



Journal of the Senate

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CALL TO ORDER

The Senate was called to order by President King at 10:20 a.m. A quorum present—35:

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peadar
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	

Excused: Senators Argenziano, Dawson, Siplin, and Wasserman Schultz

PRAYER

The following prayer was offered by Senator Miller:

All mighty Father, whose way is in the sea, the rolling hills and deep valleys, and, whose paths are carved in this sweet earth you created. Whose command is over all and whose love never fails; let us be aware of thy presence, and obedient to thy will. Keep us true to our best selves, guarding us against dishonesty in purpose and deed, and helping us so to live that we can stand unashamed and unafraid before our people, our loved ones, and Thee.

Protect those in whose love we live. Give us the will to do the work of men and women and to accept our share of responsibilities with a strong heart and a cheerful mind. Make us considerate of those entrusted to our leadership and faithful to the duties our State has entrusted to us. Let our presence in this body remind us daily of the traditions of the Florida Senate of which we are part.

If we are inclined to doubt, steady our faith; if we are tempted, make us strong to resist; if we should miss the mark, give us courage to try again. Guide us with the light of truth and keep before us the life of Him, by whose example and help we trust, to obtain the answer to our prayer. Amen.

PLEDGE

Senator Sebesta led the Senate in the pledge of allegiance to the flag of the United States of America.

SPECIAL ORDER CALENDAR

On motion by Senator Jones, by two-thirds vote—

CS for SB 2-C—A bill to be entitled An act relating to medical malpractice; providing legislative findings; amending s. 46.015, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; creating s. 381.0409, F.S.; providing that creation of the Florida Center for Excellence in Health Care is contingent on the enactment of a public-records exemption; creating the Florida Center for Excellence in Health Care; providing goals and duties of the center; providing definitions; providing limitations on the center's liability for any lawful actions taken; requiring the center to issue patient safety recommendations; requiring the development of a statewide electronic infrastructure to improve patient care and the delivery and quality of health care services; providing requirements for development of a core electronic medical record; authorizing access to the electronic medical records and other data maintained by the center; providing for the use of computerized physician order entry systems; providing for the establishment of a simulation center for high technology intervention surgery and intensive care; providing for the immunity of specified information in adverse incident reports from discovery or admissibility in civil or administrative actions; providing limitations on liability of specified health care practitioners and facilities under specified conditions; providing requirements for the appointment of a board of directors for the center; requiring the Department of Health to submit a budget for financing of the operations of the Florida Center for Excellence in Health Care for approval by the Legislature; requiring the Florida Center for Excellence in Health Care to develop a business and financing plan; authorizing state agencies to contract with the center for specified projects; authorizing the use of center funds and the use of state purchasing and travel contracts for the center; requiring the center to submit an annual report and providing requirements for the annual report; providing for the center's books, records, and audits to be open to the public; requiring the center to annually furnish an audited report to the Governor and Legislature; amending s. 395.004, F.S., relating to licensure of certain health care facilities; providing for discounted medical liability insurance based on certification of programs that reduce adverse incidents; authorizing the Agency for Health Care Administration to adopt rules for certification of quality improvement programs; requiring the Office of Insurance Regulation to consider certain information in reviewing discounted rates; creating s. 395.0056, F.S.; requiring the Agency for Health Care Administration to review complaints submitted if the defendant is a hospital; amending s. 395.0191, F.S.; deleting a requirement that persons act in good faith to avoid liability or discipline for their actions regarding the awarding of staff membership or clinical privileges; amending s. 395.0197, F.S., relating to internal risk management programs; requiring a system for notifying patients that they are the subject of an adverse incident; requiring an appropriately trained person to give notice; requiring licensed facilities to annually report certain information about health care practitioners for whom they assume liability; requiring the Agency for Health Care Administration and the Department of Health to annually publish statistics about licensed facilities that assume liability for health care practitioners; repealing the requirement for licensed facilities to notify the agency within 1 business day of the occurrence of certain adverse incidents; requiring the agency to forward adverse incident reports to the Florida Center for Excellence in Health Care; repealing s. 395.0198, F.S., which provides a public records exemption for adverse incident notifications; creating s. 395.1012, F.S.; requiring facilities to adopt a patient safety plan; providing requirements for a patient safety plan; requiring facilities to appoint a patient safety officer and a patient safety committee and providing duties for the patient safety officer and committee; amending s. 456.025, F.S.; eliminating certain restrictions on the setting of licensure renewal fees for health care practitioners; directing the Agency for Health Care Administration to conduct or contract for a study to determine what information to provide to the public comparing hospitals, based on inpatient quality indicators developed by the federal Agency for Healthcare Research and Quality; creating s. 395.1051, F.S.; requiring certain facilities to notify patients

about adverse incidents under specified conditions; creating s. 456.0575, F.S.; requiring licensed health care practitioners to notify patients about adverse incidents under certain conditions; amending s. 456.026, F.S., relating to an annual report published by the Department of Health; requiring that the department publish the report to its website; requiring the department to include certain detailed information; amending s. 456.039, F.S.; revising requirements for the information furnished to the Department of Health for licensure purposes; amending s. 456.041, F.S., relating to practitioner profiles; requiring the Department of Health to compile certain specified information in a practitioner profile; establishing a timeframe for certain health care practitioners to report specified information; providing for disciplinary action and a fine for untimely submissions; deleting provisions that provide that a profile need not indicate whether a criminal history check was performed to corroborate information in the profile; authorizing the department or regulatory board to investigate any information received; requiring the department to provide an easy-to-read narrative explanation concerning final disciplinary action taken against a practitioner; requiring a hyperlink to each final order on the department's website which provides information about disciplinary actions; requiring the department to provide a hyperlink to certain comparison reports pertaining to claims experience; requiring the department to include the date that a reported disciplinary action was taken by a licensed facility and a characterization of the practitioner's conduct that resulted in the action; deleting provisions requiring the department to consult with a regulatory board before including certain information in a health care practitioner's profile; providing for a penalty for failure to comply with the timeframe for verifying and correcting a practitioner profile; requiring the department to add a statement to a practitioner profile when the profile information has not been verified by the practitioner; requiring the department to provide, in the practitioner profile, an explanation of disciplinary action taken and the reason for sanctions imposed; requiring the department to include a hyperlink to a practitioner's website when requested; providing that practitioners licensed under ch. 458 or ch. 459, F.S., shall have claim information concerning an indemnity payment greater than a specified amount posted in the practitioner profile; amending s. 456.042, F.S.; providing for the update of practitioner profiles; designating a timeframe within which a practitioner must submit new information to update his or her profile; amending s. 456.049, F.S., relating to practitioner reports on professional liability claims and actions; revising requirements for a practitioner to report claims or actions for medical malpractice; amending s. 456.051, F.S.; establishing the responsibility of the Department of Health to provide reports of professional liability actions and bankruptcies; requiring the department to include such reports in a practitioner's profile within a specified period; amending s. 456.057, F.S.; allowing the department to obtain patient records by subpoena without the patient's written authorization, in specified circumstances; amending s. 456.063, F.S.; authorizing regulatory boards or the department to adopt rules to implement requirements for reporting allegations of sexual misconduct; amending s. 456.072, F.S.; providing for determining the amount of any costs to be assessed in a disciplinary proceeding; amending s. 456.073, F.S.; authorizing the Department of Health to investigate certain paid claims made on behalf of practitioners licensed under ch. 458 or ch. 459, F.S.; amending procedures for certain disciplinary proceedings; providing a deadline for raising issues of material fact; providing a deadline relating to notice of receipt of a request for a formal hearing; excepting gross or repeated malpractice and standard-of-care violations from the 6-year limitation on investigation or filing of an administrative complaint; amending s. 456.077, F.S.; providing a presumption related to an undisputed citation; revising requirements under which the Department of Health may issue citations as an alternative to disciplinary procedures against certain licensed health care practitioners; amending s. 456.078, F.S.; revising standards for determining which violations of the applicable professional practice act are appropriate for mediation; amending ss. 458.311 and 459.0055, F.S.; requiring that specified information be provided to the Department of Health; amending s. 458.320, F.S., relating to financial responsibility requirements for medical physicians; requiring maintenance of financial responsibility as a condition of licensure of physicians; providing for payment of any outstanding judgments or settlements pending at the time a physician is suspended by the Department of Health; requiring the department to suspend the license of a medical physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; amending s. 459.0085, F.S., relating to financial responsibility requirements for osteopathic physicians; requiring maintenance of financial responsibility as a condition of licensure of osteopathic physicians; providing for payment of any outstanding judgments

or settlements pending at the time an osteopathic physician is suspended by the Department of Health; requiring that the department suspend the license of an osteopathic physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; providing civil immunity for certain participants in quality improvement processes; defining the terms "patient safety data" and "patient safety organization"; providing for use of patient safety data by a patient safety organization; providing limitations on use of patient safety data; providing for protection of patient-identifying information; providing for determination of whether the privilege applies as asserted; providing that an employer may not take retaliatory action against an employee who makes a good-faith report concerning patient safety data; requiring that a specific statement be included in each final settlement statement relating to medical malpractice actions; amending s. 458.331, F.S., relating to grounds for disciplinary action against a physician; redefining the term "repeated malpractice"; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; requiring administrative orders issued by an administrative law judge or board for certain practice violations by physicians to specify certain information; creating s. 458.3311, F.S.; establishing emergency procedures for disciplinary actions; amending s. 459.015, F.S., relating to grounds for disciplinary action against an osteopathic physician; redefining the term "repeated malpractice"; amending conditions that necessitate a departmental investigation of an osteopathic physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; creating s. 459.0151, F.S.; establishing emergency procedures for disciplinary actions; requiring the Division of Administrative Hearings to designate administrative law judges who have special qualifications for hearings involving certain health care practitioners; amending s. 461.013, F.S., relating to grounds for disciplinary action against a podiatric physician; redefining the term "repeated malpractice"; amending the minimum amount of a claim against such a physician which will trigger a department investigation; requiring administrative orders issued by an administrative law judge or board for certain practice violations by physicians to specify certain information; creating s. 461.0131, F.S.; establishing emergency procedures for disciplinary actions; amending s. 466.028, F.S., relating to grounds for disciplinary action against a dentist or a dental hygienist; redefining the term "dental malpractice"; revising the minimum amount of a claim against a dentist which will trigger a departmental investigation; amending s. 624.462, F.S.; authorizing health care providers to form a commercial self-insurance fund; amending s. 627.062, F.S.; providing additional requirements for medical malpractice insurance rate filings; providing that portions of judgments and settlements entered against a medical malpractice insurer for bad-faith actions or for punitive damages against the insurer, as well as related taxable costs and attorney's fees, may not be included in an insurer's base rate; providing for review of rate filings by the Office of Insurance Regulation for excessive, inadequate, or unfairly discriminatory rates; requiring insurers to apply a discount based on the health care provider's loss experience; requiring the Office of Program Policy Analysis and Government Accountability to study and report to the Legislature on requirements for coverage by the Florida Birth-Related Neurological Injury Compensation Association; amending s. 627.357, F.S.; providing guidelines for the formation and regulation of certain self-insurance funds; amending s. 627.4147, F.S.; revising certain notification criteria for medical and osteopathic physicians; requiring prior notification of a rate increase; authorizing the purchase of insurance by certain health care providers; creating s. 627.41491, F.S.; requiring the Office of Insurance Regulation to require health care providers to annually publish certain rate comparison information; creating s. 627.41493, F.S.; requiring a medical malpractice insurance rate rollback; providing for subsequent increases under certain circumstances; requiring approval for use of certain medical malpractice insurance rates; providing for a mechanism to make effective the Florida Medical Malpractice Insurance Fund in the event the rollback of medical malpractice insurance rates is not completed; creating the Florida Medical Malpractice Insurance Fund; providing purpose; providing governance by a board of governors; providing for the fund to issue medical malpractice policies to any physician regardless of specialty; providing for regulation by the Office of Insurance Regulation of the Financial Services Commission; providing applicability; providing for initial funding; providing for tax-exempt status; providing for initial capitalization; providing for termination of the fund; providing that practitioners licensed under ch. 458 or ch. 459, F.S., must, as a licensure requirement, obtain and maintain professional liability coverage; requiring the Office of Insurance Regulation to order insurers to make rate filings effective January 1, 2004, which reflect the impact of the act;

providing criteria for such rate filing; amending s. 627.912, F.S.; revising the medical malpractice closed claim reports that must be filed with the Office of Insurance Regulation; applying such requirements to additional persons and entities; providing for access to Department of Health to such reports; providing for the imposition of a fine or disciplinary action for failing to report; requiring reports to obtain additional information; authorizing the Financial Services Commission to adopt rules; requiring the Office of Insurance Regulation to prepare summaries of closed claim reports of prior years and to prepare an annual report and analysis of closed claim and insurer financial reports; amending s. 766.102, F.S.; revising requirements for health care providers providing expert testimony in medical negligence actions; prohibiting contingency fees for an expert witness; amending s. 766.106, F.S.; deleting provisions relating to voluntary arbitration in conflict with s. 766.207, F.S.; creating s. 766.10651, F.S.; providing for exclusive common law remedy for bad faith against insurer for claims arising from medical negligence; providing safe-harbour period in which insurer not held to have acted in bad faith; providing legislative intent; providing for future repeal; amending s. 766.106, F.S.; revising requirements for presuit notice and for an insurer's or self-insurer's response to a claim; requiring that a claimant provide the Agency for Health Care Administration with a copy of the complaint alleging medical malpractice; requiring the agency to review such complaints for licensure noncompliance; permitting written questions during informal discovery; amending s. 766.108, F.S.; providing for mandatory mediation; creating s. 766.118, F.S.; providing a maximum amount to be awarded as noneconomic damages in medical negligence actions; providing exceptions; providing for cost-of-living adjustments to such maximum amount of noneconomic damages; providing that caps on noneconomic damages do not apply to any incident involving certain physicians under certain circumstances; providing for future repeal; amending s. 766.202, F.S.; redefining the terms "economic damages," "medical expert," "noneconomic damages," and "periodic payment"; defining the term "health care provider"; amending s. 766.206, F.S.; providing for dismissal of a claim under certain circumstances; requiring the court to make certain reports concerning a medical expert who fails to meet qualifications; amending s. 766.207, F.S.; providing for the applicability of the Wrongful Death Act and general law to arbitration awards; amending s. 768.041, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; amending s. 768.13, F.S.; revising guidelines for immunity from liability under the "Good Samaritan Act"; amending s. 768.77, F.S.; prescribing a method for itemization of specific categories of damages awarded in medical malpractice actions; amending s. 768.81, F.S.; requiring the trier of fact to apportion total fault solely among the claimant and joint tortfeasors as parties to an action; preserving sovereign immunity and the abrogation of certain joint and several liability; requiring the Office of Program Policy Analysis and Government Accountability and the Office of the Auditor General to conduct an audit of the health care practitioner disciplinary process and closed claims and report to the Legislature; creating ss. 1004.08 and 1005.07, F.S.; requiring schools, colleges, and universities to include material on patient safety in their curricula if the institution awards specified degrees; amending s. 1006.20, F.S.; requiring completion of a uniform participation physical evaluation and history form incorporating recommendations of the American Heart Association; deleting revisions to procedures for students' physical examinations; creating a workgroup to study the health care practitioner disciplinary process; providing for workgroup membership; providing that the workgroup deliver its report by January 1, 2004; creating s. 766.1065, F.S.; providing for mandatory presuit investigations; providing that certain records be provided to opposing parties; providing subpoena power; providing for sworn depositions of parties and medical experts; providing for mandatory in-person mediation if binding arbitration has not been agreed to; providing for a mandatory presuit screening panel hearing in the event of mediation impasse; creating s. 766.1066, F.S.; creating the Office of Presuit Screening Administration; providing for a database of volunteer panel members; prescribing qualifications for panel membership; providing a funding mechanism; providing panel procedures; providing for determination and recordation of panel findings; providing for disposition of panel findings; providing immunity from liability for panel members; amending s. 456.013, F.S.; requiring, as a condition of licensure and license renewal, that physicians and physician assistants complete a continuing education course relating to misdiagnosed conditions; amending s. 766.209, F.S.; revising applicable damages available in voluntary binding arbitration relating to claims of medical negligence; amending s. 391.025, F.S.; adding infants receiving compensation awards as eligible for Children's Medical Services health services; amending s. 391.029, F.S.; providing financial eligibility criteria for

Children's Medical Services; amending s. 766.304, F.S.; limiting the use of civil actions when claimants accept awards from the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 766.305, F.S.; deleting requirement for provision of certain information in a petition filed with the Florida Birth-Related Neurological Injury Compensation Plan; providing for service of copies of such petition to certain participants; requiring that a claimant provide the Florida Birth-Related Neurological Injury Compensation Association with certain information within 10 days after filing such petition; amending 766.31, F.S.; providing for a death benefit for an infant in the amount of \$10,000; amending s. 766.314, F.S.; revising obsolete terms; providing procedures by which hospitals in certain counties may pay the annual fees for participating physicians and nurse midwives; providing for annually assessing participating physicians; providing appropriations and authorizing positions; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or a 2003 special session of the Legislature; providing for severability; providing effective dates.

—was read the second time by title.

Senator Cowin moved the following amendment which failed:

Amendment 1 (582772)(with title amendment)—On page 171, between lines 23 and 24, insert:

Section 82. Section 766.1045, Florida Statutes, is created to read:

766.1045 Distribution of awards in medical negligence cases.—Damages awarded to a plaintiff in an action for personal injury or wrongful death arising out of medical negligence, whether in tort or contract, must be paid in the following amount and order of priority:

- (1) *Previously incurred and unpaid medical expenses must be paid.*
- (2) *Court costs incurred on behalf of the plaintiff must be paid.*
- (3) *Sixty percent of the amount remaining after complying with subsections (1) and (2) must be paid to the plaintiff.*
- (4) *Forty percent of the amount remaining after complying with subsections (1) and (2), or the amount billed to the plaintiff, whichever is less, must be paid as attorney's fees.*
- (5) *Any amount remaining after the attorney's fees have been paid must be paid to the plaintiff.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 17, line 11, after the semicolon (;) insert: creating s. 766.1045, F.S.; providing for the distribution of awards in legal actions arising out of medical negligence;

On motion by Senator Klein, by two-thirds vote **CS for SB 2-C** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Diaz de la Portilla	Miller
Aronberg	Garcia	Peaden
Bennett	Haridopolos	Posey
Bullard	Hill	Pruitt
Campbell	Jones	Saunders
Carlton	Klein	Sebesta
Clary	Lawson	Smith
Constantine	Lee	Villalobos
Crist	Margolis	Wilson

Nays—8

Alexander	Dockery	Webster
Atwater	Fasano	Wise
Cowin	Lynn	

On motion by Senator Jones—

SB 4-C—A bill to be entitled An act relating to public records and meetings; creating s. 381.04091, F.S.; providing that patient records obtained by, and other documents identifying a patient by name and contained in patient safety data held by, the Florida Center for Excellence in Health Care are exempt from public-record requirements; providing that meetings held by the center at which such information is discussed are exempt from public-meeting requirements; authorizing the release of information under specified circumstances, including the release to a health care research entity or licensed health insurer; providing for future legislative review and repeal under the Open Government Sunset Review Act of 1995; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote **SB 4-C** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Haridopolos	Saunders
Bullard	Hill	Sebesta
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	

Nays—None

SB 6-C—A bill to be entitled An act relating to public records; amending s. 395.0198, F.S.; which provides an exemption from public-records requirements for the information contained in the notification of an adverse incident provided to the Agency for Health Care Administration by a facility licensed under ch. 395, F.S.; specifying information covered under the exemption; authorizing the use of the information as part of certain disciplinary proceedings; removing the repeal of the exemption scheduled under the Open Government Sunset Review Act of 1995; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or a 2003 Special Session of the Legislature; providing an effective date.

—was read the second time by title.

On motion by Senator Jones, further consideration of **SB 6-C** was deferred.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, July 11, 2003: CS for SB 2-C, SB 4-C, SB 6-C

Respectfully submitted,
Tom Lee, Chair

The Committee on Health, Aging, and Long-Term Care recommends the following pass: SB 4-C, SB 6-C

The bills were placed on the calendar.

The Committee on Health, Aging, and Long-Term Care recommends a committee substitute for the following: SB 2-C

The bill with committee substitute attached was placed on the calendar.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Health, Aging, and Long-Term Care; and Senators Jones, Saunders and Peaden—

CS for SB 2-C—A bill to be entitled An act relating to medical malpractice; providing legislative findings; amending s. 46.015, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; creating s. 381.0409, F.S.; providing that creation of the Florida Center for Excellence in Health Care is contingent on the enactment of a public-records exemption; creating the Florida Center for Excellence in Health Care; providing goals and duties of the center; providing definitions; providing limitations on the center's liability for any lawful actions taken; requiring the center to issue patient safety recommendations; requiring the development of a statewide electronic infrastructure to improve patient care and the delivery and quality of health care services; providing requirements for development of a core electronic medical record; authorizing access to the electronic medical records and other data maintained by the center; providing for the use of computerized physician order entry systems; providing for the establishment of a simulation center for high technology intervention surgery and intensive care; providing for the immunity of specified information in adverse incident reports from discovery or admissibility in civil or administrative actions; providing limitations on liability of specified health care practitioners and facilities under specified conditions; providing requirements for the appointment of a board of directors for the center; requiring the Department of Health to submit a budget for financing of the operations of the Florida Center for Excellence in Health Care for approval by the Legislature; requiring the Florida Center for Excellence in Health Care to develop a business and financing plan; authorizing state agencies to contract with the center for specified projects; authorizing the use of center funds and the use of state purchasing and travel contracts for the center; requiring the center to submit an annual report and providing requirements for the annual report; providing for the center's books, records, and audits to be open to the public; requiring the center to annually furnish an audited report to the Governor and Legislature; amending s. 395.004, F.S., relating to licensure of certain health care facilities; providing for discounted medical liability insurance based on certification of programs that reduce adverse incidents; authorizing the Agency for Health Care Administration to adopt rules for certification of quality improvement programs; requiring the Office of Insurance Regulation to consider certain information in reviewing discounted rates; creating s. 395.0056, F.S.; requiring the Agency for Health Care Administration to review complaints submitted if the defendant is a hospital; amending s. 395.0191, F.S.; deleting a requirement that persons act in good faith to avoid liability or discipline for their actions regarding the awarding of staff membership or clinical privileges; amending s. 395.0197, F.S., relating to internal risk management programs; requiring a system for notifying patients that they are the subject of an adverse incident; requiring an appropriately trained person to give notice; requiring licensed facilities to annually report certain information about health care practitioners for whom they assume liability; requiring the Agency for Health Care Administration and the Department of Health to annually publish statistics about licensed facilities that assume liability for health care practitioners; repealing the requirement for licensed facilities to notify the agency within 1 business day of the occurrence of certain adverse incidents; requiring the agency to forward adverse incident reports to the Florida Center for Excellence in Health Care; repealing s. 395.0198, F.S., which provides a public records exemption for adverse incident notifications; creating s. 395.1012, F.S.; requiring facilities to adopt a patient safety plan; providing requirements for a patient safety plan; requiring facilities to appoint a patient safety officer and a patient safety committee and providing duties for the patient safety officer and committee; amending s. 456.025, F.S.; eliminating certain restrictions on the setting of licensure renewal fees for health care practitioners; directing the Agency for Health Care Administration to conduct or contract for a study to determine what information to provide to the public comparing hospitals, based on inpatient quality indicators developed by the federal Agency for Healthcare Research and Quality; creating s. 395.1051, F.S.; requiring certain facilities to notify patients about adverse incidents under specified conditions; creating s. 456.0575, F.S.; requiring licensed health care practitioners to notify patients about adverse incidents under certain conditions; amending s. 456.026, F.S., relating to an annual report published by the Department of Health;

requiring that the department publish the report to its website; requiring the department to include certain detailed information; amending s. 456.039, F.S.; revising requirements for the information furnished to the Department of Health for licensure purposes; amending s. 456.041, F.S., relating to practitioner profiles; requiring the Department of Health to compile certain specified information in a practitioner profile; establishing a timeframe for certain health care practitioners to report specified information; providing for disciplinary action and a fine for untimely submissions; deleting provisions that provide that a profile need not indicate whether a criminal history check was performed to corroborate information in the profile; authorizing the department or regulatory board to investigate any information received; requiring the department to provide an easy-to-read narrative explanation concerning final disciplinary action taken against a practitioner; requiring a hyperlink to each final order on the department's website which provides information about disciplinary actions; requiring the department to provide a hyperlink to certain comparison reports pertaining to claims experience; requiring the department to include the date that a reported disciplinary action was taken by a licensed facility and a characterization of the practitioner's conduct that resulted in the action; deleting provisions requiring the department to consult with a regulatory board before including certain information in a health care practitioner's profile; providing for a penalty for failure to comply with the timeframe for verifying and correcting a practitioner profile; requiring the department to add a statement to a practitioner profile when the profile information has not been verified by the practitioner; requiring the department to provide, in the practitioner profile, an explanation of disciplinary action taken and the reason for sanctions imposed; requiring the department to include a hyperlink to a practitioner's website when requested; providing that practitioners licensed under ch. 458 or ch. 459, F.S., shall have claim information concerning an indemnity payment greater than a specified amount posted in the practitioner profile; amending s. 456.042, F.S.; providing for the update of practitioner profiles; designating a timeframe within which a practitioner must submit new information to update his or her profile; amending s. 456.049, F.S., relating to practitioner reports on professional liability claims and actions; revising requirements for a practitioner to report claims or actions for medical malpractice; amending s. 456.051, F.S.; establishing the responsibility of the Department of Health to provide reports of professional liability actions and bankruptcies; requiring the department to include such reports in a practitioner's profile within a specified period; amending s. 456.057, F.S.; allowing the department to obtain patient records by subpoena without the patient's written authorization, in specified circumstances; amending s. 456.063, F.S.; authorizing regulatory boards or the department to adopt rules to implement requirements for reporting allegations of sexual misconduct; amending s. 456.072, F.S.; providing for determining the amount of any costs to be assessed in a disciplinary proceeding; amending s. 456.073, F.S.; authorizing the Department of Health to investigate certain paid claims made on behalf of practitioners licensed under ch. 458 or ch. 459, F.S.; amending procedures for certain disciplinary proceedings; providing a deadline for raising issues of material fact; providing a deadline relating to notice of receipt of a request for a formal hearing; excepting gross or repeated malpractice and standard-of-care violations from the 6-year limitation on investigation or filing of an administrative complaint; amending s. 456.077, F.S.; providing a presumption related to an undisputed citation; revising requirements under which the Department of Health may issue citations as an alternative to disciplinary procedures against certain licensed health care practitioners; amending s. 456.078, F.S.; revising standards for determining which violations of the applicable professional practice act are appropriate for mediation; amending ss. 458.311 and 459.0055, F.S.; requiring that specified information be provided to the Department of Health; amending s. 458.320, F.S., relating to financial responsibility requirements for medical physicians; requiring maintenance of financial responsibility as a condition of licensure of physicians; providing for payment of any outstanding judgments or settlements pending at the time a physician is suspended by the Department of Health; requiring the department to suspend the license of a medical physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; amending s. 459.0085, F.S., relating to financial responsibility requirements for osteopathic physicians; requiring maintenance of financial responsibility as a condition of licensure of osteopathic physicians; providing for payment of any outstanding judgments or settlements pending at the time an osteopathic physician is suspended by the Department of Health; requiring that the department suspend the license of an osteopathic physician who has not paid, up to

the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; providing civil immunity for certain participants in quality improvement processes; defining the terms "patient safety data" and "patient safety organization"; providing for use of patient safety data by a patient safety organization; providing limitations on use of patient safety data; providing for protection of patient-identifying information; providing for determination of whether the privilege applies as asserted; providing that an employer may not take retaliatory action against an employee who makes a good-faith report concerning patient safety data; requiring that a specific statement be included in each final settlement statement relating to medical malpractice actions; amending s. 458.331, F.S., relating to grounds for disciplinary action against a physician; redefining the term "repeated malpractice"; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; requiring administrative orders issued by an administrative law judge or board for certain practice violations by physicians to specify certain information; creating s. 458.3311, F.S.; establishing emergency procedures for disciplinary actions; amending s. 459.015, F.S., relating to grounds for disciplinary action against an osteopathic physician; redefining the term "repeated malpractice"; amending conditions that necessitate a departmental investigation of an osteopathic physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; creating s. 459.0151, F.S.; establishing emergency procedures for disciplinary actions; requiring the Division of Administrative Hearings to designate administrative law judges who have special qualifications for hearings involving certain health care practitioners; amending s. 461.013, F.S., relating to grounds for disciplinary action against a podiatric physician; redefining the term "repeated malpractice"; amending the minimum amount of a claim against such a physician which will trigger a department investigation; requiring administrative orders issued by an administrative law judge or board for certain practice violations by physicians to specify certain information; creating s. 461.0131, F.S.; establishing emergency procedures for disciplinary actions; amending s. 466.028, F.S., relating to grounds for disciplinary action against a dentist or a dental hygienist; redefining the term "dental malpractice"; revising the minimum amount of a claim against a dentist which will trigger a departmental investigation; amending s. 624.462, F.S.; authorizing health care providers to form a commercial self-insurance fund; amending s. 627.062, F.S.; providing additional requirements for medical malpractice insurance rate filings; providing that portions of judgments and settlements entered against a medical malpractice insurer for bad-faith actions or for punitive damages against the insurer, as well as related taxable costs and attorney's fees, may not be included in an insurer's base rate; providing for review of rate filings by the Office of Insurance Regulation for excessive, inadequate, or unfairly discriminatory rates; requiring insurers to apply a discount based on the health care provider's loss experience; requiring the Office of Program Policy Analysis and Government Accountability to study and report to the Legislature on requirements for coverage by the Florida Birth-Related Neurological Injury Compensation Association; amending s. 627.357, F.S.; providing guidelines for the formation and regulation of certain self-insurance funds; amending s. 627.4147, F.S.; revising certain notification criteria for medical and osteopathic physicians; requiring prior notification of a rate increase; authorizing the purchase of insurance by certain health care providers; creating s. 627.41491, F.S.; requiring the Office of Insurance Regulation to require health care providers to annually publish certain rate comparison information; creating s. 627.41493, F.S.; requiring a medical malpractice insurance rate rollback; providing for subsequent increases under certain circumstances; requiring approval for use of certain medical malpractice insurance rates; providing for a mechanism to make effective the Florida Medical Malpractice Insurance Fund in the event the rollback of medical malpractice insurance rates is not completed; creating the Florida Medical Malpractice Insurance Fund; providing purpose; providing governance by a board of governors; providing for the fund to issue medical malpractice policies to any physician regardless of specialty; providing for regulation by the Office of Insurance Regulation of the Financial Services Commission; providing applicability; providing for initial funding; providing for tax-exempt status; providing for initial capitalization; providing for termination of the fund; providing that practitioners licensed under ch. 458 or ch. 459, F.S., must, as a licensure requirement, obtain and maintain professional liability coverage; requiring the Office of Insurance Regulation to order insurers to make rate filings effective January 1, 2004, which reflect the impact of the act; providing criteria for such rate filing; amending s. 627.912, F.S.; revising the medical malpractice closed claim reports that must be filed with the

Office of Insurance Regulation; applying such requirements to additional persons and entities; providing for access to Department of Health to such reports; providing for the imposition of a fine or disciplinary action for failing to report; requiring reports to obtain additional information; authorizing the Financial Services Commission to adopt rules; requiring the Office of Insurance Regulation to prepare summaries of closed claim reports of prior years and to prepare an annual report and analysis of closed claim and insurer financial reports; amending s. 766.102, F.S.; revising requirements for health care providers providing expert testimony in medical negligence actions; prohibiting contingency fees for an expert witness; amending s. 766.106, F.S.; deleting provisions relating to voluntary arbitration in conflict with s. 766.207, F.S.; creating s. 766.10651, F.S.; providing for exclusive common law remedy for bad faith against insurer for claims arising from medical negligence; providing safe-harbour period in which insurer not held to have acted in bad faith; providing legislative intent; providing for future repeal; amending s. 766.106, F.S.; revising requirements for presuit notice and for an insurer's or self-insurer's response to a claim; requiring that a claimant provide the Agency for Health Care Administration with a copy of the complaint alleging medical malpractice; requiring the agency to review such complaints for licensure noncompliance; permitting written questions during informal discovery; amending s. 766.108, F.S.; providing for mandatory mediation; creating s. 766.118, F.S.; providing a maximum amount to be awarded as noneconomic damages in medical negligence actions; providing exceptions; providing for cost-of-living adjustments to such maximum amount of noneconomic damages; providing that caps on noneconomic damages do not apply to any incident involving certain physicians under certain circumstances; providing for future repeal; amending s. 766.202, F.S.; redefining the terms "economic damages," "medical expert," "noneconomic damages," and "periodic payment"; defining the term "health care provider"; amending s. 766.206, F.S.; providing for dismissal of a claim under certain circumstances; requiring the court to make certain reports concerning a medical expert who fails to meet qualifications; amending s. 766.207, F.S.; providing for the applicability of the Wrongful Death Act and general law to arbitration awards; amending s. 768.041, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; amending s. 768.13, F.S.; revising guidelines for immunity from liability under the "Good Samaritan Act"; amending s. 768.77, F.S.; prescribing a method for itemization of specific categories of damages awarded in medical malpractice actions; amending s. 768.81, F.S.; requiring the trier of fact to apportion total fault solely among the claimant and joint tortfeasors as parties to an action; preserving sovereign immunity and the abrogation of certain joint and several liability; requiring the Office of Program Policy Analysis and Government Accountability and the Office of the Auditor General to conduct an audit of the health care practitioner disciplinary process and closed claims and report to the Legislature; creating ss. 1004.08 and 1005.07, F.S.; requiring schools, colleges, and universities to include material on patient safety in their curricula if the institution awards specified degrees; amending s. 1006.20, F.S.; requiring completion of a uniform participation physical evaluation and history form incorporating recommendations of the American Heart Association; deleting revisions to procedures for students' physical examinations; creating a workgroup to study the health care practitioner disciplinary process; providing for workgroup membership; providing that the workgroup deliver its

report by January 1, 2004; creating s. 766.1065, F.S.; providing for mandatory presuit investigations; providing that certain records be provided to opposing parties; providing subpoena power; providing for sworn depositions of parties and medical experts; providing for mandatory in-person mediation if binding arbitration has not been agreed to; providing for a mandatory presuit screening panel hearing in the event of mediation impasse; creating s. 766.1066, F.S.; creating the Office of Presuit Screening Administration; providing for a database of volunteer panel members; prescribing qualifications for panel membership; providing a funding mechanism; providing panel procedures; providing for determination and recordation of panel findings; providing for disposition of panel findings; providing immunity from liability for panel members; amending s. 456.013, F.S.; requiring, as a condition of licensure and license renewal, that physicians and physician assistants complete a continuing education course relating to misdiagnosed conditions; amending s. 766.209, F.S.; revising applicable damages available in voluntary binding arbitration relating to claims of medical negligence; amending s. 391.025, F.S.; adding infants receiving compensation awards as eligible for Children's Medical Services health services; amending s. 391.029, F.S.; providing financial eligibility criteria for Children's Medical Services; amending s. 766.304, F.S.; limiting the use of civil actions when claimants accept awards from the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 766.305, F.S.; deleting requirement for provision of certain information in a petition filed with the Florida Birth-Related Neurological Injury Compensation Plan; providing for service of copies of such petition to certain participants; requiring that a claimant provide the Florida Birth-Related Neurological Injury Compensation Association with certain information within 10 days after filing such petition; amending 766.31, F.S.; providing for a death benefit for an infant in the amount of \$10,000; amending s. 766.314, F.S.; revising obsolete terms; providing procedures by which hospitals in certain counties may pay the annual fees for participating physicians and nurse midwives; providing for annually assessing participating physicians; providing appropriations and authorizing positions; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or a 2003 special session of the Legislature; providing for severability; providing effective dates.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 9 was corrected and approved.

VOTES RECORDED

Senator Wasserman Schultz was recorded as voting "yea" on the following bills which were considered this day: **CS for SB 2-C** and **SB 4-C**.

RECESS

On motion by Senator Lee, the Senate recessed at 11:50 a.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene upon call of the President.