

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public health care; amending s.
7 381.0012, F.S.; expanding the environmental health
8 enforcement authority of the Department of Health;
9 authorizing the department to issue citations or order
10 payment of fines; providing requirements and limitations;
11 providing a criminal penalty; providing for deposit and
12 use of fines; amending s. 381.004, F.S.; providing
13 additional criteria for release of HIV preliminary test
14 results; amending s. 381.006, F.S.; establishing
15 permitting procedures for group care facilities; providing
16 requirements and limitations; providing for fees;
17 providing fee exemptions for foster homes and certain
18 homes for persons with developmental disabilities;
19 providing fee limitations; providing authority to the
20 department to take adverse action on permits under certain
21 circumstances; amending s. 381.0065, F.S.; modifying
22 standards for rulemaking applicable to regulation of
23 onsite sewage treatment and disposal systems; revising

24 research award qualifications; providing for an extended
25 right of entry; amending s. 381.0101, F.S.; revising
26 definitions; revising environmental health professional
27 certification requirements; clarifying exemptions;
28 creating s. 381.104, F.S.; creating an employee health and
29 wellness program; providing requirements; authorizing
30 state agencies to undertake certain activities relating to
31 agency resources for program purposes; requiring each
32 participating agency to make an annual report; providing
33 duties of the department; amending s. 384.25, F.S.;
34 revising reporting requirements for sexually transmissible
35 diseases; authorizing the department to adopt rules;
36 amending s. 384.31, F.S.; revising sexually transmissible
37 disease testing requirements for pregnant women; providing
38 notice requirements; creating s. 385.104, F.S.;
39 establishing the Health Promotion and Health Education
40 Statewide Initiative for certain purposes; providing
41 requirements; authorizing the department to award funding
42 to county health departments for certain purposes;
43 providing funding requirements; providing participation
44 requirements for county health departments; creating s.
45 458.3215, F.S.; providing for reactivation of licenses of
46 certain physicians for certain limited purposes; providing
47 for a reactivation fee; amending s. 945.601, F.S.;
48 revising a cross reference, to conform; creating s.
49 945.6038, F.S.; authorizing the State of Florida
50 Correctional Medical Authority to enter into agreements
51 with other state agencies to provide additional medical

HB 913

2004
CS

52 | services; providing a limitation; providing an effective
53 | date.

54 |

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

56 |

57 | Section 1. Subsections (6) and (7) are added to section
58 | 381.0012, Florida Statutes, to read:

59 | 381.0012 Enforcement authority.--

60 | (6) When a violation of s. 386.01, s. 386.041, or
61 | environmental health rules adopted under this chapter occurs,
62 | and such violation is enforceable by administrative or civil
63 | remedy or is a second degree misdemeanor, the department may
64 | issue a citation that contains an order of correction, an order
65 | to pay a fine, or both. A citation issued under this subsection
66 | constitutes a notice of proposed agency action.

67 | (a) Citations must be in writing and must describe the
68 | particular nature of the violation, including specific reference
69 | to the provision of statute or rule allegedly violated.

70 | (b) The fines imposed may not exceed \$500 for each
71 | violation. Each day constitutes a separate violation for which a
72 | citation may be issued.

73 | (c) The citing official shall inform the recipient, by
74 | written notice pursuant to ss. 120.569 and 120.57, of the right
75 | to an administrative hearing. The citation must contain a
76 | conspicuous statement that failure to pay the fine within the
77 | allotted time, or failure to appear to contest the citation
78 | after having requested a hearing, constitutes a waiver of the
79 | right to contest the citation.

HB 913

2004
CS

80 (d) The department may reduce or waive the fine imposed by
 81 the citation after giving due consideration to such factors as
 82 the gravity of the violation, the good faith of the person who
 83 has allegedly committed the violation, and the person's history
 84 of previous violations, including violations for which
 85 enforcement actions were taken under this section or other
 86 provisions of law.

87 (e) Any person who willfully refuses to sign and accept a
 88 citation issued by the department commits a misdemeanor of the
 89 second degree, punishable as provided in s. 775.082 or s.
 90 775.083.

91 (f) The department shall deposit all fines collected under
 92 the authority of this subsection in the County Health Department
 93 Trust Fund for use in the environmental health program under
 94 which the fine was issued and shall use such fines to improve
 95 the respective programs or to provide training to the regulated
 96 industry and department staff working in such programs.

97 (g) The provisions of this subsection are an alternative
 98 means of enforcing environmental health requirements which does
 99 not prohibit the department from using other means of
 100 enforcement. However, the department shall use only one method
 101 of enforcement for a single violation.

102 (7) The department may use positive means of enforcement
 103 to ensure compliance with environmental health requirements
 104 specified in this chapter, ss. 386.01 and 386.041, or
 105 environmental health rules adopted under the authority of this
 106 chapter. Such means of enforcement may include requiring
 107 attendance at training courses applicable to the violations

HB 913

2004
CS

108 committed and requiring the use of best management practices
 109 currently used or recognized by the appropriate regulated
 110 industry or governmental agency.

111 Section 2. Paragraph (d) of subsection (3) of section
 112 381.004, Florida Statutes, is amended to read:

113 381.004 HIV testing.--

114 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
 115 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

116 (d) No test result shall be determined as positive, and no
 117 positive test result shall be revealed to any person, without
 118 corroborating or confirmatory tests being conducted except in
 119 the following situations:

120 1. Preliminary test results may be released to licensed
 121 physicians or the medical or nonmedical personnel subject to the
 122 significant exposure for purposes of subparagraphs (h)10., 11.,
 123 and 12.

124 2. Preliminary test results may be released to health care
 125 providers and to the person tested when decisions about medical
 126 care or treatment of, or recommendation to, the person tested
 127 and, in the case of an intrapartum or postpartum woman, when
 128 care, treatment, or recommendations regarding her newborn,
 129 cannot await the results of confirmatory testing. Positive
 130 preliminary HIV test results shall not be characterized to the
 131 patient as a diagnosis of HIV infection. Justification for the
 132 use of preliminary test results must be documented in the
 133 medical record by the health care provider who ordered the test.
 134 ~~This subparagraph does not authorize the release of preliminary~~
 135 ~~test results for the purpose of routine identification of HIV-~~

HB 913

2004
CS

136 ~~infected individuals or when HIV testing is incidental to the~~
 137 ~~preliminary diagnosis or care of a patient.~~ Corroborating or
 138 confirmatory testing must be conducted as followup to a positive
 139 preliminary test. Results shall be communicated to the patient
 140 according to statute regardless of the outcome. Except as
 141 provided in this section, test results are confidential and
 142 exempt from the provisions of s. 119.07(1).

143 3. Positive rapid test results are considered preliminary
 144 and may be released in accordance with the manufacturer's
 145 instructions as approved by the United States Food and Drug
 146 Administration. Positive rapid test results require confirmatory
 147 testing for diagnosis and reporting of HIV infection.

148 Section 3. Subsection (16) of section 381.006, Florida
 149 Statutes, is amended to read:

150 381.006 Environmental health.--The department shall
 151 conduct an environmental health program as part of fulfilling
 152 the state's public health mission. The purpose of this program
 153 is to detect and prevent disease caused by natural and manmade
 154 factors in the environment. The environmental health program
 155 shall include, but not be limited to:

156 (16) A group care facilities ~~group care facilities~~
 157 function, where a group care ~~group care~~ facility means any
 158 public or private school, housing, building or buildings,
 159 section of a building, or distinct part of a building or other
 160 place, whether operated for profit or not, which undertakes,
 161 through its ownership or management, to provide one or more
 162 personal services, care, protection, and supervision to persons
 163 who require such services and who are not related to the owner

164 or administrator. The department may adopt rules necessary to
 165 protect the health and safety of residents, staff, and patrons
 166 of group care ~~group-care~~ facilities, such as child care
 167 facilities, family day care ~~day-care~~ homes, assisted living
 168 ~~assisted-living~~ facilities, adult day care ~~day-care~~ centers,
 169 adult family-care homes, hospices, residential treatment
 170 facilities, crisis stabilization ~~crisis-stabilization~~ units,
 171 pediatric extended care ~~extended-care~~ centers, intermediate care
 172 ~~intermediate-care~~ facilities for the developmentally disabled,
 173 group care ~~group-care~~ homes, and, jointly with the Department of
 174 Education, private and public schools. These rules may include
 175 definitions of terms; provisions relating to operation and
 176 maintenance of facilities, buildings, grounds, equipment,
 177 furnishings, and occupant-space requirements; lighting; heating,
 178 cooling, and ventilation; food service; water supply and
 179 plumbing; sewage; sanitary facilities; insect and rodent
 180 control; garbage; safety; personnel health, hygiene, and work
 181 practices; permits and fees; and other matters the department
 182 finds are appropriate or necessary to protect the safety and
 183 health of the residents, staff, or patrons. The department may
 184 not adopt rules that conflict with rules adopted by the
 185 licensing or certifying agency. The department may enter and
 186 inspect at reasonable hours to determine compliance with
 187 applicable statutes or rules. In addition to any sanctions that
 188 the department may impose for violations of rules adopted under
 189 this section, the department shall also report such violations
 190 to any agency responsible for licensing or certifying the group
 191 care ~~group-care~~ facility. The licensing or certifying agency may

HB 913

2004
CS

192 | also impose any sanction based solely on the findings of the
193 | department.

194 | (a) Each group care facility regulated under this section
195 | shall obtain a permit from the department annually. Group care
196 | facility permits shall expire annually and shall not be
197 | transferable from one place or individual to another. An annual
198 | application for permit renewal shall not be required. In new
199 | facilities, or when the ownership, control, address, or name of
200 | a group care facility is changed, the owner, or the owner's
201 | designee, shall apply to the department for issuance of a permit
202 | in the manner prescribed by the department.

203 | (b) The department shall establish procedures for the
204 | issuance and annual renewal of permits and shall establish
205 | annual permit and renewal fees by rule in an amount necessary to
206 | cover the expenses of administering this section. Effective
207 | October 1, 2004, and until such fees are established by rule,
208 | the annual permit fee shall be as follows:

209 | 1. Nonresidential facilities, including, but not limited
210 | to, child care centers, public schools, and private schools,
211 | shall pay an annual fee based on a rate of \$3.50 per student for
212 | the maximum authorized capacity. The total permit fee shall not
213 | be less than \$110 nor more than \$300.

214 | 2. Residential facilities, including, but not limited to,
215 | assisted living facilities, group homes, residential treatment
216 | facilities, and other residential facilities, shall pay an
217 | annual fee based on a rate of \$15.50 per bed for the maximum
218 | authorized capacity. The total permit fee shall not be less than
219 | \$110 nor more than \$600, except for adult family care homes,

HB 913

2004
CS

220 which shall pay a flat fee of \$60. Foster homes and homes of
 221 three or fewer beds for persons with developmental disabilities
 222 shall be exempt from payment of such fees.

223 (c) The annual permit and renewal fees established and
 224 adopted by rule shall not be less than \$60 nor more than \$600
 225 per group care facility. Foster homes and homes of three or
 226 fewer beds for persons with developmental disabilities shall be
 227 exempt from payment of such fees.

228 (d) Permit fees shall be prorated quarterly to reflect the
 229 actual number of quarters per calendar year the permit is valid.

230 (e) The department may refuse to issue a permit to or
 231 renew a permit for any facility that is not constructed or
 232 maintained in accordance with the rules of the department. The
 233 department may cancel, revoke, or suspend a permit to operate a
 234 group care facility if the permittee:

- 235 1. Fails to pay any fee required by this section;
- 236 2. Obtains or attempts to obtain a permit by fraud; or
- 237 3. Violates a provision of this section.

238
 239 The department may adopt rules to carry out the provisions of
 240 this section.

241 Section 4. Paragraphs (a) and (j) of subsection (3) of
 242 section 381.0065, Florida Statutes, are amended, and paragraph
 243 (c) is added to subsection (5) of said section, to read:

244 381.0065 Onsite sewage treatment and disposal systems;
 245 regulation.--

246 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.--The
 247 department shall:

248 (a) Adopt rules to administer ss. 381.0065-381.0067,
 249 including definitions that are consistent with the definitions
 250 in this section, decreases to setback requirements where no
 251 health hazard exists, increases for the lot-flow allowance for
 252 performance-based systems, requirements for separation from
 253 water table elevation during the wettest season, requirements
 254 for the design and construction of any component part of an
 255 onsite sewage treatment and disposal system, application and
 256 permit requirements for persons who maintain an onsite sewage
 257 treatment and disposal system, requirements for maintenance and
 258 service agreements for aerobic treatment units and performance-
 259 based treatment systems, ~~and~~ recommended standards, including
 260 disclosure requirements, for voluntary system inspections to be
 261 performed by individuals who are authorized by law to perform
 262 such inspections and who shall inform a person having ownership,
 263 control, or use of an onsite sewage treatment and disposal
 264 system of the inspection standards and of that person's
 265 authority to request an inspection based on all or part of the
 266 standards, and requirements for implementation of the United
 267 States Environmental Protection Agency's voluntary national
 268 guidelines for management of onsite and clustered or
 269 decentralized wastewater treatment systems.

270 (j) Supervise research on, demonstration of, and training
 271 on the performance, environmental impact, and public health
 272 impact of onsite sewage treatment and disposal systems within
 273 this state. Research fees collected under s. 381.0066(2)(k) must
 274 be used to develop and fund hands-on training centers designed
 275 to provide practical information about onsite sewage treatment

HB 913

2004
CS

276 and disposal systems to septic tank contractors, master septic
 277 tank contractors, contractors, inspectors, engineers, and the
 278 public and must also be used to fund research projects which
 279 focus on improvements of onsite sewage treatment and disposal
 280 systems, including use of performance-based standards and
 281 reduction of environmental impact. Research projects shall be
 282 initially approved by the technical advisory panel and shall be
 283 applicable to and reflect the soil conditions specific to
 284 Florida. Such projects shall be awarded through competitive
 285 negotiation, using the procedures provided in s. 287.055, to
 286 public or private entities that have experience in onsite sewage
 287 treatment and disposal systems in Florida and that are
 288 principally located in Florida. ~~Research projects shall not be~~
 289 ~~awarded to firms or entities that employ or are associated with~~
 290 ~~persons who serve on either the technical advisory panel or the~~
 291 ~~research review and advisory committee.~~

292 (5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.--

293 (c) Department personnel may enter the premises of others
 294 when necessary to conduct site evaluations and inspections
 295 relating to the permitting of onsite sewage treatment and
 296 disposal systems. Such entry does not constitute trespass, and
 297 department personnel making such entry are not subject to arrest
 298 or to a civil action by reason of such entry. This paragraph
 299 does not authorize a department employee to destroy, injure,
 300 damage, or move anything on premises of another without the
 301 written permission of the landowner.

HB 913

2004
CS

302 Section 5. Subsections (1), (2), (3), and (6) and
303 paragraph (a) of subsection (5) of section 381.0101, Florida
304 Statutes, are amended to read:

305 381.0101 Environmental health professionals.--

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

319 (2) DEFINITIONS.--As used in this section:

320 (a) "Accredited" means recognized by the American Council
321 on Education as meeting acceptable levels of quality and
322 performance.

323 (b)~~(a)~~ "Board" means the Environmental Health
324 Professionals Advisory Board.

325 (c)~~(b)~~ "Department" means the Department of Health.

326 (d)~~(e)~~ "Environmental health" means that segment of public
327 health work which deals with the examination of those factors in
328 the human environment which may impact adversely on the health
329 status of an individual or the public.

HB 913

2004
CS

330 (e)~~(d)~~ "Environmental health professional" means a person
 331 who is employed or assigned the responsibility for assessing the
 332 environmental health or sanitary conditions, as defined by the
 333 department, within a building, on an individual's property, or
 334 within the community at large, and who has the knowledge,
 335 skills, and abilities to carry out these tasks. Environmental
 336 health professionals may be either field, supervisory, or
 337 administrative staff members.

338 (f)~~(e)~~ "Certified" means a person who has displayed
 339 competency to perform evaluations of environmental or sanitary
 340 conditions through examination.

341 (g)~~(f)~~ "Registered sanitarian," "R.S.," "Registered
 342 Environmental Health Specialist," or "R.E.H.S." means a person
 343 who has been certified by either the National Environmental
 344 Health Association or the Florida Environmental Health
 345 Association as knowledgeable in the environmental health
 346 profession.

347 (h)~~(g)~~ "Primary environmental health program" means those
 348 programs determined by the department to be essential for
 349 providing basic environmental and sanitary protection to the
 350 public. These programs shall be established by rule and, at a
 351 minimum, ~~these programs~~ shall include food protection program
 352 work and onsite sewage treatment and disposal systems program
 353 work ~~system evaluations~~.

354 (3) CERTIFICATION REQUIRED.--No person shall perform
 355 environmental health or sanitary evaluations in any primary
 356 program area of environmental health without being certified by
 357 the department as competent to perform such evaluations. The

HB 913

2004
CS

358 requirements of this section shall not be mandatory for persons
359 performing inspections of public or retail food service
360 establishments licensed under chapter 500 or chapter 509.

361 (5) STANDARDS FOR CERTIFICATION.--The department shall
362 adopt rules that establish definitions of terms and minimum
363 standards of education, training, or experience for those
364 persons subject to this section. The rules must also address the
365 process for application, examination, issuance, expiration, and
366 renewal of certification and ethical standards of practice for
367 the profession.

368 (a) Persons employed as environmental health professionals
369 shall exhibit a knowledge of rules and principles of
370 environmental and public health law in Florida through
371 examination. A person may not conduct environmental health
372 evaluations in a primary program area unless he or she is
373 currently certified in that program area or works under the
374 direct supervision, during his or her initial probationary
375 period for that position, of a certified environmental health
376 professional.

377 1. All persons who begin employment in a primary
378 environmental health program on or after September 21, 1994,
379 must be certified in that program within the initial
380 probationary period for that position ~~6 months after employment.~~

381 2. Persons employed in the primary environmental health
382 programs ~~program~~ of a food protection ~~program~~ or an onsite
383 sewage treatment and disposal systems ~~system~~ prior to September
384 21, 1994, shall be considered certified while employed in that
385 position and shall be required to adhere to any professional

HB 913

2004
CS

386 standards established by the department pursuant to paragraph
 387 (b), complete any continuing education requirements imposed
 388 under paragraph (d), and pay the certificate renewal fee imposed
 389 under subsection (7).

390 3. Persons employed in the primary environmental health
 391 programs ~~program~~ of a food protection ~~program~~ or ~~an~~ onsite
 392 sewage treatment and disposal systems ~~system~~ prior to September
 393 21, 1994, who change positions or program areas and transfer
 394 into another primary environmental health program area on or
 395 after September 21, 1994, must be certified by examination in
 396 that program within 6 months after such transfer, except that
 397 they will not be required to possess the college degree required
 398 under paragraph (e).

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

402 (6) EXEMPTIONS.--A person who conducts primary
 403 environmental evaluation activities and maintains a current
 404 registration or certification from another state agency which
 405 examined the person's knowledge of the primary program area and
 406 requires comparable continuing education to maintain the
 407 certificate shall not be required to be certified by this
 408 section. ~~Examples of persons not subject to certification are~~
 409 ~~physicians, registered dietitians, certified laboratory~~
 410 ~~personnel, and nurses.~~

411 Section 6. Section 381.104, Florida Statutes, is created
 412 to read:

413 381.104 Employee health and wellness program.--

414 (1) Each state agency may allocate, from existing
 415 resources, the necessary funding and facilities for the
 416 development and maintenance of an employee health and wellness
 417 program and may seek additional funding from other sources to
 418 support the program for the benefit of the agency's employees.

419 (2) Each state agency may dedicate resources to develop
 420 and coordinate an employee health and wellness program or
 421 arrange to cooperate with other agencies within such agency's
 422 geographic proximity for program coordination, including
 423 providers of state employee benefits.

424 (3) Each state agency electing to participate shall
 425 establish an employee health and wellness coordinator and
 426 advisory committee to guide the development of an operational
 427 plan, including the collection of data and development of goals
 428 and objectives, and to oversee program evaluation and use of any
 429 agency-allocated funds.

430 (4) Each state agency may conduct and dedicate resources
 431 toward an employee needs assessment to ascertain the health-and-
 432 wellness-related needs of its employees.

433 (5) Each state agency may establish policies that allow
 434 employees no more than 30 minutes of work time three times each
 435 week, as individual workload allows, to use for the purpose of
 436 engaging in health and wellness activities which may include
 437 physical activity, stress reduction, tobacco cessation, personal
 438 training, nutrition counseling, or weight reduction and control.
 439 Such 30-minute periods may be used to modify the start or end of
 440 the workday or to extend the lunch hour.

HB 913

2004
CS

441 (6) Each state agency shall use an employee health and
442 wellness activity agreement form, developed by the Department of
443 Health, to be completed by the employee, signed by both the
444 employee and the employee's immediate supervisor, and kept in
445 the employee's personnel file prior to the employee's
446 participation in any activity. It is the responsibility of the
447 employee to complete the form and submit it to the personnel
448 office. Any change to the employee's activities requires
449 submission of a revised form. An employee found to be in
450 violation of the submitted agreement form is not allowed further
451 participation in the program.

452 (7) Each state agency may designate up to 1 hour each
453 month for the purpose of providing inservice health and wellness
454 training for its employees.

455 (8) Each state agency may use electronic mail and other
456 communication systems to promote the agency's employee health
457 and wellness activities.

458 (9) Each state agency may, and is encouraged to:

459 (a) Enter into an agreement or contract with other public
460 or private entities to collaborate or participate jointly in
461 health or wellness education or activity programs.

462 (b) Implement health education activities that focus on
463 skill development and lifestyle behavior change along with
464 information dissemination and awareness building, preferably
465 tailored to the employees' interests and needs.

466 (c) Review and offer recommendations to agency leadership
467 on environmental and social support policies that pertain to
468 improving the health of employees.

HB 913

2004
CS

469 (d) Link the employee health and wellness program to other
470 programs such as the employee assistance program and other
471 related programs to help employees balance work and family.

472 (e) Offer free, low-cost, or employee-fee-based programs
473 on site, including the designation of rooms for the express
474 purpose of physical activity, nutrition, stress reduction, and
475 weight control activities. Participating agencies with
476 established employee health and wellness programs may purchase
477 exercise equipment to be used in the room designated for this
478 purpose.

479 (10) Each state agency that develops and implements an
480 employee health and wellness program shall include and document
481 an evaluation and improvement process in an annual report to
482 help enhance the program's efficiency and effectiveness. The
483 annual report shall be submitted to the Department of Health on
484 July 1 of each year. Agencies shall use an annual report
485 template provided by the Department of Health to ensure
486 consistency in the presentation of data and other evaluation
487 results.

488 (11) The Department of Health shall provide employee
489 health and wellness model program guidelines and ongoing
490 technical assistance to other state agencies to assist in the
491 development of each agency's employee health and wellness
492 program.

493 Section 7. Section 384.25, Florida Statutes, is amended to
494 read:

495 384.25 Reporting required.--

HB 913

2004
CS

496 (1) Each person who makes a diagnosis of or treats a
 497 person with a sexually transmissible disease, including, but not
 498 limited to, HIV and AIDS, and each laboratory that performs a
 499 test for a sexually transmissible disease, including, but not
 500 limited to, HIV, which concludes with a positive result shall
 501 report such facts as may be required by the department by rule,
 502 within a time period as specified by rule of the department, but
 503 in no case to exceed 2 weeks.

504 ~~(a)(2)~~ The department shall adopt rules specifying the
 505 information required in and a maximum ~~minimum~~ time period for
 506 reporting a sexually transmissible disease, including, but not
 507 limited to, HIV and AIDS. In adopting such rules, the department
 508 shall consider the need for information, protections for the
 509 privacy and confidentiality of the patient, and the practical
 510 ability of persons and laboratories to report in a reasonable
 511 fashion. To ensure the confidentiality of persons infected with
 512 HIV ~~the human immunodeficiency virus (HIV),~~ reporting of HIV
 513 ~~infection~~ and AIDS ~~acquired immune deficiency syndrome (AIDS)~~
 514 must be conducted using a system ~~the HIV/AIDS Reporting System~~
 515 ~~(HARS)~~ developed by the Centers for Disease Control and
 516 Prevention of the United States Public Health Service or an
 517 equivalent system.

518 ~~(3) The department shall require reporting of physician~~
 519 ~~diagnosed cases of AIDS based upon diagnostic criteria from the~~
 520 ~~Centers for Disease Control and Prevention.~~

521 ~~(b)(4) The department may require physician and laboratory~~
 522 ~~reporting of HIV infection. However, only reports of HIV~~
 523 ~~infection identified on or after the effective date of the rule~~

HB 913

2004
CS

524 ~~developed by the department pursuant to this subsection shall be~~
 525 ~~accepted. The Reporting may not affect or relate to anonymous~~
 526 ~~HIV testing programs conducted pursuant to s. 381.004(4) or to~~
 527 ~~university-based medical research protocols as determined by the~~
 528 ~~department.~~

529 (2)~~(5)~~ After notification of the test subject ~~under~~
 530 ~~subsection (4)~~, the department may, with the consent of the test
 531 subject, notify school superintendents of students and school
 532 personnel whose HIV tests are positive.

533 (3) The department shall adopt rules requiring each
 534 physician and laboratory to report any newborn or infant up to
 535 18 months of age who has been exposed to HIV. The rules may
 536 include the method and time period for reporting, information to
 537 be included in the report, requirements for enforcement, and
 538 followup activities by the department.

539 (4)~~(6)~~ The department shall by February 1 of each year
 540 submit to the Legislature an annual report relating to all
 541 information obtained pursuant to this section.

542 (5)~~(7)~~ Each person who violates the provisions of this
 543 section or the rules adopted hereunder may be fined by the
 544 department up to \$500 for each offense. The department shall
 545 report each violation of this section to the regulatory agency
 546 responsible for licensing each health care professional and each
 547 laboratory to which these provisions apply.

548 Section 8. Section 384.31, Florida Statutes, is amended to
 549 read:

550 384.31 ~~Serological~~ Testing of pregnant women; duty of the
 551 attendant.--

HB 913

2004
CS

552 ~~(1)~~ Every person, including every physician licensed under
 553 chapter 458 or chapter 459 or midwife licensed under part I of
 554 chapter 464 or chapter 467, attending a pregnant woman for
 555 conditions relating to pregnancy during the period of gestation
 556 and delivery shall ~~take or~~ cause the woman to be tested for
 557 sexually transmissible diseases, including, but not limited to,
 558 HIV, as required by rule of the department, notwithstanding s.
 559 381.004(3)(a), ~~taken a sample of venous blood~~ at a time or times
 560 specified by the department. The tests ~~Each sample of blood~~
 561 shall be performed ~~tested~~ by a laboratory approved for such
 562 purposes under part I of chapter 483 ~~for sexually transmissible~~
 563 ~~diseases as required by rule of the department.~~ Pregnant women
 564 shall be notified of the tests that will be conducted and of
 565 their right to refuse testing. If a woman objects to testing, a
 566 written statement of objection, signed by the patient, shall be
 567 placed in the patient's medical record and no testing shall
 568 occur.

569 ~~(2)~~ ~~At the time the venous blood sample is taken, testing~~
 570 ~~for human immunodeficiency virus (HIV) infection shall be~~
 571 ~~offered to each pregnant woman. The prevailing professional~~
 572 ~~standard of care in this state requires each health care~~
 573 ~~provider and midwife who attends a pregnant woman to counsel the~~
 574 ~~woman to be tested for human immunodeficiency virus (HIV).~~
 575 ~~Counseling shall include a discussion of the availability of~~
 576 ~~treatment if the pregnant woman tests HIV positive. If a~~
 577 ~~pregnant woman objects to HIV testing, reasonable steps shall be~~
 578 ~~taken to obtain a written statement of such objection, signed by~~
 579 ~~the patient, which shall be placed in the patient's medical~~

HB 913

2004
CS

580 ~~record. Every person, including every physician licensed under~~
 581 ~~chapter 458 or chapter 459 or midwife licensed under part I of~~
 582 ~~chapter 464 or chapter 467, who attends a pregnant woman who has~~
 583 ~~been offered and objects to HIV testing shall be immune from~~
 584 ~~liability arising out of or related to the contracting of HIV~~
 585 ~~infection or acquired immune deficiency syndrome (AIDS) by the~~
 586 ~~child from the mother.~~

587 Section 9. Section 385.104, Florida Statutes, is created
 588 to read:

589 385.104 Health Promotion and Health Education Statewide
 590 Initiative.--

591 (1) The Department of Health shall establish the Health
 592 Promotion and Health Education Statewide Initiative to provide a
 593 comprehensive and community-based health promotion and education
 594 program. The program is designed to provide funding to counties
 595 in this state to improve individual and community health, aimed
 596 specifically at preventing and reducing the impact of chronic
 597 diseases and promoting healthy lifestyles.

598 (2) The program's targeted diseases include, but are not
 599 limited to, diabetes, heart disease, stroke, asthma, and cancer,
 600 with a focus on the preventable risk factors of tobacco use,
 601 physical inactivity, and poor nutrition.

602 (3) The implementation of these activities shall be
 603 coordinated with and linked to existing state plans and national
 604 priorities, focusing on evidence-based programs and population-
 605 based efforts that specifically address social and environmental
 606 policy strategies.

HB 913

2004
CS

607 (4) Subject to the availability of funds, the Department
 608 of Health may award funding to county health departments for
 609 purposes of improving individual and community health by
 610 expanding and improving the health infrastructure through
 611 environmental and policy changes aimed specifically at
 612 preventing and reducing the impact of chronic diseases and
 613 promoting healthy lifestyles.

614 (5) To be eligible to receive funding under this section,
 615 a county health department shall submit an application to the
 616 secretary of the Department of Health containing information as
 617 required, including:

618 (a) A description of the proposed activities and how they
 619 promote tobacco cessation, healthy eating, or physical fitness
 620 and address the health and social consequences to residents of
 621 this state that have chronic diseases.

622 (b) Information describing how health promotion and
 623 education activities are to be coordinated at the local level
 624 with other health activities conducted by other education,
 625 health, and agricultural agencies.

626 (c) Information describing how local health promotion and
 627 education activities reflect state and national objectives for
 628 health.

629 (d) A description of the collaborative process that the
 630 county health department employed in the development of the
 631 health promotion and education program, including consultations
 632 with individuals and organizations with expertise in promoting
 633 public health, nutrition, or physical activity.

634 (e) A description of how the county health department will
 635 evaluate the effectiveness of its program.

636 (6) Subject to the availability of funds, a county health
 637 department receiving funds under this section shall, pending
 638 successful implementation or evaluation as determined by
 639 department headquarters staff, conduct the project for at least
 640 a period of 3 consecutive years.

641 (7) A county health department that receives funds under
 642 this section may use the funds to carry out one or more of the
 643 following activities:

644 (a) Collect, analyze, and disseminate data related to
 645 diabetes, heart disease, stroke, asthma, and cancer, with a
 646 focus on the preventable risk factors of tobacco use, physical
 647 inactivity, and poor nutrition.

648 (b) Develop and implement activities to create a
 649 comprehensive, coordinated nutrition and physical fitness
 650 awareness and chronic disease prevention program.

651 (c) Develop and implement programs in schools and
 652 worksites to increase physical fitness and to enhance the
 653 nutritional status of residents of this state.

654 (d) Develop and implement policy and environmental changes
 655 related to the cessation of tobacco, healthful nutrition, and
 656 physical education.

657 (e) Collaborate with community-based organizations,
 658 volunteer organizations, state medical associations, and public
 659 health groups to develop and implement health education and
 660 promotion activities.

HB 913

2004
CS

661 (f) Collaborate with public and private organizations that
 662 have a mission to increase public awareness of the importance of
 663 a balanced diet and an active lifestyle.

664 Section 10. Section 458.3215, Florida Statutes, is created
 665 to read:

666 458.3215 Reactivation of license for clinical research
 667 purposes.--

668 (1) Any person who left the practice of medicine for
 669 purposes of retirement and who, at the time of retirement, was
 670 in good standing with the board may apply to have his or her
 671 license reactivated, without examination, for purposes of seeing
 672 patients solely in a clinical research setting. Such person must
 673 not have been out of the practice of medicine for more than 10
 674 years at the time of application under this section.

675 (2) The board shall by rule set the reactivation fee, not
 676 to exceed \$300, and develop criteria for reactivation of a
 677 license under this section, including appropriate continuing
 678 education requirements, not to exceed those prescribed in s.
 679 458.321 for reactivation of a license.

680 Section 11. Section 945.601, Florida Statutes, is amended
 681 to read:

682 945.601 Correctional Medical Authority; ss. 945.601-
 683 945.6038; ~~945.601-945.6035,~~ definitions.--As used in this act:

684 (1) "Authority" means the State of Florida Correctional
 685 Medical Authority created in this act.

686 (2) "Health care provider" means:

687 (a) A regional research hospital or research center which
 688 is authorized by law to provide hospital services in accordance

HB 913

2004
CS

689 | with chapter 395, which has a contractual or operating
690 | arrangement with a regional school of medicine, and which is
691 | located at that regional school of medicine;

692 | (b) Any entity which has agreed to provide hospital
693 | services to inmates in the Department of Corrections; or

694 | (c) Any entity licensed to provide hospital services in
695 | accordance with chapter 395.

696 | (3) "Project" means any structure, facility, machinery,
697 | equipment, or other property suitable for use by a health
698 | facility in connection with its operations or proposed
699 | operations, including, without limitation, real property
700 | therefor; a clinic, computer facility, dining hall, firefighting
701 | facility, fire prevention facility, long-term care facility,
702 | hospital, interns' residence, laboratory, laundry, maintenance
703 | facility, nurses' residence, office, parking area, pharmacy,
704 | recreational facility, research facility, storage facility,
705 | utility, or X-ray facility, or any combination of the foregoing;
706 | and other structure or facility related thereto or required or
707 | useful for health care purposes, the conducting of research, or
708 | the operation of a health facility, including a facility or
709 | structure essential or convenient for the orderly conduct of the
710 | health facility and other similar items necessary or convenient
711 | for the operation of a particular facility or structure in the
712 | manner for which its use is intended. "Project" does not include
713 | such items as fuel, supplies, or other items which are
714 | customarily deemed to result in a current operating charge.

HB 913

2004
CS

715 (4) "Quality management program" means to monitor and
716 evaluate inmate health care and includes the following
717 objectives:

718 (a) Assuring that all inmates receive appropriate and
719 timely services in a safe environment.

720 (b) Assuring systematic monitoring of the treatment
721 environment.

722 (c) Assisting in the reduction of professional and general
723 liability risks.

724 (d) Enhancing efficient utilization of resources.

725 (e) Assisting in credential review and privilege
726 delineation.

727 (f) Enhancing the identification of continuing educational
728 needs.

729 (g) Facilitating the identification of strengths,
730 weaknesses, and opportunities for improvement.

731 (h) Facilitating the coordination and integration of
732 information systems.

733 (i) Assuring the resolution of identified problems.

734 (5) "Real property" includes all lands, including
735 buildings, structures, improvements, and fixtures thereon; any
736 property of any nature appurtenant thereto or used in connection
737 therewith; and every estate, interest, and right, legal or
738 equitable, therein, including any such interest for a term of
739 years.

740 Section 12. Section 945.6038, Florida Statutes, is created
741 to read:

HB 913

2004
CS

742 945.6038 Additional services.--The authority is authorized
743 to enter into an agreement or may contract with the Department
744 of Children and Family Services, subject to the availability of
745 funding, to conduct surveys of medical services and to provide
746 medical quality assurance and improvement assistance at secure
747 confinement and treatment facilities for persons confined under
748 part V of chapter 394. The authority may enter into similar
749 agreements with other state agencies, subject to the
750 availability of funds. The authority may not enter into any such
751 agreement if doing so would impair the authority's ability to
752 fulfill its obligations with regard to the Department of
753 Corrections as set forth in this chapter.

754 Section 13. This act shall take effect upon becoming a
755 law.