding throughout the treatment period in community hospitals and other facilities. The plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate by May 31, 2012. The department shall fully implement the plan by January 1, 2013.

Section 86. Subsection (4) of section 401.243, Florida Statutes, is amended to read:

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

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

Section 87. Subsection (6) of section 401.245, Florida Statutes, is renumbered as subsection (5), and present subsection (5) of that section is amended to read:

401.245 Emergency Medical Services Advisory Council.—

~~(5) The department shall adopt rules to implement this section, which rules shall serve as formal operating procedures for the Emergency Medical Services Advisory Council.~~

Section 88. Section 401.271, Florida Statutes, is amended to read:

401.271 Certification of emergency medical technicians and paramedics who are on active duty with the Armed Forces of the United States; spouses of members of the Armed Forces.—

(1) Any member of the Armed Forces of the United States on active duty who, at the time he or she became a member, was in good standing with the department and was entitled to practice as an emergency medical technician or paramedic in the state remains in good standing without registering, paying dues or fees, or performing any other act, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after his or her discharge from active duty as a member of the Armed Forces of the United States.

~~(2) The department may adopt rules exempting the spouse of a member of the Armed Forces of the United States on active duty from certification renewal provisions while the spouse is absent from the state because of the member's active duty with the Armed Forces.~~

Section 89. Section 402.45, Florida Statutes is repealed.

Section 90. Subsections (3) and (4) of section 403.863, Florida Statutes, are amended to read:

403.863 State public water supply laboratory certification program.—

(3) The Department of Health shall have the responsibility for the operation and implementation of the state laboratory certification program. The Department of Health shall contract for the evaluation and review of laboratory certification applications, and laboratory inspections, ~~except that,~~ Upon completion of the evaluation and review of the laboratory certification application, the evaluation shall be forwarded, along with recommendations, to the department for review and comment, prior to final approval or disapproval by the Department of Health.

(4) The following acts constitute grounds for which the disciplinary actions specified in subsection (5) may be taken:

(a) Making false statements on an application or on any document associated with certification.

(b) Making consistent errors in analyses or erroneous reporting.

(c) Permitting personnel who are not qualified, as required by rules of the Department of Health, to perform analyses.

(d) Falsifying the results of analyses.

(e) Failing to employ approved laboratory methods in performing analyses as outlined in rules of the Department of Health.

(f) Failing to properly maintain facilities and equipment according to the laboratory's quality assurance plan.

(g) Failing to report analytical test results or maintain required records of test results as outlined in rules of the Department of Health.

(h) Failing to participate successfully in a performance evaluation program approved by the Department of Health.

(i) Violating any provision of this section or of the rules adopted under this section.

(j) Falsely advertising services or credentials.

(k) Failing to pay fees for initial certification or renewal certification or to pay inspection expenses incurred by the Department of Health.

(l) Failing to report any change of an item included in the initial or renewal certification application.

(m) Refusing to allow representatives of the department or the Department of Health to inspect a laboratory and its records during normal business hours.

Section 91. Subsection (1) of section 400.914, Florida Statutes, is amended to read:

400.914 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities and healthful programs, the agency in conjunction with the Division of Children’s Medical Services ~~Prevention and Intervention~~ of the Department of Health shall adopt and publish rules to implement the provisions of this part and part II of chapter 408, which shall include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or city ordinances shall be resolved in favor of those having statewide effect. Such standards shall relate to:

(a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services.

(b) The maintenance of PPEC centers, not in conflict with the provisions of chapter 553 and based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served.

(c) The appropriate provisions of the most recent edition of the “Life Safety Code” (NFPA-101) shall be applied.

(d) The number and qualifications of all personnel who have responsibility for the care of the children served.

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene,

and maintenance thereof, which will ensure the health and comfort of children served.

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children’s legal guardians.

(g) Supportive, contracted, other operational, and transportation services.

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs. Such records shall be maintained in the facility for inspection by the agency.

Section 92. Paragraph (f) of subsection (8) of section 411.203, Florida Statutes, is amended to read:

411.203 Continuum of comprehensive services.—The Department of Education and the Department of Health and ~~Rehabilitative Services~~ shall utilize the continuum of prevention and early assistance services for high-risk pregnant women and for high-risk and handicapped children and their families, as outlined in this section, as a basis for the intraagency and interagency program coordination, monitoring, and analysis required in this chapter. The continuum shall be the guide for the comprehensive statewide approach for services for high-risk pregnant women and for high-risk and handicapped children and their families, and may be expanded or reduced as necessary for the enhancement of those services. Expansion or reduction of the continuum shall be determined by intraagency or interagency findings and agreement, whichever is applicable. Implementation of the continuum shall be based upon applicable eligibility criteria, availability of resources, and interagency prioritization when programs impact both agencies, or upon single agency prioritization when programs impact only one agency. The continuum shall include, but not be limited to:

(8) SUPPORT SERVICES FOR ALL EXPECTANT PARENTS AND PARENTS OF HIGH-RISK CHILDREN.—

(f) Parent support groups, such as ~~the community resource mother or father program as established in s. 402.45, or~~ parents as first teachers, to strengthen families and to enable families of high-risk children to better meet their needs.

Section 93. Paragraph (d) of subsection (11) of section 409.256, Florida Statutes, is amended to read:

409.256 Administrative proceeding to establish paternity or paternity and child support; order to appear for genetic testing.—

(11) FINAL ORDER ESTABLISHING PATERNITY OR PATERNITY AND CHILD SUPPORT; CONSENT ORDER; NOTICE TO OFFICE OF VITAL STATISTICS.—

(d) Upon rendering a final order of paternity or a final order of paternity and child support, the department shall notify the Office Division of Vital Statistics of the Department of Health that the paternity of the child has been established.

Section 94. Effective January 3, 2013, subsection (3) of section 458.309, Florida Statutes, is amended to read:

458.309 Rulemaking authority.—

(3) A physician ~~All physicians who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed,~~ perform level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 95. Effective January 3, 2013, subsection (2) of section 459.005, Florida Statutes, is amended to read:

459.005 Rulemaking authority.—

(2) A physician ~~All physicians who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed,~~ perform level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Osteopathic Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 96. Section 458.346, Florida Statutes, is repealed.

Section 97. Subsection (3) of section 462.19, Florida Statutes, is renumbered as subsection (2), and present subsection (2) of that section is amended to read:

462.19 Renewal of license; inactive status.—

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

Section 98. Subsection (6) of section 464.019, Florida Statutes, is amended to read:

464.019 Approval of nursing education programs.—

(6) ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage rate that is not lower than 10 percentage points less than the average passage rate for graduates of comparable degree programs who are United States educated first-time test takers on the National Council of State Boards of Nursing Licensing Examination during a calendar year, as calculated by the contract testing service of the National Council of State Boards of Nursing. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

a. Professional nursing education programs that terminate in a bachelor's degree.

b. Professional nursing education programs that terminate in an associate degree.

c. Professional nursing education programs that terminate in a diploma.

d. Practical nursing education programs.

2. Beginning with graduate passage rates for calendar year 2010, if an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director must appear before the board to present a plan for remediation. The program shall remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new precicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. However, if the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board shall terminate the program pursuant to chapter 120.

(b) If an approved program fails to submit the annual report required in subsection (4), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15 days

after the due date of the annual report. The program director must appear before the board at the board’s next regularly scheduled meeting to explain the reason for the delay. The board shall terminate the program pursuant to chapter 120 if it does not submit the annual report within 6 months after the due date.

(c) An approved program on probationary status shall disclose its probationary status in writing to the program’s students and applicants.

Section 99. Section 464.0197, Florida Statutes, is repealed.

Section 100. Subsection (1) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required background screening pursuant to s. 400.215 and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

- 1. Has a high school diploma, or its equivalent; or
- 2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state’s certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant by the Department of Education and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

Section 101. Subsection (4) of section 464.208, Florida Statutes, is amended to read:

464.208 Background screening information; rulemaking authority.—

~~(4) The board shall adopt rules to administer this part.~~

Section 102. Section 466.00775, Florida Statutes, is repealed.

Section 103. Subsection (4) of section 514.011, Florida Statutes, is amended to read:

514.011 Definitions.—As used in this chapter:

(4) “Public bathing place” means a body of water, natural or modified by humans, for swimming, diving, and recreational bathing, ~~together with adjacent shoreline or land area, buildings, equipment, and appurtenances pertaining thereto,~~ used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, artificial impoundments, and waters along the coastal and intracoastal beaches and shores of the state.

Section 104. Section 514.021, Florida Statutes, is amended to read:

514.021 Department authorization.—

(1) The department may adopt and enforce rules, ~~which may include definitions of terms,~~ to protect the health, safety, or welfare of persons by setting sanitation and safety standards for using public swimming pools and public bathing places. The department shall review and revise such rules as necessary, but not less than biennially. Sanitation and safety standards shall ~~include, but not be limited to,~~ matters relating to ~~structure; appurtenances; operation;~~ source of water supply; microbiological ~~baeteriological,~~ chemical, and physical quality of water in the pool or bathing area; method of water purification, treatment, and disinfection; lifesaving apparatus; and measures to ensure safety of bathers; ~~and measures to ensure the personal cleanliness of bathers.~~

(2) The department may not establish by rule any regulation governing the design, alteration, modification, or repair of public swimming pools and bathing places which has no impact on sanitation and safety ~~the health, safety, and welfare of persons using public swimming pools and bathing places.~~ Further, the department may not adopt by rule any regulation governing the construction, erection, or demolition of public swimming pools and bathing places. It is the intent of the Legislature to preempt those functions to the Florida Building Commission through adoption and maintenance of the Florida Building Code. The department shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public swimming pools and bathing places. ~~Further, the department is authorized to conduct plan reviews, to issue approvals, and to enforce the special-occupancy provisions of the Florida Building Code which apply to public swimming pools and bathing places in conducting any inspections authorized by this~~

~~chapter.~~ This subsection does not abrogate the authority of the department to adopt and enforce appropriate sanitary regulations and requirements as authorized in subsection (1).

Section 105. Section 514.023, Florida Statutes, is amended to read:

514.023 Sampling of beach waters and public bathing places; health advisories.—

(1) As used in this section, the term “beach waters” means the waters along the coastal and intracoastal beaches and shores of the state, and includes salt water and brackish water.

(2) The department may adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of the state. The rules must establish health standards and prescribe procedures and timeframes for bacteriological sampling of beach waters and public bathing places.

(3) The department may issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by the department. The issuance of health advisories related to the results of bacteriological sampling of beach waters is preempted to the state.

(4) When the department issues a health advisory against swimming in beach waters or a public bathing place on the basis of finding elevated levels of fecal coliform, Escherichia coli, or enterococci bacteria in a water sample, the department shall concurrently notify the municipality or county in which the affected beach waters are located, whichever has jurisdiction, and the local office of the Department of Environmental Protection, of the advisory. The local office of the Department of Environmental Protection shall promptly investigate wastewater treatment facilities within 1 mile of the affected beach waters or public bathing place to determine if a facility experienced an incident that may have contributed to the contamination and provide the results of the investigation in writing or by electronic means to the municipality or county, as applicable.

~~(5) Contingent upon legislative appropriation to the department in the amount of \$600,000 nonrecurring, the department will perform a 3-year study to determine the water quality at beaches throughout the state. The study will be performed in all counties that have public-access saltwater and brackish water beaches.~~

Section 106. Section 514.025, Florida Statutes, is amended to read:

514.025 Assignment of authority to county health departments.—

(1) The department shall assign to county health departments that are staffed with qualified engineering personnel the functions of reviewing applications and plans for the construction, development, or modification of public swimming pools or bathing places; of conducting inspections ~~for and~~

~~issuance of initial operating permits; and of issuing all permits. If the county health department determines that qualified staff are not available is not assigned the functions of application and plan review and the issuance of initial operating permits, the department shall be responsible for such functions. The department shall make the determination concerning the qualifications of county health department personnel to perform these functions and may make and enforce such rules pertaining thereto as it shall deem proper.~~

(2) ~~After the initial operating permit is issued, the County health departments are responsible shall assume full responsibility for routine surveillance of water quality in all public swimming pools and bathing places, including responsibility for a minimum of two routine inspections annually, complaint investigations, enforcement procedures, and reissuance of operating permits, and renewal of operating permits.~~

(3) The department may assign the responsibilities and functions specified in this section to any multicounty independent special district created by the Legislature to perform multiple functions, to include municipal services and improvements, to the same extent and under the same conditions as provided in subsections (1) and (2), upon request of the special district.

Section 107. Section 514.03, Florida Statutes, is amended to read:

514.03 ~~Construction plans~~ Approval necessary to construct, develop, or modify public swimming pools or public bathing places.—~~It is unlawful for any person or public body to construct, develop, or modify any public swimming pool or bathing place, other than coastal or intracoastal beaches, without a valid construction plans approval from the department. This section does not preempt the authority of Local governments or local enforcement districts may determine to conduct plan reviews and inspections of public swimming pools and bathing places for compliance with the general construction standards of the Florida Building Code, pursuant to s. 553.80. Local governments or local enforcement districts may conduct plan reviews and inspections of public swimming pools and public bathing places for this purpose.~~

(1) ~~Any person or public body desiring to construct, develop, or modify any public swimming pool or bathing place shall file an application for a construction plans approval with the department on application forms provided by the department and shall accompany such application with:~~

(a) ~~Engineering drawings, specifications, descriptions, and detailed maps of the structure, its appurtenances, and its intended operation.~~

(b) ~~A description of the source or sources of water supply and amount and quality of water available and intended to be used.~~

~~(c) A description of the method and manner of water purification, treatment, disinfection, and heating.~~

~~(d) Other applicable information deemed necessary by the department to fulfill the requirements of this chapter.~~

~~(2) If the proposed construction of, development of, or modification of a public swimming pool or bathing place meets standards of public health and safety as defined in this chapter and rules adopted hereunder, the department shall grant the application for the construction plans approval within 30 days after receipt of a complete submittal. If engineering plans submitted are in substantial compliance with the standards aforementioned, the department may approve the plans with provisions for corrective action to be completed prior to issuance of the operating permit.~~

~~(3) If the proposed construction, development, or modification of a public swimming pool or bathing place fails to meet standards of public health and safety as defined in this chapter and rules adopted hereunder, the department shall deny the application for construction plans approval pursuant to the provisions of chapter 120. Such denial shall be issued in writing within 30 days and shall list the circumstances for denial. Upon correction of such circumstances, an applicant previously denied permission to construct, develop, or modify a public swimming pool or bathing place may reapply for construction plans approval.~~

~~(4) An approval of construction plans issued by the department under this section becomes void 1 year after the date the approval was issued if the construction is not commenced within 1 year after the date of issuance.~~

Section 108. Section 514.031, Florida Statutes, is amended to read:

514.031 Permit necessary to operate public swimming pool ~~or bathing place.~~—

(1) It is unlawful for any person or public body to operate or continue to operate any public swimming pool ~~or bathing place~~ without a valid permit from the department, such permit to be obtained in the following manner:

(a) Any person or public body desiring to operate any public swimming pool ~~or bathing place~~ shall file an application for a permit with the department, on application forms provided by the department, and shall accompany such application with:

~~1. Descriptions of the structure, its appurtenances, and its operation.~~

1.2. Description of the source or sources of water supply, and the amount and quality of water available and intended to be used.

2.3. Method and manner of water purification, treatment, disinfection, and heating.

~~3.4. Safety equipment and standards to be used.~~

~~5.— Measures to ensure personal cleanliness of bathers.~~

~~4.6. Any other pertinent information deemed necessary by the department to fulfill the requirements of this chapter.~~

(b) If the department determines that the public swimming pool ~~or bathing place~~ is or may reasonably be expected to be operated in compliance with this chapter and the rules adopted hereunder, the department shall grant the application for permit.

(c) If the department determines that the public swimming pool ~~or bathing place~~ does not meet the provisions outlined in this chapter or the rules adopted hereunder, the department shall deny the application for a permit pursuant to the provisions of chapter 120. Such denial shall be in writing and shall list the circumstances for the denial. Upon correction of such circumstances, an applicant previously denied permission to operate a public swimming pool or bathing place may reapply for a permit.

(2) Operating permits shall not be required for coastal or intracoastal beaches.

(3) Operating permits may be transferred ~~shall not be transferable~~ from one name or owner to another. When the ownership or name of an existing public swimming pool ~~or bathing place~~ is changed and such establishment is operating at the time of the change with a valid permit from the department, the new owner of the establishment shall apply to the department, upon forms provided by the department, within 30 days after such a change, ~~for a reissuance of the existing permit.~~

(4) Each such operating permit shall be renewed annually and the permit must be posted in a conspicuous place.

(5) An owner or operator of a public swimming pool, including, but not limited to, a spa, wading, or special purpose pool, to which admittance is obtained by membership for a fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of such facility. The report shall be legible and readily accessible to members or potential members. The department shall adopt rules to enforce this subsection. A portable pool may not be used as a public pool.

Section 109. Section 514.033, Florida Statutes, is amended to read:

514.033 Creation of fee schedules authorized.—

(1) The department is authorized to establish a schedule of fees to be charged by the department or by any authorized county health department as detailed in s. 514.025 ~~for the review of applications and plans to construct, develop, or modify a public swimming pool or bathing place, for the issuance~~

of permits to operate such establishments, and for the review of variance applications for public swimming pools and bathing places. Fees assessed under this chapter shall be in an amount sufficient to meet the cost of carrying out the provisions of this chapter.

(2) The fee schedule shall be: for original construction or development plan approval, not less than \$275 and not more than \$500; for modification of original construction, not less than \$100 and not more than \$150; for an initial operating permit, not less than \$125 and not more than \$250; and for review of variance applications, not less than \$240 and not more than \$400. The department shall assess the minimum fees provided in this subsection until a fee schedule is promulgated by rule of the department.

(3) ~~Fees shall be~~ Any person or public body operating a public swimming pool or bathing place shall pay to the department an annual operating permit fee based on pool or bathing place aggregate gallonage, which shall be: up to and including 25,000 gallons, not less than \$75 and not more than \$125; and in excess of 25,000 gallons, not less than \$160 and not more than \$265, except for a pool inspected pursuant to s. 514.0115(2)(b) for which the annual fee shall be \$50.

(4) Fees collected by the department in accordance with this chapter shall be deposited into the Grants and Donations Trust Fund or Public Swimming Pool and Bathing Place Trust Fund ~~for the payment of costs incurred in the administration of this chapter. Fees collected by county health departments performing functions pursuant to s. 514.025 shall be deposited into the County Health Department Trust Fund.~~ Any fee collected under this chapter is nonrefundable.

(5) The department may not charge any fees for services provided under this chapter other than those fees authorized in this section. However, the department shall prorate the initial annual fee for an operating permit on a half-year basis.

Section 110. Subsections (4) and (5) of section 514.05, Florida Statutes, are amended to read:

514.05 Denial, suspension, or revocation of permit; administrative fines.

(4) All amounts collected pursuant to this section shall be deposited into the Grants and Donations Trust Fund ~~Public Swimming Pool and Bathing Place Trust Fund~~ or into the County Health Department Trust Fund, whichever is applicable.

(5) Under conditions specified by rule, the department may close a public pool that is not in compliance with this chapter or the rules adopted under this chapter.

Section 111. Section 514.06, Florida Statutes, is amended to read:

514.06 Injunction to restrain violations.—Any public swimming pool or public bathing place presenting a significant risk to public health by failing to meet sanitation and safety standards established pursuant to ~~constructed, developed, operated, or maintained contrary to the provisions of this chapter~~ is declared to be a public nuisance, dangerous to health or safety. Such nuisances may be abated or enjoined in an action brought by the county health department or the department.

Section 112. Subsections (1) and (2) of section 633.115, Florida Statutes, are amended to read:

633.115 Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1)(a) The Fire and Emergency Incident Information Reporting Program is created within the Division of State Fire Marshal. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire protection agencies.

b. Preparing and disseminating annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, fire protection agencies, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire protection agency from implementing its own requirements which shall not conflict with the rules of the Division of State Fire Marshal.

4. By rule, establish procedures and a format for each fire protection agency to voluntarily monitor its records and submit reports to the program.

5. Establish an electronic information database which is accessible and searchable by fire protection agencies.

(b) The Division of State Fire Marshal shall consult with the Division of Forestry of the Department of Agriculture and Consumer Services and the

State Surgeon General ~~Bureau of Emergency Medical Services~~ of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the Division of State Fire Marshal. The panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the following 15 members:

(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.31.

(b) One member from the Division of Forestry of the Department of Agriculture and Consumer Services, appointed by the division director.

(c) One member from ~~the Bureau of Emergency Medical Services~~ of the Department of Health, appointed by the State Surgeon General ~~bureau chief~~.

Section 113. Subsections (4), (5), (6), (8), (9), (10), (11), and (12) of section 1009.66, Florida Statutes, are amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(4) From the funds available, the Department of Education ~~Health~~ may make loan principal repayments of up to \$4,000 a year for up to 4 years on behalf of selected graduates of an accredited or approved nursing program. All repayments shall be contingent upon continued proof of employment in the designated facilities in this state and shall be made directly to the holder of the loan. The state shall bear no responsibility for the collection of any interest charges or other remaining balance. In the event that the designated facilities are changed, a nurse shall continue to be eligible for loan forgiveness as long as he or she continues to work in the facility for which the original loan repayment was made and otherwise meets all conditions of eligibility.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of Education ~~Health~~ pursuant to this section and s. 1009.67 and department rules. The Chief Financial Officer shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of Education ~~Health~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 1009.67.

(6) In addition to licensing fees imposed under part I of chapter 464, there is hereby levied and imposed an additional fee of \$5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student

Loan Forgiveness Trust Fund of the Department of Education Health and will be used solely for the purpose of carrying out the provisions of this section and s. 1009.67. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 1009.67.

~~(8) The Department of Health may solicit technical assistance relating to the conduct of this program from the Department of Education.~~

~~(8)(9)~~ The Department of Education Health is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

~~(9)(10)~~ The Department of Education Health may adopt rules necessary to administer this program.

~~(10)(11)~~ This section shall be implemented only as specifically funded.

~~(11)(12)~~ Students receiving a nursing scholarship pursuant to s. 1009.67 are not eligible to participate in the Nursing Student Loan Forgiveness Program.

Section 114. Section 1009.67, Florida Statutes, is amended to read:

1009.67 Nursing scholarship program.—

(1) There is established within the Department of Education Health a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled in an approved nursing program leading to the award of an associate degree, a baccalaureate degree, or a graduate degree in nursing.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed \$8,000 per year. However, registered nurses pursuing a graduate degree for a faculty position or to practice as an advanced registered nurse practitioner may receive up to \$12,000 per year. These amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months in a faculty position in a college of nursing or Florida College System institution nursing program in this state or at a health care facility in a medically underserved area as designated ~~approved~~ by the Department of Health. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include nursing homes and hospitals in this state, state-operated medical or health care facilities, public schools, county health departments, federally sponsored community health centers, colleges of nursing in universities in this state, and Florida College System institution nursing programs in this state, family practice teaching hospitals as defined in s. 395.805, or specialty children's hospitals as described in s. 409.9119. The recipient shall be encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies, who does not become licensed, who does not accept employment as a nurse at an approved health care facility, or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of Education Health, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 1009.66. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved nursing program. The Department of Education Health shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of Education Health shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section.

(7) The Department of Education Health may recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 115. Department of Health; type two transfer.—

(1) All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Education.

(2) The Nursing Student Loan Forgiveness Trust Fund is transferred from the Department of Health to the Department of Education.

(3) Any binding contract or interagency agreement related to the Nursing Student Loan Forgiveness Program existing before July 1, 2012, between the Department of Health, or an entity or agent of the agency, and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement on the successor department, agency, or entity responsible for the program, activity, or functions relative to the contract or agreement.

(4) Notwithstanding s. 216.292 and pursuant to s. 216.351, Florida Statutes, upon approval by the Legislative Budget Commission, the Executive Office of the Governor may transfer funds and positions between agencies to implement this act.

(5) The transfer of any program, activity, duty, or function under this act includes the transfer of any records and unexpended balances of appropriations, allocations, or other funds related to such program, activity, duty, or function. Unless otherwise provided, the successor organization to any program, activity, duty, or function transferred under this act shall become the custodian of any property of the organization that was responsible for the program, activity, duty, or function immediately before the transfer.

Section 116. The Division of Medical Quality Assurance shall develop a plan to improve the efficiency of its functions. Specifically, the plan shall delineate methods to: reduce the average length of time for a qualified applicant to receive initial and renewal licensure, certification, or registration, by one-third; improve the agenda process for board meetings to increase transparency, timeliness, and usefulness for board decisionmaking; and improve the cost-effectiveness and efficiency of the joint functions of the division and the regulatory boards. In developing the plan, the division shall identify and analyze best practices found within the division and other state agencies with similar functions, options for information technology improvements, options for contracting with outside entities, and any other option the division deems useful. The division shall consult with and solicit recommendations from the regulatory boards in developing the plan. The division shall submit the plan to the Governor, the Speaker of the House of Representatives, and the President of the Senate by November 1, 2012. All executive branch agencies are instructed, and all other state agencies are requested, to assist the division in accomplishing its purposes under this section.

Section 117. Paragraph (e) of subsection (2) of section 154.503, Florida Statutes, is amended to read:

154.503 Primary Care for Children and Families Challenge Grant Program; creation; administration.—

(2) The department shall:

(e) Coordinate with the primary care program developed pursuant to s. 154.011, the Florida Healthy Kids Corporation program created in s. 624.91, the school health services program created in ss. 381.0056 and 381.0057, the

~~Healthy Communities, Healthy People Program created in s. 381.734, and the volunteer health care provider program developed pursuant to s. 766.1115.~~

Section 118. Subsection (1), paragraph (c) of subsection (3), and subsection (9) of section 381.0041, Florida Statutes, are amended to read:

381.0041 Donation and transfer of human tissue; testing requirements.

(1) Every donation of blood, plasma, organs, skin, or other human tissue for transfusion or transplantation to another shall be tested prior to transfusion or other use for human immunodeficiency virus infection and other communicable diseases specified by rule of the Department of Health. Tests for the human immunodeficiency virus infection shall be performed only after obtaining written, informed consent from the potential donor or the donor's legal representative. Such consent may be given by a minor pursuant to s. 743.06. Obtaining consent shall include a fair explanation of the procedures to be followed and the meaning and use of the test results. Such explanation shall include a description of the confidential nature of the test as described in s. 381.004(2) ~~381.004(3)~~. If consent for testing is not given, then the person shall not be accepted as a donor except as otherwise provided in subsection (3).

(3) No person shall collect any blood, organ, skin, or other human tissue from one human being and hold it for, or actually perform, any implantation, transplantation, transfusion, grafting, or any other method of transfer to another human being without first testing such tissue for the human immunodeficiency virus and other communicable diseases specified by rule of the Department of Health, or without performing another process approved by rule of the Department of Health capable of killing the causative agent of those diseases specified by rule. Such testing shall not be required:

(c) When there is insufficient time to obtain the results of a confirmatory test for any tissue or organ which is to be transplanted, notwithstanding the provisions of s. 381.004(2)(d) ~~381.004(3)(d)~~. In such circumstances, the results of preliminary screening tests may be released to the potential recipient's treating physician for use in determining organ or tissue suitability.

(9) All blood banks shall be governed by the confidentiality provisions of s. 381.004(2) ~~381.004(3)~~.

Section 119. Paragraph (b) of subsection (3) of section 384.25, Florida Statutes, is amended to read:

384.25 Reporting required.—

(3) To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and AIDS must be conducted using a system developed by the Centers for Disease Control and

Prevention of the United States Public Health Service or an equivalent system.

(b) The reporting may not affect or relate to anonymous HIV testing programs conducted pursuant to s. ~~381.004(3)~~ 381.004(4).

Section 120. Subsection (5) of section 392.56, Florida Statutes, is amended to read:

392.56 Hospitalization, placement, and residential isolation.—

(5) If the department petitions the circuit court to order that a person who has active tuberculosis be hospitalized in a facility operated under s. 392.62(2), the department shall notify the facility of the potential court order.

Section 121. Subsection (2) of section 456.032, Florida Statutes, is amended to read:

456.032 Hepatitis B or HIV carriers.—

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. ~~381.004(1)(c)~~ 381.004(2)(e), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

Section 122. Subsection (15) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(15) "Department" means the Department of Business and Professional Regulation ~~Department of Health~~.

Section 123. Subsection (2) of section 499.601, Florida Statutes, is amended to read:

499.601 Legislative intent; construction.—

(2) The provisions of this part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authority of the department of ~~Health~~ under any other law of this state; except that, with respect to the regulation of ether as herein provided, in instances in which the provisions of

this part may conflict with any other such law, the provisions of this part shall control.

Section 124. Subsection (2) of section 499.61, Florida Statutes, is amended to read:

499.61 Definitions.—As used in this part:

(2) “Department” means the Department of Business and Professional Regulation ~~Department of Health~~.

Section 125. Subsection (2) of section 513.10, Florida Statutes, is amended to read:

513.10 Operating without permit; enforcement of chapter; penalties.—

(2) This chapter or rules adopted under this chapter may be enforced in the manner provided in s. 381.0012 and as provided in this chapter. Violations of this chapter and the rules adopted under this chapter are subject to the penalties provided in this chapter and in ~~s. ss. 381.0025 and~~ 381.0061.

Section 126. Paragraph (b) of subsection (9) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(9)

(b) As used in this subsection, the term:

1. “Employee” includes any volunteer firefighter.

2. “Officer, employee, or agent” includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115; ~~any member of the Florida Health Services Corps, as defined in s. 381.0302, who provides uncompensated care to medically indigent persons referred by the Department of Health;~~ any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (10)(f); and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

Section 127. Subsection (1) of section 775.0877, Florida Statutes, is amended to read:

775.0877 Criminal transmission of HIV; procedures; penalties.—

(1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of

the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another:

- (a) Section 794.011, relating to sexual battery;
- (b) Section 826.04, relating to incest;
- (c) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
- (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d), relating to assault;
- (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b), relating to aggravated assault;
- (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c), relating to battery;
- (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a), relating to aggravated battery;
- (h) Section 827.03(1), relating to child abuse;
- (i) Section 827.03(2), relating to aggravated child abuse;
- (j) Section 825.102(1), relating to abuse of an elderly person or disabled adult;
- (k) Section 825.102(2), relating to aggravated abuse of an elderly person or disabled adult;
- (l) Section 827.071, relating to sexual performance by person less than 18 years of age;
- (m) Sections 796.03, 796.07, and 796.08, relating to prostitution; or
- (n) Section 381.0041(11)(b), relating to donation of blood, plasma, organs, skin, or other human tissue,

the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. ~~381.004(2)(h)6~~ 381.004(3)(h)6, or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense.

Section 128. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.