

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1                                   A bill to be entitled  
2           An act relating to the Department of Health; amending s.  
3           20.435, F.S.; revising provisions for administration and  
4           use of funds in the Administrative Trust Fund and the  
5           Emergency Medical Services Trust Fund; providing for such  
6           administration and use under specified provisions;  
7           amending ss. 318.14, 318.18, and 318.21, F.S.; providing  
8           that funds collected from disposition of certain motor  
9           vehicle infractions shall be deposited into the Emergency  
10          Medical Services Trust Fund; removing provisions for  
11          deposit of such funds into the Administrative Trust Fund;  
12          providing for use of the funds; correcting a reference;  
13          amending ss. 320.131, 327.35, 381.765, and 938.07, F.S.;  
14          correcting references to the Brain and Spinal Cord Injury  
15          Program Trust Fund; amending ss. 381.78 and 381.79, F.S.;  
16          correcting references; amending s. 395.403, F.S., relating  
17          to reimbursement of trauma centers; revising eligibility  
18          provisions to remove provisional trauma centers and  
19          certain hospitals; providing for payments to be made from  
20          the Emergency Medical Services Trust Fund; removing  
21          provisions for one-time payments from the Administrative  
22          Trust Fund; amending s. 395.4036, F.S.; providing for use  
23          of funds in the Emergency Medical Services Trust Fund for  
24          verified trauma centers; removing provisions for such use  
25          of funds in the Administrative Trust Fund; reenacting and  
26          amending s. 215.5602, F.S., relating to James and Esther  
27          King Biomedical Research Program; specifying that a  
28          certain amount of the revenue deposited into the Health

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

29 Care Trust Fund be reserved for tobacco-related and  
30 cancer-related research; providing for specified amounts  
31 of revenue to be appropriated to the James and Esther King  
32 Biomedical Research Program, the William G. "Bill"  
33 Bankhead, Jr., and David Coley Cancer Research Program,  
34 and the H. Lee Moffitt Cancer Center and Research  
35 Institute; deleting obsolete language; reenacting and  
36 amending s. 381.922, F.S., relating to William G. "Bill"  
37 Bankhead, Jr., and David Coley Cancer Research Program;  
38 providing that the program give emphasis to certain goals;  
39 specifying sources of funding for the program; providing  
40 for a portion of the funds to be made available to the  
41 Florida Center for Universal Research to Eradicate  
42 Disease; deleting obsolete language; amending s. 20.43,  
43 F.S.; removing a provision authorizing division directors  
44 in the Department of Health to appoint certain committees;  
45 prohibiting the department from establishing new programs  
46 or modifying current programs without legislative  
47 approval; requiring the department to notify the Governor  
48 and the Legislature before applying for continuation of or  
49 new federal or private grants over a specified amount;  
50 providing for content of the notification; amending s.  
51 381.0011, F.S.; requiring the department to manage  
52 emergency preparedness and disaster response functions;  
53 amending s. 381.006, F.S.; revising the definition of the  
54 term "group care facility"; revising rulemaking authority;  
55 amending s. 381.0072, F.S.; revising the definition of the  
56 term "food service establishment"; authorizing the

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

57 | department to advise and consult with other agencies  
58 | concerning the provision of food services; revising  
59 | entities that are exempt from rules developed for manager  
60 | certification; repealing ss. 411.23, 411.231, and 411.232,  
61 | F.S., relating to the Children's Early Investment Program;  
62 | amending ss. 411.01 and 411.224, F.S.; conforming  
63 | provisions to changes made by the act; amending s.  
64 | 499.003, F.S.; defining the term "medical convenience kit"  
65 | for purposes of the Florida Drug and Cosmetic Act;  
66 | correcting cross-references; amending s. 499.01, F.S.;  
67 | providing exceptions from requirements for a device  
68 | manufacturer permit; amending s. 499.01212, F.S.;  
69 | exempting wholesale distribution of prescription drugs  
70 | within a medical convenience kit from requirements for the  
71 | wholesaler to provide a pedigree paper if certain  
72 | conditions are met; providing that the exemption does not  
73 | apply to a kit containing certain controlled substances;  
74 | amending s. 509.013, F.S.; revising exclusions to the  
75 | definition of the terms "public lodging establishment" and  
76 | "public food service establishment" to provide for certain  
77 | facilities certified or licensed by the Agency for Health  
78 | Care Administration or the Department of Children and  
79 | Family Services; requiring the department to develop a  
80 | plan to provide tuberculosis services; requiring the  
81 | department to submit the plan to the Governor and  
82 | Legislature by a specified date; providing plan elements;  
83 | transferring and reassigning certain functions and  
84 | responsibilities, including records, personnel, property,

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

85 | and unexpended balances of appropriations and other  
86 | resources, from the Department of Health to the Department  
87 | of Business and Professional Regulation by a type two  
88 | transfer; providing for the continued validity of pending  
89 | judicial or administrative actions to which the Department  
90 | of Health is a party; providing for the continued validity  
91 | of lawful orders issued by the Department of Health;  
92 | transferring rules created by the Department of Health to  
93 | the Department of Business and Professional Regulation;  
94 | providing for the continued validity of permits and  
95 | certifications issued by the Department of Health;  
96 | amending s. 381.0403, F.S., deleting provisions relating  
97 | to the program for graduate medical education innovations  
98 | and the graduate medical education committee and report;  
99 | conforming a cross-reference; amending s. 381.4018, F.S.;  
100 | revising provisions for physician workforce assessment and  
101 | development; providing definitions; creating the Physician  
102 | Workforce Advisory Council; providing for membership and  
103 | organization; providing duties of the council; amending  
104 | ss. 458.3192 and 459.0082, F.S.; revising provisions for  
105 | analysis by the department of physician surveys under  
106 | specified provisions; amending s. 458.315; revising  
107 | provisions for issuance by the Board of Medicine of a  
108 | temporary certificate to practice medicine in certain  
109 | areas; creating s. 459.0076, F.S.; providing for issuance  
110 | by the Board of Osteopathic Medicine of a temporary  
111 | certificate to practice osteopathic medicine in certain  
112 | areas; directing the department to conduct an evaluation

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

113 and justification review of its divisions; providing  
 114 review requirements; requiring the department to submit a  
 115 report to the Governor, the Legislature, and the State  
 116 Surgeon General by a specified date; amending s.  
 117 381.00315, F.S.; directing the Department of Health to  
 118 accept funds from counties, municipalities, and certain  
 119 other entities for the purchase of certain products made  
 120 available under a contract with the United States  
 121 Department of Health and Human Services for the  
 122 manufacture and delivery of such products in response to a  
 123 public health emergency; authorizing the department to  
 124 submit a budget amendment requesting additional budget  
 125 authority for the Florida Center for Nursing to make  
 126 certain expenditures; amending ss. 409.9201, 465.0265,  
 127 499.01, 499.01211, 499.01212, 499.03, 499.05, and 794.075,  
 128 F.S.; correcting cross-references; providing effective  
 129 dates.

130  
 131 Be It Enacted by the Legislature of the State of Florida:

132  
 133 Section 1. Paragraph (a) of subsection (1) and paragraph  
 134 (a) of subsection (14) of section 20.435, Florida Statutes, are  
 135 amended to read:

136 20.435 Department of Health; trust funds.—The following  
 137 trust funds shall be administered by the Department of Health:

- 138 (1) Administrative Trust Fund.
- 139 (a) Funds to be credited to and uses of the trust fund  
 140 shall be administered in accordance with s. 215.32 ~~consist of~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

141 ~~regulatory fees such as those pertaining to the licensing,~~  
 142 ~~permitting, and inspection of septic tanks, food hygiene, onsite~~  
 143 ~~sewage, Superfund compliance, solid waste management, tanning~~  
 144 ~~facilities, mobile home and recreational vehicle park~~  
 145 ~~inspection, other departmental regulatory and health care~~  
 146 ~~programs, and indirect earnings from grants. Funds shall be used~~  
 147 ~~for the purpose of supporting the regulatory activities of the~~  
 148 ~~department and for other such purposes as may be appropriate and~~  
 149 ~~shall be expended only pursuant to legislative appropriation or~~  
 150 ~~an approved amendment to the department's operating budget~~  
 151 ~~pursuant to the provisions of chapter 216.~~

152 (14) Emergency Medical Services Trust Fund.

153 (a) Funds to be credited to and uses of the trust fund  
 154 shall be administered in accordance with ss. 318.14, 318.18,  
 155 318.21, 395.403, and 395.4036 and ~~the provisions of parts I and~~  
 156 ~~II of chapter 401.~~

157 Section 2. Subsection (5) of section 318.14, Florida  
 158 Statutes, is amended to read:

159 318.14 Noncriminal traffic infractions; exception;  
 160 procedures.—

161 (5) Any person electing to appear before the designated  
 162 official or who is required so to appear shall be deemed to have  
 163 waived his or her right to the civil penalty provisions of s.  
 164 318.18. The official, after a hearing, shall make a  
 165 determination as to whether an infraction has been committed. If  
 166 the commission of an infraction has been proven, the official  
 167 may impose a civil penalty not to exceed \$500, except that in  
 168 cases involving unlawful speed in a school zone or involving

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

169 unlawful speed in a construction zone, the civil penalty may not  
 170 exceed \$1,000; or require attendance at a driver improvement  
 171 school, or both. If the person is required to appear before the  
 172 designated official pursuant to s. 318.19(1) and is found to  
 173 have committed the infraction, the designated official shall  
 174 impose a civil penalty of \$1,000 in addition to any other  
 175 penalties and the person's driver's license shall be suspended  
 176 for 6 months. If the person is required to appear before the  
 177 designated official pursuant to s. 318.19(2) and is found to  
 178 have committed the infraction, the designated official shall  
 179 impose a civil penalty of \$500 in addition to any other  
 180 penalties and the person's driver's license shall be suspended  
 181 for 3 months. If the official determines that no infraction has  
 182 been committed, no costs or penalties shall be imposed and any  
 183 costs or penalties that have been paid shall be returned. Moneys  
 184 received from the mandatory civil penalties imposed pursuant to  
 185 this subsection upon persons required to appear before a  
 186 designated official pursuant to s. 318.19(1) or (2) shall be  
 187 remitted to the Department of Revenue and deposited into the  
 188 Department of Health Emergency Medical Services ~~Administrative~~  
 189 Trust Fund to provide financial support to certified trauma  
 190 centers to assure the availability and accessibility of trauma  
 191 services throughout the state. Funds deposited into the  
 192 Emergency Medical Services ~~Administrative~~ Trust Fund under this  
 193 section shall be allocated as follows:  
 194 (a) Fifty percent shall be allocated equally among all  
 195 Level I, Level II, and pediatric trauma centers in recognition  
 196 of readiness costs for maintaining trauma services.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

197 (b) Fifty percent shall be allocated among Level I, Level  
 198 II, and pediatric trauma centers based on each center's relative  
 199 volume of trauma cases as reported in the Department of Health  
 200 Trauma Registry.

201 Section 3. Paragraph (h) of subsection (3), paragraph (c)  
 202 of subsection (5), and subsection (20) of section 318.18,  
 203 Florida Statutes, are amended to read:

204 318.18 Amount of penalties.—The penalties required for a  
 205 noncriminal disposition pursuant to s. 318.14 or a criminal  
 206 offense listed in s. 318.17 are as follows:

207 (3)

208 (h) A person cited for a second or subsequent conviction  
 209 of speed exceeding the limit by 30 miles per hour and above  
 210 within a 12-month period shall pay a fine that is double the  
 211 amount listed in paragraph (b). For purposes of this paragraph,  
 212 the term "conviction" means a finding of guilt as a result of a  
 213 jury verdict, nonjury trial, or entry of a plea of guilty.

214 Moneys received from the increased fine imposed by this  
 215 paragraph shall be remitted to the Department of Revenue and  
 216 deposited into the Department of Health Emergency Medical  
 217 Services Administrative Trust Fund to provide financial support  
 218 to certified trauma centers to assure the availability and  
 219 accessibility of trauma services throughout the state. Funds  
 220 deposited into the Emergency Medical Services Administrative  
 221 Trust Fund under this section shall be allocated as follows:

222 1. Fifty percent shall be allocated equally among all  
 223 Level I, Level II, and pediatric trauma centers in recognition  
 224 of readiness costs for maintaining trauma services.



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

225           2. Fifty percent shall be allocated among Level I, Level  
 226 II, and pediatric trauma centers based on each center's relative  
 227 volume of trauma cases as reported in the Department of Health  
 228 Trauma Registry.

229           (5)

230           (c) In addition to the penalty under paragraph (a) or  
 231 paragraph (b), \$65 for a violation of s. 316.172(1)(a) or (b).  
 232 If the alleged offender is found to have committed the offense,  
 233 the court shall impose the civil penalty under paragraph (a) or  
 234 paragraph (b) plus an additional \$65. The additional \$65  
 235 collected under this paragraph shall be remitted to the  
 236 Department of Revenue for deposit into the Emergency Medical  
 237 Services Administrative Trust Fund of the Department of Health  
 238 to be used as provided in s. 395.4036.

239           (20) In addition to any other penalty, \$65 for a violation  
 240 of s. 316.191, prohibiting racing on highways, or s. 316.192,  
 241 prohibiting reckless driving. The additional \$65 collected under  
 242 this subsection shall be remitted to the Department of Revenue  
 243 for deposit into the Emergency Medical Services Administrative  
 244 Trust Fund of the Department of Health to be used as provided in  
 245 s. 395.4036.

246           Section 4. Paragraph (d) of subsection (2) and subsection  
 247 (15) of section 318.21, Florida Statutes, are amended to read:

248           318.21 Disposition of civil penalties by county courts.—  
 249 All civil penalties received by a county court pursuant to the  
 250 provisions of this chapter shall be distributed and paid monthly  
 251 as follows:

252           (2) Of the remainder:

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

253 (d) Eight and two-tenths percent shall be remitted to the  
 254 Department of Revenue for deposit in the Brain and Spinal Cord  
 255 Injury Program ~~Rehabilitation~~ Trust Fund for the purposes set  
 256 forth in s. 381.79.

257 (15) Of the additional fine assessed under s. 318.18(3)(e)  
 258 for a violation of s. 316.1893, 50 percent of the moneys  
 259 received from the fines shall be appropriated to the Agency for  
 260 Health Care Administration as general revenue to provide an  
 261 enhanced Medicaid payment to nursing homes that serve Medicaid  
 262 recipients with brain and spinal cord injuries. The remaining 50  
 263 percent of the moneys received from the enhanced fine imposed  
 264 under s. 318.18(3)(e) shall be remitted to the Department of  
 265 Revenue and deposited into the Department of Health Emergency  
 266 Medical Services ~~Administrative~~ Trust Fund to provide financial  
 267 support to certified trauma centers in the counties where  
 268 enhanced penalty zones are established to ensure the  
 269 availability and accessibility of trauma services. Funds  
 270 deposited into the Emergency Medical Services ~~Administrative~~  
 271 Trust Fund under this subsection shall be allocated as follows:

272 (a) Fifty percent shall be allocated equally among all  
 273 Level I, Level II, and pediatric trauma centers in recognition  
 274 of readiness costs for maintaining trauma services.

275 (b) Fifty percent shall be allocated among Level I, Level  
 276 II, and pediatric trauma centers based on each center's relative  
 277 volume of trauma cases as reported in the Department of Health  
 278 Trauma Registry.

279 Section 5. Subsection (2) of section 320.131, Florida  
 280 Statutes, is amended to read:

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

281           320.131 Temporary tags.—  
 282           (2) The department is authorized to sell temporary tags,  
 283 in addition to those listed above, to their agents and where  
 284 need is demonstrated by a consumer complainant. The fee shall be  
 285 \$2 each. One dollar from each tag sold shall be deposited into  
 286 the Brain and Spinal Cord Injury Program ~~Rehabilitation~~ Trust  
 287 Fund, with the remaining proceeds being deposited into the  
 288 Highway Safety Operating Trust Fund. Agents of the department  
 289 shall sell temporary tags for \$2 each and shall charge the  
 290 service charge authorized by s. 320.04 per transaction,  
 291 regardless of the quantity sold. Requests for purchase of  
 292 temporary tags to the department or its agents shall be made,  
 293 where applicable, on letterhead stationery and notarized. Except  
 294 as specifically provided otherwise, a temporary tag shall be  
 295 valid for 30 days, and no more than two shall be issued to the  
 296 same person for the same vehicle.

297           Section 6. Subsection (9) of section 327.35, Florida  
 298 Statutes, is amended to read:

299           327.35 Boating under the influence; penalties; "designated  
 300 drivers".—

301           (9) Notwithstanding any other provision of this section,  
 302 for any person convicted of a violation of subsection (1), in  
 303 addition to the fines set forth in subsections (2) and (4), an  
 304 additional fine of \$60 shall be assessed and collected in the  
 305 same manner as the fines set forth in subsections (2) and (4).  
 306 All fines collected under this subsection shall be remitted by  
 307 the clerk of the court to the Department of Revenue for deposit  
 308 into the Brain and Spinal Cord Injury Program ~~Rehabilitation~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

309 Trust Fund and used for the purposes set forth in s. 381.79,  
 310 after 5 percent is deducted therefrom by the clerk of the court  
 311 for administrative costs.

312 Section 7. Subsection (2) of section 381.765, Florida  
 313 Statutes, is amended to read:

314 381.765 Retention of title to and disposal of equipment.—

315 (2) The department may offer for sale any surplus items  
 316 acquired in operating the brain and spinal cord injury program  
 317 when they are no longer necessary or exchange them for necessary  
 318 items that may be used to greater advantage. When any such  
 319 surplus equipment is sold or exchanged, a receipt for the  
 320 equipment shall be taken from the purchaser showing the  
 321 consideration given for such equipment and forwarded to the  
 322 Chief Financial Officer, and any funds received by the brain and  
 323 spinal cord injury program pursuant to any such transaction  
 324 shall be deposited in the Brain and Spinal Cord Injury Program  
 325 ~~Rehabilitation~~ Trust Fund and shall be available for expenditure  
 326 for any purpose consistent with ss. 381.739–381.79 ~~this part~~.

327 Section 8. Subsection (7) of section 381.78, Florida  
 328 Statutes, is amended to read:

329 381.78 Advisory council on brain and spinal cord  
 330 injuries.—

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

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

337 prohibition within ss. 381.739-381.79 ~~this part~~.

338 Section 9. Subsection (6) of section 381.79, Florida  
 339 Statutes, is amended to read:

340 381.79 Brain and Spinal Cord Injury Program Trust Fund.—

341 (6) The department may accept, deposit into the trust  
 342 fund, and use for carrying out the purposes of ss. 381.739-  
 343 381.79 ~~this part~~ gifts made unconditionally by will or  
 344 otherwise. Any gift made under conditions that, in the judgment  
 345 of the department, are proper and consistent with this section,  
 346 the laws of the United States, and the laws of this state may be  
 347 accepted and shall be held, invested, reinvested, and used in  
 348 accordance with the conditions of the gift.

349 Section 10. Subsections (1) and (2) of section 395.403,  
 350 Florida Statutes, are amended to read:

351 395.403 Reimbursement of trauma centers.—

352 (1) All ~~provisional trauma centers and~~ trauma centers  
 353 shall be considered eligible to receive state funding when state  
 354 funds are specifically appropriated for state-sponsored trauma  
 355 centers in the General Appropriations Act. Effective July 1,  
 356 2010 ~~2004~~, the department shall make ~~one-time~~ payments from the  
 357 Emergency Medical Services Administrative ~~Administrative~~ Trust Fund under s.  
 358 20.435 to the trauma centers ~~and a hospital with a pending~~  
 359 ~~application for a Level I trauma center in recognition of the~~  
 360 ~~capital investment made by the hospital to establish the trauma~~  
 361 ~~service~~. Payments shall be in equal amounts for the trauma  
 362 centers approved by the department as of July 1 of the fiscal  
 363 year in which funding is appropriated, ~~with lesser amounts for~~  
 364 ~~the hospital with an application pending for a Level I trauma~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

365 ~~center at the department as of April 1, 2004.~~ In the event a  
 366 trauma center does not maintain its status as a trauma center  
 367 for any state fiscal year in which such funding is appropriated,  
 368 the ~~provisional trauma center or~~ trauma center shall repay the  
 369 state for the portion of the year during which it was not a  
 370 trauma center.

371 (2) ~~Provisional trauma centers and~~ Trauma centers eligible  
 372 to receive distributions from the Emergency Medical Services  
 373 ~~Administrative~~ Trust Fund under s. 20.435 in accordance with  
 374 subsection (1) may request that such funds be used as  
 375 intergovernmental transfer funds in the Medicaid program.

376 Section 11. Subsections (1) and (2) of section 395.4036,  
 377 Florida Statutes, are amended to read:

378 395.4036 Trauma payments.—

379 (1) Recognizing the Legislature's stated intent to provide  
 380 financial support to the current verified trauma centers and to  
 381 provide incentives for the establishment of additional trauma  
 382 centers as part of a system of state-sponsored trauma centers,  
 383 the department shall utilize funds collected under s. 318.18 and  
 384 deposited into the Emergency Medical Services ~~Administrative~~  
 385 Trust Fund of the department to ensure the availability and  
 386 accessibility of trauma services throughout the state as  
 387 provided in this subsection.

388 (a) Funds collected under s. 318.18(15) shall be  
 389 distributed as follows:

390 1. Twenty percent of the total funds collected during the  
 391 state fiscal year shall be distributed to verified trauma  
 392 centers that have a local funding contribution as of December

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

393 31. Distribution of funds under this subparagraph shall be based  
 394 on trauma caseload volume for the most recent calendar year  
 395 available.

396 2. Forty percent of the total funds collected shall be  
 397 distributed to verified trauma centers based on trauma caseload  
 398 volume for the most recent calendar year available. The  
 399 determination of caseload volume for distribution of funds under  
 400 this subparagraph shall be based on the department's Trauma  
 401 Registry data.

402 3. Forty percent of the total funds collected shall be  
 403 distributed to verified trauma centers based on severity of  
 404 trauma patients for the most recent calendar year available. The  
 405 determination of severity for distribution of funds under this  
 406 subparagraph shall be based on the department's International  
 407 Classification Injury Severity Scores or another statistically  
 408 valid and scientifically accepted method of stratifying a trauma  
 409 patient's severity of injury, risk of mortality, and resource  
 410 consumption as adopted by the department by rule, weighted based  
 411 on the costs associated with and incurred by the trauma center  
 412 in treating trauma patients. The weighting of scores shall be  
 413 established by the department by rule.

414 (b) Funds collected under s. 318.18(5)(c) and (19) shall  
 415 be distributed as follows:

416 1. Thirty percent of the total funds collected shall be  
 417 distributed to Level II trauma centers operated by a public  
 418 hospital governed by an elected board of directors as of  
 419 December 31, 2008.

420 2. Thirty-five percent of the total funds collected shall

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

421 be distributed to verified trauma centers based on trauma  
 422 caseload volume for the most recent calendar year available. The  
 423 determination of caseload volume for distribution of funds under  
 424 this subparagraph shall be based on the department's Trauma  
 425 Registry data.

426 3. Thirty-five percent of the total funds collected shall  
 427 be distributed to verified trauma centers based on severity of  
 428 trauma patients for the most recent calendar year available. The  
 429 determination of severity for distribution of funds under this  
 430 subparagraph shall be based on the department's International  
 431 Classification Injury Severity Scores or another statistically  
 432 valid and scientifically accepted method of stratifying a trauma  
 433 patient's severity of injury, risk of mortality, and resource  
 434 consumption as adopted by the department by rule, weighted based  
 435 on the costs associated with and incurred by the trauma center  
 436 in treating trauma patients. The weighting of scores shall be  
 437 established by the department by rule.

438 (2) Funds deposited in the department's Emergency Medical  
 439 Services Administrative Trust Fund for verified trauma centers  
 440 may be used to maximize the receipt of federal funds that may be  
 441 available for such trauma centers. Notwithstanding this section  
 442 and s. 318.14, distributions to trauma centers may be adjusted  
 443 in a manner to ensure that total payments to trauma centers  
 444 represent the same proportional allocation as set forth in this  
 445 section and s. 318.14. For purposes of this section and s.  
 446 318.14, total funds distributed to trauma centers may include  
 447 revenue from the Emergency Medical Services Administrative Trust  
 448 Fund and federal funds for which revenue from the Administrative



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

449 Trust Fund is used to meet state or local matching requirements.  
 450 Funds collected under ss. 318.14 and 318.18 and deposited in the  
 451 Emergency Medical Services ~~Administrative~~ Trust Fund of the  
 452 department shall be distributed to trauma centers on a quarterly  
 453 basis using the most recent calendar year data available. Such  
 454 data shall not be used for more than four quarterly  
 455 distributions unless there are extenuating circumstances as  
 456 determined by the department, in which case the most recent  
 457 calendar year data available shall continue to be used and  
 458 appropriate adjustments shall be made as soon as the more recent  
 459 data becomes available.

460 Section 12. Section 938.07, Florida Statutes, is amended to  
 461 read:

462 938.07 Driving or boating under the influence.—  
 463 Notwithstanding any other provision of s. 316.193 or s. 327.35,  
 464 a court cost of \$135 shall be added to any fine imposed pursuant  
 465 to s. 316.193 or s. 327.35. The clerks shall remit the funds to  
 466 the Department of Revenue, \$25 of which shall be deposited in  
 467 the Emergency Medical Services Trust Fund, \$50 shall be  
 468 deposited in the Operating Trust Fund of the Department of Law  
 469 Enforcement to be used for operational expenses in conducting  
 470 the statewide criminal analysis laboratory system established in  
 471 s. 943.32, and \$60 shall be deposited in the Brain and Spinal  
 472 Cord Injury Program ~~Rehabilitation~~ Trust Fund created in s.  
 473 381.79.

474 Section 13. Section 215.5602, Florida Statutes, is  
 475 reenacted and amended to read:

476 215.5602 James and Esther King Biomedical Research

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

477 | Program.—

478 |       (1) There is established within the Department of Health  
479 | the James and Esther King Biomedical Research Program funded by  
480 | the proceeds of the Lawton Chiles Endowment Fund pursuant to s.  
481 | 215.5601. The purpose of the James and Esther King Biomedical  
482 | Research Program is to provide an annual and perpetual source of  
483 | funding in order to support research initiatives that address  
484 | the health care problems of Floridians in the areas of tobacco-  
485 | related cancer, cardiovascular disease, stroke, and pulmonary  
486 | disease. The long-term goals of the program are to:

487 |       (a) Improve the health of Floridians by researching better  
488 | prevention, diagnoses, treatments, and cures for cancer,  
489 | cardiovascular disease, stroke, and pulmonary disease.

490 |       (b) Expand the foundation of biomedical knowledge relating  
491 | to the prevention, diagnosis, treatment, and cure of diseases  
492 | related to tobacco use, including cancer, cardiovascular  
493 | disease, stroke, and pulmonary disease.

494 |       (c) Improve the quality of the state's academic health  
495 | centers by bringing the advances of biomedical research into the  
496 | training of physicians and other health care providers.

497 |       (d) Increase the state's per capita funding for research  
498 | by undertaking new initiatives in public health and biomedical  
499 | research that will attract additional funding from outside the  
500 | state.

501 |       (e) Stimulate economic activity in the state in areas  
502 | related to biomedical research, such as the research and  
503 | production of pharmaceuticals, biotechnology, and medical  
504 | devices.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

505 (2) Funds appropriated for the James and Esther King  
 506 Biomedical Research Program shall be used exclusively for the  
 507 award of grants and fellowships as established in this section;  
 508 for research relating to the prevention, diagnosis, treatment,  
 509 and cure of diseases related to tobacco use, including cancer,  
 510 cardiovascular disease, stroke, and pulmonary disease; and for  
 511 expenses incurred in the administration of this section.  
 512 Priority shall be granted to research designed to prevent or  
 513 cure disease.

514 (3) There is created within the Department of Health the  
 515 Biomedical Research Advisory Council.

516 (a) The council shall consist of 11 members, including:  
 517 the chief executive officer of the Florida Division of the  
 518 American Cancer Society, or a designee; the chief executive  
 519 officer of the Florida/Puerto Rico Affiliate of the American  
 520 Heart Association, or a designee; and the chief executive  
 521 officer of the American Lung Association of Florida, or a  
 522 designee. The remaining 8 members of the council shall be  
 523 appointed as follows:

524 1. The Governor shall appoint four members, two members  
 525 with expertise in the field of biomedical research, one member  
 526 from a research university in the state, and one member  
 527 representing the general population of the state.

528 2. The President of the Senate shall appoint two members,  
 529 one member with expertise in the field of behavioral or social  
 530 research and one representative from a cancer program approved  
 531 by the American College of Surgeons.

532 3. The Speaker of the House of Representatives shall

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

533 | appoint two members, one member from a professional medical  
 534 | organization and one representative from a cancer program  
 535 | approved by the American College of Surgeons.

536 |  
 537 | In making these appointments, the Governor, the President of the  
 538 | Senate, and the Speaker of the House of Representatives shall  
 539 | select primarily, but not exclusively, Floridians with  
 540 | biomedical and lay expertise in the general areas of cancer,  
 541 | cardiovascular disease, stroke, and pulmonary disease. The  
 542 | appointments shall be for a 3-year term and shall reflect the  
 543 | diversity of the state's population. An appointed member may not  
 544 | serve more than two consecutive terms.

545 |         (b) The council shall adopt internal organizational  
 546 | procedures as necessary for its efficient organization.

547 |         (c) The department shall provide such staff, information,  
 548 | and other assistance as is reasonably necessary to assist the  
 549 | council in carrying out its responsibilities.

550 |         (d) Members of the council shall serve without  
 551 | compensation, but may receive reimbursement as provided in s.  
 552 | 112.061 for travel and other necessary expenses incurred in the  
 553 | performance of their official duties.

554 |         (4) The council shall advise the State Surgeon General as  
 555 | to the direction and scope of the biomedical research program.  
 556 | The responsibilities of the council may include, but are not  
 557 | limited to:

558 |             (a) Providing advice on program priorities and emphases.

559 |             (b) Providing advice on the overall program budget.

560 |             (c) Participating in periodic program evaluation.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

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

564 (e) Assisting in the development of appropriate linkages  
 565 to nonacademic entities, such as voluntary organizations, health  
 566 care delivery institutions, industry, government agencies, and  
 567 public officials.

568 (f) Developing criteria and standards for the award of  
 569 research grants.

570 (g) Developing administrative procedures relating to  
 571 solicitation, review, and award of research grants and  
 572 fellowships, to ensure an impartial, high-quality peer review  
 573 system.

574 (h) Developing and supervising research peer review  
 575 panels.

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

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

580 (5) (a) Applications for biomedical research funding under  
 581 the program may be submitted from any university or established  
 582 research institute in the state. All qualified investigators in  
 583 the state, regardless of institution affiliation, shall have  
 584 equal access and opportunity to compete for the research  
 585 funding.

586 (b) Grants and fellowships shall be awarded by the State  
 587 Surgeon General, after consultation with the council, on the  
 588 basis of scientific merit, as determined by an open competitive

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

589 peer review process that ensures objectivity, consistency, and  
590 high quality. The following types of applications shall be  
591 considered for funding:

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

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

604 (7) The council and the peer review panel shall establish  
605 and follow rigorous guidelines for ethical conduct and adhere to  
606 a strict policy with regard to conflict of interest. A member of  
607 the council or panel may not participate in any discussion or  
608 decision with respect to a research proposal by any firm,  
609 entity, or agency with which the member is associated as a  
610 member of the governing body or as an employee, or with which  
611 the member has entered into a contractual arrangement. Meetings  
612 of the council and the peer review panels shall be subject to  
613 the provisions of chapter 119, s. 286.011, and s. 24, Art. I of  
614 the State Constitution.

615 (8) The department may contract on a competitive-bid basis  
616 with an appropriate entity to administer the program.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

617 Administrative expenses may not exceed 15 percent of the total  
 618 funds available to the program in any given year.

619 (9) The department, after consultation with the council,  
 620 may adopt rules as necessary to implement this section.

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

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

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

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

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

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

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

641 (11) The council shall award grants for cancer research  
 642 through the William G. "Bill" Bankhead, Jr., and David Coley  
 643 Cancer Research Program created in s. 381.922.

644 (12) From funds appropriated to accomplish the goals of

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

645 | this section, up to \$250,000 shall be available for the  
 646 | operating costs of the Florida Center for Universal Research to  
 647 | Eradicate Disease.

648 |       ~~(a)~~ Beginning in the 2010-2011 ~~2009-2010~~ fiscal year and  
 649 | thereafter, \$50 million from 5 percent ~~of~~ the revenue deposited  
 650 | into the Health Care Trust Fund pursuant to ss. 210.011(9) and  
 651 | 210.276(7) shall be reserved for research of tobacco-related or  
 652 | cancer-related illnesses; ~~however, the sum of the revenue~~  
 653 | ~~reserved pursuant to ss. 210.011(9) and 210.276(7) may not~~  
 654 | ~~exceed \$50 million in any fiscal year.~~ Of the revenue deposited  
 655 | in the Health Care Trust Fund pursuant to this section, \$50  
 656 | million shall be transferred to the Biomedical Research Trust  
 657 | Fund within the Department of Health. Subject to annual  
 658 | appropriations in the General Appropriations Act, \$20 million  
 659 | shall be appropriated to the James and Esther King Biomedical  
 660 | Research Program, \$20 million shall be appropriated to the  
 661 | William G. "Bill" Bankhead, Jr., and David Coley Cancer Research  
 662 | Program created under s. 381.922, and \$10 million shall be  
 663 | appropriated to the H. Lee Moffitt Cancer Center and Research  
 664 | Institute established under s. 1004.43.

665 |       ~~(b)~~ ~~In the 2009-2010 fiscal year, 2.5 percent, not to~~  
 666 | ~~exceed \$25 million, of the revenue deposited into the Health~~  
 667 | ~~Care Trust Fund pursuant to this subsection shall be transferred~~  
 668 | ~~to the Biomedical Research Trust Fund within the Department of~~  
 669 | ~~Health for the James and Esther King Biomedical Research~~  
 670 | ~~Program.~~

671 |       ~~(13)~~ ~~By June 1, 2009, the Division of Statutory Revision~~  
 672 | ~~of the Office of Legislative Services shall certify to the~~



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

673 ~~President of the Senate and the Speaker of the House of~~  
 674 ~~Representatives the language and statutory citation of this~~  
 675 ~~section, which is scheduled to expire January 1, 2011.~~

676 ~~(14) The Legislature shall review the performance, the~~  
 677 ~~outcomes, and the financial management of the James and Esther~~  
 678 ~~King Biomedical Research Program during the 2010 Regular Session~~  
 679 ~~of the Legislature and shall determine the most appropriate~~  
 680 ~~funding source and means of funding the program based on its~~  
 681 ~~review.~~

682 ~~(15) This section expires January 1, 2011, unless reviewed~~  
 683 ~~and reenacted by the Legislature before that date.~~

684 Section 14. Section 381.922, Florida Statutes, is  
 685 reenacted and amended to read:

686 381.922 William G. "Bill" Bankhead, Jr., and David Coley  
 687 Cancer Research Program.—

688 (1) The William G. "Bill" Bankhead, Jr., and David Coley  
 689 Cancer Research Program, which may be otherwise cited as the  
 690 "Bankhead-Coley Program," is created within the Department of  
 691 Health. The purpose of the program shall be to advance progress  
 692 towards cures for cancer through grants awarded through a peer-  
 693 reviewed, competitive process.

694 (2) The program shall provide grants for cancer research  
 695 to further the search for cures for cancer.

696 (a) Emphasis shall be given to the following goals  
 697 ~~enumerated in s. 381.921~~, as those goals support the advancement  
 698 of such cures:

699 1. Efforts to significantly expand cancer research  
 700 capacity in the state by:

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

- 701 a. Identifying ways to attract new research talent and
- 702 attendant national grant-producing researchers to cancer
- 703 research facilities in this state;
- 704 b. Implementing a peer-reviewed, competitive process to
- 705 identify and fund the best proposals to expand cancer research
- 706 institutes in this state;
- 707 c. Funding through available resources for those proposals
- 708 that demonstrate the greatest opportunity to attract federal
- 709 research grants and private financial support;
- 710 d. Encouraging the employment of bioinformatics in order
- 711 to create a cancer informatics infrastructure that enhances
- 712 information and resource exchange and integration through
- 713 researchers working in diverse disciplines, to facilitate the
- 714 full spectrum of cancer investigations;
- 715 e. Facilitating the technical coordination, business
- 716 development, and support of intellectual property as it relates
- 717 to the advancement of cancer research; and
- 718 f. Aiding in other multidisciplinary research-support
- 719 activities as they inure to the advancement of cancer research.
- 720 2. Efforts to improve both research and treatment through
- 721 greater participation in clinical trials networks by:
- 722 a. Identifying ways to increase adult enrollment in cancer
- 723 clinical trials;
- 724 b. Supporting public and private professional education
- 725 programs designed to increase the awareness and knowledge about
- 726 cancer clinical trials;
- 727 c. Providing tools to cancer patients and community-based
- 728 oncologists to aid in the identification of cancer clinical

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

729 trials available in the state; and  
 730 d. Creating opportunities for the state's academic cancer  
 731 centers to collaborate with community-based oncologists in  
 732 cancer clinical trials networks.  
 733 3. Efforts to reduce the impact of cancer on disparate  
 734 groups by:  
 735 a. Identifying those cancers that disproportionately  
 736 impact certain demographic groups; and  
 737 b. Building collaborations designed to reduce health  
 738 disparities as they relate to cancer.  
 739 (b) Preference may be given to grant proposals that foster  
 740 collaborations among institutions, researchers, and community  
 741 practitioners, as such proposals support the advancement of  
 742 cures through basic or applied research, including clinical  
 743 trials involving cancer patients and related networks.  
 744 (3) (a) Applications for funding for cancer research may be  
 745 submitted by any university or established research institute in  
 746 the state. All qualified investigators in the state, regardless  
 747 of institutional affiliation, shall have equal access and  
 748 opportunity to compete for the research funding. Collaborative  
 749 proposals, including those that advance the program's goals  
 750 enumerated in subsection (2), may be given preference. Grants  
 751 shall be awarded by the State Surgeon General, after  
 752 consultation with the Biomedical Research Advisory Council, on  
 753 the basis of scientific merit, as determined by an open,  
 754 competitive peer review process that ensures objectivity,  
 755 consistency, and high quality. The following types of  
 756 applications shall be considered for funding:

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

757 | 1. Investigator-initiated research grants.  
758 | 2. Institutional research grants.  
759 | 3. Collaborative research grants, including those that  
760 | advance the finding of cures through basic or applied research.  
761 | (b) In order to ensure that all proposals for research  
762 | funding are appropriate and are evaluated fairly on the basis of  
763 | scientific merit, the State Surgeon General, in consultation  
764 | with the council, shall appoint a peer review panel of  
765 | independent, scientifically qualified individuals to review the  
766 | scientific content of each proposal and establish its priority  
767 | score. The priority scores shall be forwarded to the council and  
768 | must be considered in determining which proposals shall be  
769 | recommended for funding.  
770 | (c) The council and the peer review panel shall establish  
771 | and follow rigorous guidelines for ethical conduct and adhere to  
772 | a strict policy with regard to conflicts of interest. A member  
773 | of the council or panel may not participate in any discussion or  
774 | decision with respect to a research proposal by any firm,  
775 | entity, or agency with which the member is associated as a  
776 | member of the governing body or as an employee or with which the  
777 | member has entered into a contractual arrangement. Meetings of  
778 | the council and the peer review panels are subject to chapter  
779 | 119, s. 286.011, and s. 24, Art. I of the State Constitution.  
780 | (4) By December 15 of each year, the Department of Health  
781 | shall submit to the Governor, the President of the Senate, and  
782 | the Speaker of the House of Representatives a report indicating  
783 | progress towards the program's mission and making  
784 | recommendations that further its purpose.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

785           (5) The William G. "Bill" Bankhead, Jr., and David Coley  
 786 Cancer Research Program is funded pursuant to s. 215.5602(12).  
 787 Funds appropriated for the William G. "Bill" Bankhead, Jr., and  
 788 David Coley Cancer Research Program shall be distributed  
 789 pursuant to this section to provide grants to researchers  
 790 seeking cures for cancer and cancer-related illnesses, with  
 791 emphasis given to the goals enumerated in this section ~~s.~~  
 792 ~~381.921~~. From the total funds appropriated, an amount of up to  
 793 10 percent may be used for administrative expenses. From funds  
 794 appropriated to accomplish the goals of this section, up to  
 795 \$250,000 shall be available for the operating costs of the  
 796 Florida Center for Universal Research to Eradicate Disease. In  
 797 ~~the 2009-2010 fiscal year, 2.5 percent, not to exceed \$25~~  
 798 ~~million, of the revenue deposited into the Health Care Trust~~  
 799 ~~Fund pursuant to s. 215.5602(12)(a) shall be transferred to the~~  
 800 ~~Biomedical Research Trust Fund within the Department of Health~~  
 801 ~~for the William G. "Bill" Bankhead, Jr., and David Coley Cancer~~  
 802 ~~Research Program.~~

803           ~~(6) By June 1, 2009, the Division of Statutory Revision of~~  
 804 ~~the Office of Legislative Services shall certify to the~~  
 805 ~~President of the Senate and the Speaker of the House of~~  
 806 ~~Representatives the language and statutory citation of this~~  
 807 ~~section, which is scheduled to expire January 1, 2011.~~

808           ~~(7) The Legislature shall review the performance, the~~  
 809 ~~outcomes, and the financial management of the William G. "Bill"~~  
 810 ~~Bankhead, Jr., and David Coley Cancer Research Program during~~  
 811 ~~the 2010 Regular Session of the Legislature and shall determine~~  
 812 ~~the most appropriate funding source and means of funding the~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

813 ~~program based on its review.~~

814 ~~(8) This section expires January 1, 2011, unless reviewed~~  
 815 ~~and reenacted by the Legislature before that date.~~

816 Section 15. Subsection (6) of section 20.43, Florida  
 817 Statutes, is amended, and subsection (10) is added to that  
 818 section, to read:

819 20.43 Department of Health.—There is created a Department  
 820 of Health.

821 (6) The State Surgeon General is ~~and division directors~~  
 822 ~~are~~ authorized to appoint ad hoc advisory committees as  
 823 necessary. The issue or problem that the ad hoc committee shall  
 824 address, and the timeframe within which the committee is to  
 825 complete its work, shall be specified at the time the committee  
 826 is appointed. Ad hoc advisory committees shall include  
 827 representatives of groups or entities affected by the issue or  
 828 problem that the committee is asked to examine. Members of ad  
 829 hoc advisory committees shall receive no compensation, but may,  
 830 within existing departmental resources, receive reimbursement  
 831 for travel expenses as provided in s. 112.061.

832 (10) (a) Beginning in fiscal year 2010-2011, the department  
 833 shall initiate or commence new programs only when the  
 834 Legislative Budget Commission or the Legislature expressly  
 835 authorizes the department to do so.

836 (b) Beginning in fiscal year 2010-2011, before applying  
 837 for any continuation of or new federal or private grants that  
 838 are for an amount of \$50,000 or greater, the department shall  
 839 provide written notification to the Governor, the President of  
 840 the Senate, and the Speaker of the House of Representatives. The

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

841 notification must include detailed information about the purpose  
 842 of the grant, the intended use of the funds, and the number of  
 843 full-time permanent or temporary employees needed to administer  
 844 the program funded by the grant.

845 Section 16. Subsection (14) of section 381.0011, Florida  
 846 Statutes, is renumbered as subsection (15), and a new subsection  
 847 (14) is added to that section, to read:

848 381.0011 Duties and powers of the Department of Health.—It  
 849 is the duty of the Department of Health to:

850 (14) Manage and coordinate emergency preparedness and  
 851 disaster response functions to: investigate and control the  
 852 spread of disease; coordinate the availability and staffing of  
 853 special needs shelters; support patient evacuation; ensure the  
 854 safety of food and drugs; provide critical incident stress  
 855 debriefing; and provide surveillance and control of  
 856 radiological, chemical, biological, and other environmental  
 857 hazards.

858 Section 17. Subsection (16) of section 381.006, Florida  
 859 Statutes, is amended to read:

860 381.006 Environmental health.—The department shall conduct  
 861 an environmental health program as part of fulfilling the  
 862 state's public health mission. The purpose of this program is to  
 863 detect and prevent disease caused by natural and manmade factors  
 864 in the environment. The environmental health program shall  
 865 include, but not be limited to:

866 (16) A group-care-facilities function. As used in this  
 867 subsection, the term, ~~where a~~ "group care facility" means any  
 868 public or private school, assisted living facility, adult

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

869 family-care home, adult day care center, short-term residential  
 870 treatment center, residential treatment facility, home for  
 871 special services, transitional living facility, crisis  
 872 stabilization unit, hospice, prescribed pediatric extended care  
 873 center, intermediate care facility for persons with  
 874 developmental disabilities, or boarding school housing, building  
 875 ~~or buildings, section of a building, or distinct part of a~~  
 876 ~~building or other place, whether operated for profit or not,~~  
 877 ~~which undertakes, through its ownership or management, to~~  
 878 ~~provide one or more personal services, care, protection, and~~  
 879 ~~supervision to persons who require such services and who are not~~  
 880 ~~related to the owner or administrator. The department may adopt~~  
 881 ~~rules necessary to protect the health and safety of residents,~~  
 882 ~~staff, and patrons of group care facilities. Rules related to~~  
 883 public and private schools shall be developed by, ~~such as child~~  
 884 ~~care facilities, family day care homes, assisted living~~  
 885 ~~facilities, adult day care centers, adult family care homes,~~  
 886 ~~hospices, residential treatment facilities, crisis stabilization~~  
 887 ~~units, pediatric extended care centers, intermediate care~~  
 888 ~~facilities for the developmentally disabled, group care homes,~~  
 889 ~~and, jointly with the Department of Education in consultation~~  
 890 with the department, ~~private and public schools. These Rules~~  
 891 adopted under this subsection may include definitions of terms;  
 892 provisions relating to operation and maintenance of facilities,  
 893 buildings, grounds, equipment, furnishings, and occupant-space  
 894 requirements; lighting; heating, cooling, and ventilation; food  
 895 service; water supply and plumbing; sewage; sanitary facilities;  
 896 insect and rodent control; garbage; safety; personnel health,



## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

897 hygiene, and work practices; and other matters the department  
898 finds are appropriate or necessary to protect the safety and  
899 health of the residents, staff, students, faculty, or patrons.  
900 The department may not adopt rules that conflict with rules  
901 adopted by the licensing or certifying agency. The department  
902 may enter and inspect at reasonable hours to determine  
903 compliance with applicable statutes or rules. In addition to any  
904 sanctions that the department may impose for violations of rules  
905 adopted under this section, the department shall also report  
906 such violations to any agency responsible for licensing or  
907 certifying the group care facility. The licensing or certifying  
908 agency may also impose any sanction based solely on the findings  
909 of the department.

910  
911 The department may adopt rules to carry out the provisions of  
912 this section.

913 Section 18. Subsections (1), (2), (3), and (6) of section  
914 381.0072, Florida Statutes, are amended to read:

915 381.0072 Food service protection.—It shall be the duty of  
916 the Department of Health to adopt and enforce sanitation rules  
917 consistent with law to ensure the protection of the public from  
918 food-borne illness. These rules shall provide the standards and  
919 requirements for the storage, preparation, serving, or display  
920 of food in food service establishments as defined in this  
921 section and which are not permitted or licensed under chapter  
922 500 or chapter 509.

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

924 (a) "Department" means the Department of Health or its

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

925 representative county health department.

926 (b) "Food service establishment" means detention

927 facilities, public or private schools, migrant labor camps,

928 assisted living facilities, adult family-care homes, adult day

929 care centers, short-term residential treatment centers,

930 residential treatment facilities, homes for special services,

931 transitional living facilities, crisis stabilization units,

932 hospices, prescribed pediatric extended care centers,

933 intermediate care facilities for persons with developmental

934 disabilities, boarding schools, civic or fraternal

935 organizations, bars and lounges, vending machines that dispense

936 potentially hazardous foods at facilities expressly named in

937 this paragraph, and facilities used as temporary food events or

938 mobile food units at any facility expressly named ~~any facility,~~

939 ~~as described~~ in this paragraph, where food is prepared and

940 intended for individual portion service, including ~~and includes~~

941 the site at which individual portions are provided, ~~-. The term~~

942 ~~includes any such facility~~ regardless of whether consumption is

943 on or off the premises and regardless of whether there is a

944 charge for the food. ~~The term includes detention facilities,~~

945 ~~child care facilities, schools, institutions, civic or fraternal~~

946 ~~organizations, bars and lounges and facilities used at temporary~~

947 ~~food events, mobile food units, and vending machines at any~~

948 ~~facility regulated under this section.~~ The term does not include

949 any entity not expressly named in this paragraph ~~private homes~~

950 ~~where food is prepared or served for individual family~~

951 ~~consumption; nor does the term include churches, synagogues, or~~

952 ~~other not-for-profit religious organizations as long as these~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

953 ~~organizations serve only their members and guests and do not~~  
 954 ~~advertise food or drink for public consumption, or any facility~~  
 955 ~~or establishment permitted or licensed under chapter 500 or~~  
 956 ~~chapter 509; nor does the term include any theater, if the~~  
 957 ~~primary use is as a theater and if patron service is limited to~~  
 958 ~~food items customarily served to the admittees of theaters; nor~~  
 959 ~~does the term include a research and development test kitchen~~  
 960 ~~limited to the use of employees and which is not open to the~~  
 961 ~~general public.~~

962 (c) "Operator" means the owner, operator, keeper,  
 963 proprietor, lessee, manager, assistant manager, agent, or  
 964 employee of a food service establishment.

965 (2) DUTIES.—

966 (a) The department may advise and consult with the Agency  
 967 for Health Care Administration, the Department of Business and  
 968 Professional Regulation, the Department of Agriculture and  
 969 Consumer Services, and the Department of Children and Family  
 970 Services concerning procedures related to the storage,  
 971 preparation, serving, or display of food at any building,  
 972 structure, or facility not expressly included in this section  
 973 that is inspected, licensed, or regulated by those agencies.

974 (b) ~~(a)~~ The department shall adopt rules, including  
 975 definitions of terms which are consistent with law prescribing  
 976 minimum sanitation standards and manager certification  
 977 requirements as prescribed in s. 509.039, and which shall be  
 978 enforced in food service establishments as defined in this  
 979 section. The sanitation standards must address the construction,  
 980 operation, and maintenance of the establishment; lighting,

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

981 ventilation, laundry rooms, lockers, use and storage of toxic  
 982 materials and cleaning compounds, and first-aid supplies; plan  
 983 review; design, construction, installation, location,  
 984 maintenance, sanitation, and storage of food equipment and  
 985 utensils; employee training, health, hygiene, and work  
 986 practices; food supplies, preparation, storage, transportation,  
 987 and service, including access to the areas where food is stored  
 988 or prepared; and sanitary facilities and controls, including  
 989 water supply and sewage disposal; plumbing and toilet  
 990 facilities; garbage and refuse collection, storage, and  
 991 disposal; and vermin control. Public and private schools, if the  
 992 food service is operated by school employees, ; ~~hospitals~~  
 993 ~~licensed under chapter 395; nursing homes licensed under part II~~  
 994 ~~of chapter 400; child care facilities as defined in s. 402.301;~~  
 995 ~~residential facilities collocated with a nursing home or~~  
 996 ~~hospital, if all food is prepared in a central kitchen that~~  
 997 ~~complies with nursing or hospital regulations; and bars and~~  
 998 lounges, civic organizations, and any other facility that is not  
 999 regulated under this section ~~as defined by department rule,~~ are  
 1000 exempt from the rules developed for manager certification. The  
 1001 department shall administer a comprehensive inspection,  
 1002 monitoring, and sampling program to ensure such standards are  
 1003 maintained. With respect to food service establishments  
 1004 permitted or licensed under chapter 500 or chapter 509, the  
 1005 department shall assist the Division of Hotels and Restaurants  
 1006 of the Department of Business and Professional Regulation and  
 1007 the Department of Agriculture and Consumer Services with  
 1008 rulemaking by providing technical information.

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1009        (c) ~~(b)~~ The department shall carry out all provisions of  
 1010 this chapter and all other applicable laws and rules relating to  
 1011 the inspection or regulation of food service establishments as  
 1012 defined in this section, for the purpose of safeguarding the  
 1013 public's health, safety, and welfare.

1014        (d) ~~(e)~~ The department shall inspect each food service  
 1015 establishment as often as necessary to ensure compliance with  
 1016 applicable laws and rules. The department shall have the right  
 1017 of entry and access to these food service establishments at any  
 1018 reasonable time. In inspecting food service establishments as  
 1019 provided under this section, the department shall provide each  
 1020 inspected establishment with the food recovery brochure  
 1021 developed under s. 570.0725.

1022        (e) ~~(d)~~ The department or other appropriate regulatory  
 1023 entity may inspect theaters exempted in subsection (1) to ensure  
 1024 compliance with applicable laws and rules pertaining to minimum  
 1025 sanitation standards. A fee for inspection shall be prescribed  
 1026 by rule, but the aggregate amount charged per year per theater  
 1027 establishment shall not exceed \$300, regardless of the entity  
 1028 providing the inspection.

1029        (3) LICENSES REQUIRED.—

1030        (a) Licenses; annual renewals.—Each food service  
 1031 establishment regulated under this section shall obtain a  
 1032 license from the department annually. Food service establishment  
 1033 licenses shall expire annually and are not transferable from one  
 1034 place or individual to another. However, those facilities  
 1035 licensed by the department's Office of Licensure and  
 1036 Certification, the Child Care Services Program Office, or the

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1037 Agency for Persons with Disabilities are exempt from this  
1038 subsection. It shall be a misdemeanor of the second degree,  
1039 punishable as provided in s. 381.0061, s. 775.082, or s.  
1040 775.083, for such an establishment to operate without this  
1041 license. The department may refuse a license, or a renewal  
1042 thereof, to any establishment that is not constructed or  
1043 maintained in accordance with law and with the rules of the  
1044 department. Annual application for renewal is not required.

1045 (b) Application for license.—Each person who plans to open  
1046 a food service establishment regulated under this section and  
1047 not regulated under chapter 500 or chapter 509 shall apply for  
1048 and receive a license prior to the commencement of operation.

1049 (6) IMMINENT DANGERS; STOP-SALE ORDERS.—

1050 (a) In the course of epidemiological investigations or for  
1051 those establishments regulated by the department under this  
1052 chapter, the department, to protect the public from food that is  
1053 unwholesome or otherwise unfit for human consumption, may  
1054 examine, sample, seize, and stop the sale or use of food to  
1055 determine its condition. The department may stop the sale and  
1056 supervise the proper destruction of food when the State Health  
1057 Officer or his or her designee determines that such food  
1058 represents a threat to the public health.

1059 (b) The department may determine that a food service  
1060 establishment regulated under this section is an imminent danger  
1061 to the public health and require its immediate closure when such  
1062 establishment fails to comply with applicable sanitary and  
1063 safety standards and, because of such failure, presents an  
1064 imminent threat to the public's health, safety, and welfare. The

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1065 department may accept inspection results from state and local  
 1066 building and firesafety officials and other regulatory agencies  
 1067 as justification for such actions. Any facility so deemed and  
 1068 closed shall remain closed until allowed by the department or by  
 1069 judicial order to reopen.

1070 Section 19. Sections 411.23, 411.231, and 411.232, Florida  
 1071 Statutes, are repealed.

1072 Section 20. Paragraph (d) of subsection (5) of section  
 1073 411.01, Florida Statutes, is amended to read:

1074 411.01 School readiness programs; early learning  
 1075 coalitions.—

1076 (5) CREATION OF EARLY LEARNING COALITIONS.—

1077 (d) Implementation.—

1078 1. An early learning coalition may not implement the  
 1079 school readiness program until the coalition is authorized  
 1080 through approval of the coalition's school readiness plan by the  
 1081 Agency for Workforce Innovation.

1082 2. Each early learning coalition shall develop a plan for  
 1083 implementing the school readiness program to meet the  
 1084 requirements of this section and the performance standards and  
 1085 outcome measures adopted by the Agency for Workforce Innovation.  
 1086 The plan must demonstrate how the program will ensure that each  
 1087 3-year-old and 4-year-old child in a publicly funded school  
 1088 readiness program receives scheduled activities and instruction  
 1089 designed to enhance the age-appropriate progress of the children  
 1090 in attaining the performance standards adopted by the Agency for  
 1091 Workforce Innovation under subparagraph (4)(d)8. Before  
 1092 implementing the school readiness program, the early learning

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1093 coalition must submit the plan to the Agency for Workforce  
1094 Innovation for approval. The Agency for Workforce Innovation may  
1095 approve the plan, reject the plan, or approve the plan with  
1096 conditions. The Agency for Workforce Innovation shall review  
1097 school readiness plans at least annually.

1098 3. If the Agency for Workforce Innovation determines  
1099 during the annual review of school readiness plans, or through  
1100 monitoring and performance evaluations conducted under paragraph  
1101 (4) (1), that an early learning coalition has not substantially  
1102 implemented its plan, has not substantially met the performance  
1103 standards and outcome measures adopted by the agency, or has not  
1104 effectively administered the school readiness program or  
1105 Voluntary Prekindergarten Education Program, the Agency for  
1106 Workforce Innovation may dissolve the coalition and temporarily  
1107 contract with a qualified entity to continue school readiness  
1108 and prekindergarten services in the coalition's county or  
1109 multicounty region until the coalition is reestablished through  
1110 resubmission of a school readiness plan and approval by the  
1111 agency.

1112 4. The Agency for Workforce Innovation shall adopt  
1113 criteria for the approval of school readiness plans. The  
1114 criteria must be consistent with the performance standards and  
1115 outcome measures adopted by the agency and must require each  
1116 approved plan to include the following minimum standards and  
1117 provisions:

1118 a. A sliding fee scale establishing a copayment for  
1119 parents based upon their ability to pay, which is the same for  
1120 all program providers, to be implemented and reflected in each



ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1121 program's budget.

1122       b. A choice of settings and locations in licensed,  
 1123 registered, religious-exempt, or school-based programs to be  
 1124 provided to parents.

1125       c. Instructional staff who have completed the training  
 1126 course as required in s. 402.305(2)(d)1., as well as staff who  
 1127 have additional training or credentials as required by the  
 1128 Agency for Workforce Innovation. The plan must provide a method  
 1129 for assuring the qualifications of all personnel in all program  
 1130 settings.

1131       d. Specific eligibility priorities for children within the  
 1132 early learning coalition's county or multicounty region in  
 1133 accordance with subsection (6).

1134       e. Performance standards and outcome measures adopted by  
 1135 the Agency for Workforce Innovation.

1136       f. Payment rates adopted by the early learning coalition  
 1137 and approved by the Agency for Workforce Innovation. Payment  
 1138 rates may not have the effect of limiting parental choice or  
 1139 creating standards or levels of services that have not been  
 1140 authorized by the Legislature.

1141       g. Systems support services, including a central agency,  
 1142 child care resource and referral, eligibility determinations,  
 1143 training of providers, and parent support and involvement.

1144       h. Direct enhancement services to families and children.  
 1145 System support and direct enhancement services shall be in  
 1146 addition to payments for the placement of children in school  
 1147 readiness programs.

1148       i. The business organization of the early learning

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1149 coalition, which must include the coalition's articles of  
1150 incorporation and bylaws if the coalition is organized as a  
1151 corporation. If the coalition is not organized as a corporation  
1152 or other business entity, the plan must include the contract  
1153 with a fiscal agent. An early learning coalition may contract  
1154 with other coalitions to achieve efficiency in multicounty  
1155 services, and these contracts may be part of the coalition's  
1156 school readiness plan.

1157 j. Strategies to meet the needs of unique populations,  
1158 such as migrant workers.

1159

1160 As part of the school readiness plan, the early learning  
1161 coalition may request the Governor to apply for a waiver to  
1162 allow the coalition to administer the Head Start Program to  
1163 accomplish the purposes of the school readiness program. If a  
1164 school readiness plan demonstrates that specific statutory goals  
1165 can be achieved more effectively by using procedures that  
1166 require modification of existing rules, policies, or procedures,  
1167 a request for a waiver to the Agency for Workforce Innovation  
1168 may be submitted as part of the plan. Upon review, the Agency  
1169 for Workforce Innovation may grant the proposed modification.

1170 5. Persons with an early childhood teaching certificate  
1171 may provide support and supervision to other staff in the school  
1172 readiness program.

1173 6. An early learning coalition may not implement its  
1174 school readiness plan until it submits the plan to and receives  
1175 approval from the Agency for Workforce Innovation. Once the plan  
1176 is approved, the plan and the services provided under the plan

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1177 shall be controlled by the early learning coalition. The plan  
 1178 shall be reviewed and revised as necessary, but at least  
 1179 biennially. An early learning coalition may not implement the  
 1180 revisions until the coalition submits the revised plan to and  
 1181 receives approval from the Agency for Workforce Innovation. If  
 1182 the Agency for Workforce Innovation rejects a revised plan, the  
 1183 coalition must continue to operate under its prior approved  
 1184 plan.

1185       7. Sections 125.901(2)(a)3. and, 411.221, ~~and 411.232~~ do  
 1186 not apply to an early learning coalition with an approved school  
 1187 readiness plan. To facilitate innovative practices and to allow  
 1188 the regional establishment of school readiness programs, an  
 1189 early learning coalition may apply to the Governor and Cabinet  
 1190 for a waiver of, and the Governor and Cabinet may waive, any of  
 1191 the provisions of ss. 411.223, ~~411.232~~, and 1003.54, if the  
 1192 waiver is necessary for implementation of the coalition's school  
 1193 readiness plan.

1194       8. Two or more counties may join for purposes of planning  
 1195 and implementing a school readiness program.

1196       9. An early learning coalition may, subject to approval by  
 1197 the Agency for Workforce Innovation as part of the coalition's  
 1198 school readiness plan, receive subsidized child care funds for  
 1199 all children eligible for any federal subsidized child care  
 1200 program.

1201       10. An early learning coalition may enter into multiparty  
 1202 contracts with multicounty service providers in order to meet  
 1203 the needs of unique populations such as migrant workers.

1204       Section 21. Subsection (2) of section 411.224, Florida

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1205 Statutes, is amended to read:

1206 411.224 Family support planning process.—The Legislature  
 1207 establishes a family support planning process to be used by the  
 1208 Department of Children and Family Services as the service  
 1209 planning process for targeted individuals, children, and  
 1210 families under its purview.

1211 (2) To the extent possible within existing resources, the  
 1212 following populations must be included in the family support  
 1213 planning process:

1214 (a) Children from birth to age 5 who are served by the  
 1215 clinic and programs of the Division of Children's Medical  
 1216 Services of the Department of Health.

1217 (b) Children participating in the developmental evaluation  
 1218 and intervention program of the Division of Children's Medical  
 1219 Services of the Department of Health.

1220 (c) Children from age 3 through age 5 who are served by  
 1221 the Agency for Persons with Disabilities.

1222 (d) Children from birth through age 5 who are served by  
 1223 the Mental Health Program Office of the Department of Children  
 1224 and Family Services.

1225 ~~(e) Participants who are served by the Children's Early~~  
 1226 ~~Investment Program established in s. 411.232.~~

1227 (e)~~(f)~~ Healthy Start participants in need of ongoing  
 1228 service coordination.

1229 (f)~~(g)~~ Children from birth through age 5 who are served by  
 1230 the voluntary family services, protective supervision, foster  
 1231 care, or adoption and related services programs of the Child  
 1232 Care Services Program Office of the Department of Children and

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1233 Family Services, and who are eligible for ongoing services from  
 1234 one or more other programs or agencies that participate in  
 1235 family support planning; however, children served by the  
 1236 voluntary family services program, where the planned length of  
 1237 intervention is 30 days or less, are excluded from this  
 1238 population.

1239 Section 22. Subsections (32) through (54) of section  
 1240 499.003, Florida Statutes, are renumbered as subsections (33)  
 1241 through (55), respectively, present subsection (42) is amended,  
 1242 and a new subsection (32) is added to that section, to read:

1243 499.003 Definitions of terms used in this part.—As used in  
 1244 this part, the term:

1245 (32) "Medical convenience kit" means packages or units  
 1246 that contain combination products as defined in 21 C.F.R. s.  
 1247 3.2(e) (2).

1248 ~~(43) (42)~~ "Prescription drug" means a prescription,  
 1249 medicinal, or legend drug, including, but not limited to,  
 1250 finished dosage forms or active ingredients subject to, defined  
 1251 by, or described by s. 503(b) of the Federal Food, Drug, and  
 1252 Cosmetic Act or s. 465.003(8), s. 499.007(13), or subsection  
 1253 (11), subsection (46) ~~(45)~~, or subsection (53) ~~(52)~~.

1254 Section 23. Paragraph (q) of subsection (2) of section  
 1255 499.01, Florida Statutes, is amended to read:

1256 499.01 Permits.—

1257 (2) The following permits are established:

1258 (q) Device manufacturer permit.—

1259 1. A device manufacturer permit is required for any person  
 1260 that engages in the manufacture, repackaging, or assembly of

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1261 medical devices for human use in this state, except that a  
 1262 permit is not required if:

1263 a. The person is engaged only in manufacturing,  
 1264 repackaging, or assembling a medical device pursuant to a  
 1265 practitioner's order for a specific patient; or

1266 b. The person does not manufacture, repackage, or assemble  
 1267 any medical devices or components for such devices, except those  
 1268 devices or components which are exempt from registration  
 1269 pursuant to s. 499.015(8).

1270 ~~2.1.~~ A manufacturer or repackager of medical devices in  
 1271 this state must comply with all appropriate state and federal  
 1272 good manufacturing practices and quality system rules.

1273 ~~3.2.~~ The department shall adopt rules related to storage,  
 1274 handling, and recordkeeping requirements for manufacturers of  
 1275 medical devices for human use.

1276 Section 24. Paragraph (i) is added to subsection (3) of  
 1277 section 499.01212, Florida Statutes, to read:

1278 499.01212 Pedigree paper.—

1279 (3) EXCEPTIONS.—A pedigree paper is not required for:

1280 (i) The wholesale distribution of prescription drugs  
 1281 within a medical convenience kit if:

1282 1. The medical convenience kit is assembled in an  
 1283 establishment that is registered with the United States Food and  
 1284 Drug Administration as a medical device manufacturer;

1285 2. The medical convenience kit manufacturer purchased the  
 1286 prescription drug directly from the manufacturer or from a  
 1287 wholesaler that purchased the prescription drug directly from  
 1288 the manufacturer;

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

- 1289           3. The medical convenience kit manufacturer complies with
- 1290 federal law for the distribution of the prescription drugs
- 1291 within the kit; and
- 1292           4. The drugs contained in the medical kit are:
- 1293           a. Intravenous solutions intended for the replenishment of
- 1294 fluids and electrolytes;
- 1295           b. Products intended to maintain the equilibrium of water
- 1296 and minerals in the body;
- 1297           c. Products intended for irrigation or reconstitution;
- 1298           d. Anesthetics; or
- 1299           e. Anticoagulants.

1300

1301 This exemption does not apply to a convenience kit containing

1302 any controlled substance that appears in a schedule contained in

1303 or subject to chapter 893 or the federal Comprehensive Drug

1304 Abuse Prevention and Control Act of 1970.

1305           Section 25. Subsections (4) and (5) of section 509.013,

1306 Florida Statutes, are amended to read:

1307           509.013 Definitions.—As used in this chapter, the term:

1308           (4) (a) "Public lodging establishment" includes a transient

1309 public lodging establishment as defined in subparagraph 1. and a

1310 nontransient public lodging establishment as defined in

1311 subparagraph 2.

1312           1. "Transient public lodging establishment" means any

1313 unit, group of units, dwelling, building, or group of buildings

1314 within a single complex of buildings which is rented to guests

1315 more than three times in a calendar year for periods of less

1316 than 30 days or 1 calendar month, whichever is less, or which is

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1317 | advertised or held out to the public as a place regularly rented  
 1318 | to guests.

1319 |         2. "Nontransient public lodging establishment" means any  
 1320 | unit, group of units, dwelling, building, or group of buildings  
 1321 | within a single complex of buildings which is rented to guests  
 1322 | for periods of at least 30 days or 1 calendar month, whichever  
 1323 | is less, or which is advertised or held out to the public as a  
 1324 | place regularly rented to guests for periods of at least 30 days  
 1325 | or 1 calendar month.

1326 |  
 1327 | License classifications of public lodging establishments, and  
 1328 | the definitions therefor, are set out in s. 509.242. For the  
 1329 | purpose of licensure, the term does not include condominium  
 1330 | common elements as defined in s. 718.103.

1331 |         (b) The following are excluded from the definitions in  
 1332 | paragraph (a):

1333 |         1. Any dormitory or other living or sleeping facility  
 1334 | maintained by a public or private school, college, or university  
 1335 | for the use of students, faculty, or visitors;

1336 |         2. Any facility certified or licensed and regulated by the  
 1337 | Agency for Health Care Administration or the Department of  
 1338 | Children and Family Services ~~hospital, nursing home, sanitarium,~~  
 1339 | ~~assisted living facility,~~ or other similar place regulated under  
 1340 | s. 381.0072;

1341 |         3. Any place renting four rental units or less, unless the  
 1342 | rental units are advertised or held out to the public to be  
 1343 | places that are regularly rented to transients;

1344 |         4. Any unit or group of units in a condominium,



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1345 cooperative, or timeshare plan and any individually or  
 1346 collectively owned one-family, two-family, three-family, or  
 1347 four-family dwelling house or dwelling unit that is rented for  
 1348 periods of at least 30 days or 1 calendar month, whichever is  
 1349 less, and that is not advertised or held out to the public as a  
 1350 place regularly rented for periods of less than 1 calendar  
 1351 month, provided that no more than four rental units within a  
 1352 single complex of buildings are available for rent;

1353 5. Any migrant labor camp or residential migrant housing  
 1354 permitted by the Department of Health; under ss. 381.008-  
 1355 381.00895; and

1356 6. Any establishment inspected by the Department of Health  
 1357 and regulated by chapter 513.

1358 (5) (a) "Public food service establishment" means any  
 1359 building, vehicle, place, or structure, or any room or division  
 1360 in a building, vehicle, place, or structure where food is  
 1361 prepared, served, or sold for immediate consumption on or in the  
 1362 vicinity of the premises; called for or taken out by customers;  
 1363 or prepared prior to being delivered to another location for  
 1364 consumption.

1365 (b) The following are excluded from the definition in  
 1366 paragraph (a):

1367 1. Any place maintained and operated by a public or  
 1368 private school, college, or university:

1369 a. For the use of students and faculty; or

1370 b. Temporarily to serve such events as fairs, carnivals,  
 1371 and athletic contests.

1372 2. Any eating place maintained and operated by a church or

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1373 a religious, nonprofit fraternal, or nonprofit civic  
 1374 organization:  
 1375       a. For the use of members and associates; or  
 1376       b. Temporarily to serve such events as fairs, carnivals,  
 1377 or athletic contests.  
 1378       3. Any eating place located on an airplane, train, bus, or  
 1379 watercraft which is a common carrier.  
 1380       4. Any eating place maintained by a facility certified or  
 1381 licensed and regulated by the Agency for Health Care  
 1382 Administration or the Department of Children and Family Services  
 1383 ~~hospital, nursing home, sanitarium, assisted living facility,~~  
 1384 ~~adult day care center,~~ or other similar place that is regulated  
 1385 under s. 381.0072.  
 1386       5. Any place of business issued a permit or inspected by  
 1387 the Department of Agriculture and Consumer Services under s.  
 1388 500.12.  
 1389       6. Any place of business where the food available for  
 1390 consumption is limited to ice, beverages with or without  
 1391 garnishment, popcorn, or prepackaged items sold without  
 1392 additions or preparation.  
 1393       7. Any theater, if the primary use is as a theater and if  
 1394 patron service is limited to food items customarily served to  
 1395 the admittees of theaters.  
 1396       8. Any vending machine that dispenses any food or  
 1397 beverages other than potentially hazardous foods, as defined by  
 1398 division rule.  
 1399       9. Any vending machine that dispenses potentially  
 1400 hazardous food and which is located in a facility regulated

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1401 under s. 381.0072.

1402 10. Any research and development test kitchen limited to  
 1403 the use of employees and which is not open to the general  
 1404 public.

1405 Section 26. The Department of Health shall develop a plan  
 1406 that exclusively uses private and nonstate public hospitals to  
 1407 provide treatment to cure, hospitalization, and isolation for  
 1408 persons with contagious cases of tuberculosis who pose a threat  
 1409 to the public. The department shall submit the plan to the  
 1410 Governor, the President of the Senate, and the Speaker of the  
 1411 House of Representatives by November 1, 2010. The plan shall  
 1412 include the following elements:

1413 (1) Identification of hospitals functionally capable of  
 1414 caring for such patients.

1415 (2) Reimbursement for hospital inpatient services at the  
 1416 Medicaid rate and reimbursement for other medically necessary  
 1417 services that are not hospital inpatient services at the  
 1418 relevant Medicaid rate.

1419 (3) Projected cost estimates.

1420 (4) A transition plan for closing the A. G. Holley State  
 1421 Hospital and transferring patients to private and nonstate  
 1422 public hospitals over a 90-day period of time.

1423 Section 27. (1) All of the statutory powers, duties, and  
 1424 functions, records, personnel, property, and unexpended balances  
 1425 of appropriations, allocations, or other funds for the  
 1426 administration of chapter 499, Florida Statutes, relating to  
 1427 drugs, devices, cosmetics, and household products shall be  
 1428 transferred by a type two transfer, as defined in s. 20.06(2),

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1429 Florida Statutes, from the Department of Health to the  
 1430 Department of Business and Professional Regulation.

1431 (2) The transfer of regulatory authority under chapter  
 1432 499, Florida Statutes, provided by this section shall not affect  
 1433 the validity of any judicial or administrative action pending as  
 1434 of 11:59 p.m. on the day before the effective date of this  
 1435 section to which the Department of Health is at that time a  
 1436 party, and the Department of Business and Professional  
 1437 Regulation shall be substituted as a party in interest in any  
 1438 such action.

1439 (3) All lawful orders issued by the Department of Health  
 1440 implementing or enforcing or otherwise in regard to any  
 1441 provision of chapter 499, Florida Statutes, issued prior to the  
 1442 effective date of this section shall remain in effect and be  
 1443 enforceable after the effective date of this section unless  
 1444 thereafter modified in accordance with law.

1445 (4) The rules of the Department of Health relating to the  
 1446 implementation of chapter 499, Florida Statutes, that were in  
 1447 effect at 11:59 p.m. on the day prior to the effective date of  
 1448 this section shall become the rules of the Department of  
 1449 Business and Professional Regulation and shall remain in effect  
 1450 until amended or repealed in the manner provided by law.

1451 (5) Notwithstanding the transfer of regulatory authority  
 1452 under chapter 499, Florida Statutes, provided by this section,  
 1453 persons and entities holding in good standing any permit under  
 1454 chapter 499, Florida Statutes, as of 11:59 p.m. on the day prior  
 1455 to the effective date of this section shall, as of the effective  
 1456 date of this section, be deemed to hold in good standing a

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1457 permit in the same capacity as that for which the permit was  
 1458 formerly issued.

1459 (6) Notwithstanding the transfer of regulatory authority  
 1460 under chapter 499, Florida Statutes, provided by this section,  
 1461 persons holding in good standing any certification under chapter  
 1462 499, Florida Statutes, as of 11:59 p.m. on the day prior to the  
 1463 effective date of this section shall, as of the effective date  
 1464 of this section, be deemed to be certified in the same capacity  
 1465 in which they were formerly certified.

1466 (7) This section shall take effect October 1, 2011.

1467 Section 28. Paragraph (a) of subsection (3) and  
 1468 subsections (9) and (10) of section 381.0403, Florida Statutes,  
 1469 are amended to read:

1470 381.0403 The Community Hospital Education Act.—

1471 (3) PROGRAM FOR COMMUNITY HOSPITAL EDUCATION; STATE AND  
 1472 LOCAL PLANNING.—

1473 (a) There is established under the Department of Health a  
 1474 program for statewide graduate medical education. It is intended  
 1475 that continuing graduate medical education programs for interns  
 1476 and residents be established on a statewide basis. The program  
 1477 shall provide financial support for primary care specialty  
 1478 interns and residents based on policies recommended and approved  
 1479 by the Community Hospital Education Council, herein established,  
 1480 and the Department of Health. Only those programs with at least  
 1481 three residents or interns in each year of the training program  
 1482 are qualified to apply for financial support. Programs with  
 1483 fewer than three residents or interns per training year are  
 1484 qualified to apply for financial support, but only if the

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1485 appropriate accrediting entity for the particular specialty has  
 1486 approved the program for fewer positions. Programs added after  
 1487 fiscal year 1997-1998 shall have 5 years to attain the requisite  
 1488 number of residents or interns. When feasible and to the extent  
 1489 allowed through the General Appropriations Act, state funds  
 1490 shall be used to generate federal matching funds under Medicaid,  
 1491 or other federal programs, and the resulting combined state and  
 1492 federal funds shall be allocated to participating hospitals for  
 1493 the support of graduate medical education. ~~The department may~~  
 1494 ~~spend up to \$75,000 of the state appropriation for~~  
 1495 ~~administrative costs associated with the production of the~~  
 1496 ~~annual report as specified in subsection (9), and for~~  
 1497 ~~administration of the program.~~

1498 ~~(9) ANNUAL REPORT ON GRADUATE MEDICAL EDUCATION;~~  
 1499 ~~COMMITTEE. The Executive Office of the Governor, the Department~~  
 1500 ~~of Health, and the Agency for Health Care Administration shall~~  
 1501 ~~collaborate to establish a committee that shall produce an~~  
 1502 ~~annual report on graduate medical education. The committee shall~~  
 1503 ~~be comprised of 11 members: five members shall be deans of the~~  
 1504 ~~medical schools or their designees; the Governor shall appoint~~  
 1505 ~~two members, one of whom must be a representative of the Florida~~  
 1506 ~~Medical Association who has supervised or currently supervises~~  
 1507 ~~residents or interns and one of whom must be a representative of~~  
 1508 ~~the Florida Hospital Association; the Secretary of Health Care~~  
 1509 ~~Administration shall appoint two members, one of whom must be a~~  
 1510 ~~representative of a statutory teaching hospital and one of whom~~  
 1511 ~~must be a physician who has supervised or is currently~~  
 1512 ~~supervising residents or interns; and the State Surgeon General~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1513 ~~shall appoint two members, one of whom must be a representative~~  
 1514 ~~of a statutory family practice teaching hospital and one of whom~~  
 1515 ~~must be a physician who has supervised or is currently~~  
 1516 ~~supervising residents or interns. With the exception of the~~  
 1517 ~~deans, members shall serve 4-year terms. In order to stagger the~~  
 1518 ~~terms, the Governor's appointees shall serve initial terms of 4~~  
 1519 ~~years, the State Surgeon General's appointees shall serve~~  
 1520 ~~initial terms of 3 years, and the Secretary of Health Care~~  
 1521 ~~Administration's appointees shall serve initial terms of 2~~  
 1522 ~~years. A member's term shall be deemed terminated when the~~  
 1523 ~~member's representative status no longer exists. Once the~~  
 1524 ~~committee is appointed, it shall elect a chair to serve for a 1-~~  
 1525 ~~year term. The report shall be provided to the Governor, the~~  
 1526 ~~President of the Senate, and the Speaker of the House of~~  
 1527 ~~Representatives by January 15 annually. Committee members shall~~  
 1528 ~~serve without compensation. The report shall address the~~  
 1529 ~~following:~~

1530 ~~(a) The role of residents and medical faculty in the~~  
 1531 ~~provision of health care.~~

1532 ~~(b) The relationship of graduate medical education to the~~  
 1533 ~~state's physician workforce.~~

1534 ~~(c) The costs of training medical residents for hospitals,~~  
 1535 ~~medical schools, teaching hospitals, including all hospital-~~  
 1536 ~~medical affiliations, practice plans at all of the medical~~  
 1537 ~~schools, and municipalities.~~

1538 ~~(d) The availability and adequacy of all sources of~~  
 1539 ~~revenue to support graduate medical education and recommend~~  
 1540 ~~alternative sources of funding for graduate medical education.~~

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1541 ~~(e) The use of state and federal appropriated funds for~~  
 1542 ~~graduate medical education by hospitals receiving such funds.~~

1543 (9) ~~(10)~~ RULEMAKING.—The department has authority to adopt  
 1544 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 1545 provisions of this section.

1546 Section 29. Section 381.4018, Florida Statutes, is amended  
 1547 to read:

1548 381.4018 Physician workforce assessment and development.—

1549 (1) DEFINITIONS.—As used in this section, the term:

1550 (a) "Consortium" or "consortia" means a combination of  
 1551 statutory teaching hospitals, specialty children's hospitals,  
 1552 statutory rural hospitals, other hospitals, accredited medical  
 1553 schools, clinics operated by the Department of Health, clinics  
 1554 operated by the Department of Veterans' Affairs, area health  
 1555 education centers, community health centers, federally qualified  
 1556 health centers, prison clinics, local community clinics, or  
 1557 other programs. At least one member of the consortium shall be a  
 1558 sponsoring institution accredited or currently seeking  
 1559 accreditation by the Accreditation Council for Graduate Medical  
 1560 Education or the American Osteopathic Association.

1561 (b) "Council" means the Physician Workforce Advisory  
 1562 Council.

1563 (c) "Department" means the Department of Health.

1564 (d) "Graduate medical education program" means a program  
 1565 accredited by the Accreditation Council for Graduate Medical  
 1566 Education or the American Osteopathic Association.

1567 (e) "Primary care specialty" means emergency medicine,  
 1568 family practice, internal medicine, pediatrics, psychiatry,



ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1569 geriatrics, general surgery, obstetrics and gynecology, and  
 1570 combined pediatrics and internal medicine and other specialties  
 1571 as determined by the Physician Workforce Advisory Council or the  
 1572 Department of Health.

1573 (2)~~(1)~~ LEGISLATIVE INTENT.—The Legislature recognizes that  
 1574 physician workforce planning is an essential component of  
 1575 ensuring that there is an adequate and appropriate supply of  
 1576 well-trained physicians to meet this state's future health care  
 1577 service needs as the general population and elderly population  
 1578 of the state increase. The Legislature finds that items to  
 1579 consider relative to assessing the physician workforce may  
 1580 include physician practice status; specialty mix; geographic  
 1581 distribution; demographic information, including, but not  
 1582 limited to, age, gender, race, and cultural considerations; and  
 1583 needs of current or projected medically underserved areas in the  
 1584 state. Long-term strategic planning is essential as the period  
 1585 from the time a medical student enters medical school to  
 1586 completion of graduate medical education may range from 7 to 10  
 1587 years or longer. The Legislature recognizes that strategies to  
 1588 provide for a well-trained supply of physicians must include  
 1589 ensuring the availability and capacity of quality ~~graduate~~  
 1590 medical schools and graduate medical education programs in this  
 1591 state, as well as using new or existing state and federal  
 1592 programs providing incentives for physicians to practice in  
 1593 needed specialties and in underserved areas in a manner that  
 1594 addresses projected needs for physician manpower.

1595 (3)~~(2)~~ PURPOSE.—The department ~~of Health~~ shall serve as a  
 1596 coordinating and strategic planning body to actively assess the

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1597 state's current and future physician workforce needs and work  
1598 with multiple stakeholders to develop strategies and  
1599 alternatives to address current and projected physician  
1600 workforce needs.

1601 (4)~~(3)~~ GENERAL FUNCTIONS.—The department shall maximize  
1602 the use of existing programs under the jurisdiction of the  
1603 department and other state agencies and coordinate governmental  
1604 and nongovernmental stakeholders and resources in order to  
1605 develop a state strategic plan and assess the implementation of  
1606 such strategic plan. In developing the state strategic plan, the  
1607 department shall:

1608 (a) Monitor, evaluate, and report on the supply and  
1609 distribution of physicians licensed under chapter 458 or chapter  
1610 459. The department shall maintain a database to serve as a  
1611 statewide source of data concerning the physician workforce.

1612 (b) Develop a model and quantify, on an ongoing basis, the  
1613 adequacy of the state's current and future physician workforce  
1614 as reliable data becomes available. Such model must take into  
1615 account demographics, physician practice status, place of  
1616 education and training, generational changes, population growth,  
1617 economic indicators, and issues concerning the "pipeline" into  
1618 medical education.

1619 (c) Develop and recommend strategies to determine whether  
1620 the number of qualified medical school applicants who might  
1621 become competent, practicing physicians in this state will be  
1622 sufficient to meet the capacity of the state's medical schools.  
1623 If appropriate, the department shall, working with  
1624 representatives of appropriate governmental and nongovernmental

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1625 entities, develop strategies and recommendations and identify  
 1626 best practice programs that introduce health care as a  
 1627 profession and strengthen skills needed for medical school  
 1628 admission for elementary, middle, and high school students, and  
 1629 improve premedical education at the precollege and college level  
 1630 in order to increase this state's potential pool of medical  
 1631 students.

1632 (d) Develop strategies to ensure that the number of  
 1633 graduates from the state's public and private allopathic and  
 1634 osteopathic medical schools is ~~are~~ adequate to meet physician  
 1635 workforce needs, based on the analysis of the physician  
 1636 workforce data, so as to provide a high-quality medical  
 1637 education to students in a manner that recognizes the uniqueness  
 1638 of each new and existing medical school in this state.

1639 (e) Pursue strategies and policies to create, expand, and  
 1640 maintain graduate medical education positions in the state based  
 1641 on the analysis of the physician workforce data. Such strategies  
 1642 and policies must take into account the effect of federal  
 1643 funding limitations on the expansion and creation of positions  
 1644 in graduate medical education. The department shall develop  
 1645 options to address such federal funding limitations. The  
 1646 department shall consider options to provide direct state  
 1647 funding for graduate medical education positions in a manner  
 1648 that addresses requirements and needs relative to accreditation  
 1649 of graduate medical education programs. The department shall  
 1650 consider funding residency positions as a means of addressing  
 1651 needed physician specialty areas, rural areas having a shortage  
 1652 of physicians, and areas of ongoing critical need, and as a

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1653 means of addressing the state's physician workforce needs based  
 1654 on an ongoing analysis of physician workforce data.

1655 (f) Develop strategies to maximize federal and state  
 1656 programs that provide for the use of incentives to attract  
 1657 physicians to this state or retain physicians within the state.  
 1658 Such strategies should explore and maximize federal-state  
 1659 partnerships that provide incentives for physicians to practice  
 1660 in federally designated shortage areas. Strategies shall also  
 1661 consider the use of state programs, such as the Florida Health  
 1662 Service Corps established pursuant to s. 381.0302 and the  
 1663 Medical Education Reimbursement and Loan Repayment Program  
 1664 pursuant to s. 1009.65, which provide for education loan  
 1665 repayment or loan forgiveness and provide monetary incentives  
 1666 for physicians to relocate to underserved areas of the state.

1667 (g) Coordinate and enhance activities relative to  
 1668 physician workforce needs, undergraduate medical education, ~~and~~  
 1669 graduate medical education, and reentry of retired military and  
 1670 other physicians into the physician workforce provided by the  
 1671 Division of Medical Quality Assurance, ~~the Community Hospital~~  
 1672 ~~Education Program and the Graduate Medical Education Committee~~  
 1673 ~~established pursuant to s. 381.0403,~~ area health education  
 1674 center networks established pursuant to s. 381.0402, and other  
 1675 offices and programs within the department ~~of Health~~ as  
 1676 designated by the State Surgeon General.

1677 (h) Work in conjunction with and act as a coordinating  
 1678 body for governmental and nongovernmental stakeholders to  
 1679 address matters relating to the state's physician workforce  
 1680 assessment and development for the purpose of ensuring an

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1681 adequate supply of well-trained physicians to meet the state's  
 1682 future needs. Such governmental stakeholders shall include, but  
 1683 need not be limited to, the State Surgeon General or his or her  
 1684 designee, the Commissioner of Education or his or her designee,  
 1685 the Secretary of Health Care Administration or his or her  
 1686 designee, and the Chancellor of the State University System or  
 1687 his or her designee ~~from the Board of Governors of the State~~  
 1688 ~~University System~~, and, at the discretion of the department,  
 1689 other representatives of state and local agencies that are  
 1690 involved in assessing, educating, or training the state's  
 1691 current or future physicians. Other stakeholders shall include,  
 1692 but need not be limited to, organizations representing the  
 1693 state's public and private allopathic and osteopathic medical  
 1694 schools; organizations representing hospitals and other  
 1695 institutions providing health care, particularly those that  
 1696 currently provide or have an interest in providing accredited  
 1697 medical education and graduate medical education to medical  
 1698 students and medical residents; organizations representing  
 1699 allopathic and osteopathic practicing physicians; and, at the  
 1700 discretion of the department, representatives of other  
 1701 organizations or entities involved in assessing, educating, or  
 1702 training the state's current or future physicians.

1703 (i) Serve as a liaison with other states and federal  
 1704 agencies and programs in order to enhance resources available to  
 1705 the state's physician workforce and medical education continuum.

1706 (j) Act as a clearinghouse for collecting and  
 1707 disseminating information concerning the physician workforce and  
 1708 medical education continuum in this state.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1709 (5) PHYSICIAN WORKFORCE ADVISORY COUNCIL.—There is created  
 1710 in the department the Physician Workforce Advisory Council, an  
 1711 advisory council as defined in s. 20.03. The council shall  
 1712 comply with the requirements of s. 20.052, except as otherwise  
 1713 provided in this section.

1714 (a) The council shall consist of 19 members. Members  
 1715 appointed by the State Surgeon General shall include:

1716 1. A designee from the department who is a physician  
 1717 licensed under chapter 458 or chapter 459 and recommended by the  
 1718 State Surgeon General.

1719 2. An individual who is affiliated with the Science  
 1720 Students Together Reaching Instructional Diversity and  
 1721 Excellence program and recommended by the area health education  
 1722 center network.

1723 3. Two individuals recommended by the Council of Florida  
 1724 Medical School Deans, one representing a college of allopathic  
 1725 medicine and one representing a college of osteopathic medicine.

1726 4. One individual recommended by the Florida Hospital  
 1727 Association, representing a hospital that is licensed under  
 1728 chapter 395, has an accredited graduate medical education  
 1729 program, and is not a statutory teaching hospital.

1730 5. One individual representing a statutory teaching  
 1731 hospital as defined in s. 408.07 and recommended by the Safety  
 1732 Net Hospital Alliance.

1733 6. One individual representing a family practice teaching  
 1734 hospital as defined in s. 395.805 and recommended by the Council  
 1735 of Family Medicine and Community Teaching Hospitals.

1736 7. Two individuals recommended by the Florida Medical

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1737 Association, one representing a primary care specialty and one  
 1738 representing a nonprimary care specialty.

1739 8. Two individuals recommended by the Florida Osteopathic  
 1740 Medical Association, one representing a primary care specialty  
 1741 and one representing a nonprimary care specialty.

1742 9. Two individuals who are program directors of accredited  
 1743 graduate medical education programs, one representing a program  
 1744 that is accredited by the Accreditation Council for Graduate  
 1745 Medical Education and one representing a program that is  
 1746 accredited by the American Osteopathic Association.

1747 10. An individual recommended by the Florida Association  
 1748 of Community Health Centers representing a federally qualified  
 1749 health center located in a rural area as defined in s.  
 1750 381.0406(2) (a) .

1751 11. An individual recommended by the Florida Academy of  
 1752 Family Physicians.

1753 12. An individual recommended by the Florida Alliance for  
 1754 Health Professions Diversity.

1755 13. The Chancellor of the State University System or his  
 1756 or her designee.

1757 14. A layperson member as determined by the State Surgeon  
 1758 General.

1759  
 1760 Appointments to the council shall be made by the State Surgeon  
 1761 General. Each entity authorized to make recommendations under  
 1762 this subsection shall make at least two recommendations to the  
 1763 State Surgeon General for each appointment to the council. The  
 1764 State Surgeon General shall name one appointee for each position

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1765 from the recommendations made by each authorized entity.  
 1766 (b) Each council member shall be appointed to a 4-year  
 1767 term. An individual may not serve more than two terms. Any  
 1768 council member may be removed from office for malfeasance;  
 1769 misfeasance; neglect of duty; incompetence; permanent inability  
 1770 to perform official duties; or pleading guilty or nolo  
 1771 contendere to, or being found guilty of, a felony. Any council  
 1772 member who meets the criteria for removal, or who is otherwise  
 1773 unwilling or unable to properly fulfill the duties of the  
 1774 office, shall be succeeded by an individual chosen by the State  
 1775 Surgeon General to serve out the remainder of the council  
 1776 member's term. If the remainder of the replaced council member's  
 1777 term is less than 18 months, notwithstanding the provisions of  
 1778 this paragraph, the succeeding council member may be reappointed  
 1779 twice by the State Surgeon General.  
 1780 (c) The chair of the council is the State Surgeon General,  
 1781 who shall designate a vice chair from the membership of the  
 1782 council to serve in the absence of the State Surgeon General. A  
 1783 vacancy shall be filled for the remainder of the unexpired term  
 1784 in the same manner as the original appointment.  
 1785 (d) Council members are not entitled to receive  
 1786 compensation or reimbursement for per diem or travel expenses.  
 1787 (e) The council shall meet at least twice a year in person  
 1788 or by teleconference.  
 1789 (f) The council shall:  
 1790 1. Advise the State Surgeon General and the department on  
 1791 matters concerning current and future physician workforce needs  
 1792 in this state;



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1793 2. Review survey materials and the compilation of survey  
 1794 information;

1795 3. Annually review the number, location, cost, and  
 1796 reimbursement of graduate medical education programs and  
 1797 positions;

1798 4. Provide recommendations to the department regarding the  
 1799 survey completed by physicians licensed under chapter 458 or  
 1800 chapter 459;

1801 5. Assist the department in preparing the annual report to  
 1802 the Legislature pursuant to ss. 458.3192 and 459.0082;

1803 6. Assist the department in preparing an initial strategic  
 1804 plan, conduct ongoing strategic planning in accordance with this  
 1805 section, and provide ongoing advice on implementing the  
 1806 recommendations;

1807 7. Monitor and provide recommendations regarding the need  
 1808 for an increased number of primary care or other physician  
 1809 specialties to provide the necessary current and projected  
 1810 health and medical services for the state; and

1811 8. Monitor and make recommendations regarding the status  
 1812 of the needs relating to graduate medical education in this  
 1813 state.

1814 Section 30. Section 458.3192, Florida Statutes, is amended  
 1815 to read:

1816 458.3192 Analysis of survey results; report.—

1817 (1) Each year, the Department of Health shall analyze the  
 1818 results of the physician survey required by s. 458.3191 and  
 1819 determine by geographic area and specialty the number of  
 1820 physicians who:

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

- 1821 (a) Perform deliveries of children in this state ~~Florida~~.
- 1822 (b) Read mammograms and perform breast-imaging-guided
- 1823 procedures in this state ~~Florida~~.
- 1824 (c) Perform emergency care on an on-call basis for a
- 1825 hospital emergency department.
- 1826 (d) Plan to reduce or increase emergency on-call hours in
- 1827 a hospital emergency department.
- 1828 (e) Plan to relocate ~~their allopathic or osteopathic~~
- 1829 ~~practice~~ outside the state.
- 1830 (f) Practice medicine in this state.
- 1831 (g) Plan to reduce or modify the scope of their practice.
- 1832 (2) The Department of Health must report its findings to
- 1833 the Governor, the President of the Senate, and the Speaker of
- 1834 the House of Representatives by November 1 each year. The
- 1835 department shall also include in its report findings,
- 1836 recommendations, and strategic planning activities as provided
- 1837 in s. 381.4018. The department may also include other
- 1838 information requested by the Physician Workforce Advisory
- 1839 Council.
- 1840 Section 31. Section 459.0082, Florida Statutes, is amended
- 1841 to read:
- 1842 459.0082 Analysis of survey results; report.—
- 1843 (1) Each year, the Department of Health shall analyze the
- 1844 results of the physician survey required by s. 459.0081 and
- 1845 determine by geographic area and specialty the number of
- 1846 physicians who:
  - 1847 (a) Perform deliveries of children in this state ~~Florida~~.
  - 1848 (b) Read mammograms and perform breast-imaging-guided

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1849 procedures in this state ~~Florida~~.

1850 (c) Perform emergency care on an on-call basis for a  
1851 hospital emergency department.

1852 (d) Plan to reduce or increase emergency on-call hours in  
1853 a hospital emergency department.

1854 (e) Plan to relocate ~~their allopathic or osteopathic~~  
1855 ~~practice~~ outside the state.

1856 (f) Practice medicine in this state.

1857 (g) Plan to reduce or modify the scope of their practice.

1858 (2) The Department of Health must report its findings to  
1859 the Governor, the President of the Senate, and the Speaker of  
1860 the House of Representatives by November 1 each year. The  
1861 department shall also include in its report findings,  
1862 recommendations, and strategic planning activities as provided  
1863 in s. 381.4018. The department may also include other  
1864 information requested by the Physician Workforce Advisory  
1865 Council.

1866 Section 32. Section 458.315, Florida Statutes, is amended  
1867 to read:

1868 458.315 Temporary certificate for practice in areas of  
1869 critical need.—

1870 (1) Any physician who:

1871 (a) Is licensed to practice in any jurisdiction in the  
1872 United States and ~~other state,~~ whose license is currently valid;  
1873 or

1874 (b) Has served as a physician in the United States Armed  
1875 Forces for at least 10 years and received an honorable discharge  
1876 from the military;

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1877  
 1878 and who pays an application fee of \$300 may be issued a  
 1879 temporary certificate for to practice in areas of ~~communities of~~  
 1880 ~~Florida where there is a~~ critical need ~~for physicians.~~

1881 (2) A certificate may be issued to a physician who:

1882 (a) Will practice in an area of critical need;

1883 (b) Will be employed by or practice in a county health  
 1884 department, correctional facility, Department of Veterans'  
 1885 Affairs clinic, community health center funded by s. 329, s.  
 1886 330, or s. 340 of the United States Public Health Services Act,  
 1887 or other agency or institution that is approved by the State  
 1888 Surgeon General and provides health care to meet the needs of  
 1889 underserved populations in this state; or

1890 (c) Will practice for a limited time to address critical  
 1891 physician-specialty, demographic, or geographic needs for this  
 1892 state's physician workforce as determined by the State Surgeon  
 1893 General ~~entity that provides health care to indigents and that~~  
 1894 ~~is approved by the State Health Officer.~~

1895 (3) The Board of Medicine may issue this temporary  
 1896 certificate with the following restrictions:

1897 (a) ~~(1)~~ The State Surgeon General ~~board~~ shall determine the  
 1898 areas of critical need, ~~and the physician so certified may~~  
 1899 ~~practice in any of those areas for a time to be determined by~~  
 1900 ~~the board.~~ Such areas ~~shall~~ include, but are not ~~be~~ limited to,  
 1901 health professional shortage areas designated by the United  
 1902 States Department of Health and Human Services.

1903 1.(a) A recipient of a temporary certificate for practice  
 1904 in areas of critical need may use the certificate ~~license~~ to

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1905 work for any approved entity ~~employer~~ in any area of critical  
 1906 need or as authorized by the State Surgeon General ~~approved by~~  
 1907 ~~the board.~~

1908 2.(b) The recipient of a temporary certificate for  
 1909 practice in areas of critical need shall, within 30 days after  
 1910 accepting employment, notify the board of all approved  
 1911 institutions in which the licensee practices and of all approved  
 1912 institutions where practice privileges have been denied.

1913 (b)-(2) The board may administer an abbreviated oral  
 1914 examination to determine the physician's competency, but a ~~no~~  
 1915 written regular examination is not required ~~necessary~~. Within 60  
 1916 days after receipt of an application for a temporary  
 1917 certificate, the board shall review the application and issue  
 1918 the temporary certificate, ~~or~~ notify the applicant of denial, or  
 1919 notify the applicant that the board recommends additional  
 1920 assessment, training, education, or other requirements as a  
 1921 condition of certification. If the applicant has not actively  
 1922 practiced during the prior 3 years and the board determines that  
 1923 the applicant may lack clinical competency, possess diminished  
 1924 or inadequate skills, lack necessary medical knowledge, or  
 1925 exhibit patterns of deficits in clinical decisionmaking, the  
 1926 board may:

- 1927 1. Deny the application;
- 1928 2. Issue a temporary certificate having reasonable
- 1929 restrictions that may include, but are not limited to, a
- 1930 requirement for the applicant to practice under the supervision
- 1931 of a physician approved by the board; or
- 1932 3. Issue a temporary certificate upon receipt of

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

1933 documentation confirming that the applicant has met any  
 1934 reasonable conditions of the board which may include, but are  
 1935 not limited to, completing continuing education or undergoing an  
 1936 assessment of skills and training.

1937 (c)(3) Any certificate issued under this section is shall  
 1938 be valid only so long as the State Surgeon General determines  
 1939 that the reason area for which it was is issued remains a an  
 1940 area of critical need to the state. The Board of Medicine shall  
 1941 review each temporary certificateholder not the service within  
 1942 said area not less than annually to ascertain that the minimum  
 1943 requirements of the Medical Practice Act and its adopted the  
 1944 rules and regulations promulgated thereunder are being complied  
 1945 with. If it is determined that such minimum requirements are not  
 1946 being met, the board shall forthwith revoke such certificate or  
 1947 shall impose restrictions or conditions, or both, as a condition  
 1948 of continued practice under the certificate.

1949 (d)(4) The board may shall not issue a temporary  
 1950 certificate for practice in an area of critical need to any  
 1951 physician who is under investigation in any jurisdiction in the  
 1952 United States another state for an act that which would  
 1953 constitute a violation of this chapter until such time as the  
 1954 investigation is complete, at which time the provisions of s.  
 1955 458.331 shall apply.

1956 (4)(5) The application fee and all licensure fees,  
 1957 including neurological injury compensation assessments, shall be  
 1958 waived for those persons obtaining a temporary certificate to  
 1959 practice in areas of critical need for the purpose of providing  
 1960 volunteer, uncompensated care for low-income residents

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1961 ~~Floridians~~. The applicant must submit an affidavit from the  
 1962 employing agency or institution stating that the physician will  
 1963 not receive any compensation for any service involving the  
 1964 practice of medicine.

1965 Section 33. Section 459.0076, Florida Statutes, is created  
 1966 to read:

1967 459.0076 Temporary certificate for practice in areas of  
 1968 critical need.—

1969 (1) Any physician who:

1970 (a) Is licensed to practice in any jurisdiction in the  
 1971 United States and whose license is currently valid; or

1972 (b) Has served as a physician in the United States Armed  
 1973 Forces for at least 10 years and received an honorable discharge  
 1974 from the military;

1975  
 1976 and who pays an application fee of \$300 may be issued a  
 1977 temporary certificate for practice in areas of critical need.

1978 (2) A certificate may be issued to a physician who:

1979 (a) Will practice in an area of critical need;

1980 (b) Will be employed by or practice in a county health  
 1981 department, correctional facility, Department of Veterans'  
 1982 Affairs clinic, community health center funded by s. 329, s.  
 1983 330, or s. 340 of the United States Public Health Services Act,  
 1984 or other agency or institution that is approved by the State  
 1985 Surgeon General and provides health care to meet the needs of  
 1986 underserved populations in this state; or

1987 (c) Will practice for a limited time to address critical  
 1988 physician-specialty, demographic, or geographic needs for this

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

1989 state's physician workforce as determined by the State Surgeon  
 1990 General.

1991 (3) The Board of Osteopathic Medicine may issue this  
 1992 temporary certificate with the following restrictions:

1993 (a) The State Surgeon General shall determine the areas of  
 1994 critical need. Such areas include, but are not limited to,  
 1995 health professional shortage areas designated by the United  
 1996 States Department of Health and Human Services.

1997 1. A recipient of a temporary certificate for practice in  
 1998 areas of critical need may use the certificate to work for any  
 1999 approved entity in any area of critical need or as authorized by  
 2000 the State Surgeon General.

2001 2. The recipient of a temporary certificate for practice  
 2002 in areas of critical need shall, within 30 days after accepting  
 2003 employment, notify the board of all approved institutions in  
 2004 which the licensee practices and of all approved institutions  
 2005 where practice privileges have been denied.

2006 (b) The board may administer an abbreviated oral  
 2007 examination to determine the physician's competency, but a  
 2008 written regular examination is not required. Within 60 days  
 2009 after receipt of an application for a temporary certificate, the  
 2010 board shall review the application and issue the temporary  
 2011 certificate, notify the applicant of denial, or notify the  
 2012 applicant that the board recommends additional assessment,  
 2013 training, education, or other requirements as a condition of  
 2014 certification. If the applicant has not actively practiced  
 2015 during the prior 3 years and the board determines that the  
 2016 applicant may lack clinical competency, possess diminished or



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2017 inadequate skills, lack necessary medical knowledge, or exhibit  
 2018 patterns of deficits in clinical decisionmaking, the board may:  
 2019 1. Deny the application;  
 2020 2. Issue a temporary certificate having reasonable  
 2021 restrictions that may include, but are not limited to, a  
 2022 requirement for the applicant to practice under the supervision  
 2023 of a physician approved by the board; or  
 2024 3. Issue a temporary certificate upon receipt of  
 2025 documentation confirming that the applicant has met any  
 2026 reasonable conditions of the board which may include, but are  
 2027 not limited to, completing continuing education or undergoing an  
 2028 assessment of skills and training.  
 2029 (c) Any certificate issued under this section is valid  
 2030 only so long as the State Surgeon General determines that the  
 2031 reason for which it was issued remains a critical need to the  
 2032 state. The Board of Osteopathic Medicine shall review each  
 2033 temporary certificateholder not less than annually to ascertain  
 2034 that the minimum requirements of the Osteopathic Medical  
 2035 Practice Act and its adopted rules are being complied with. If  
 2036 it is determined that such minimum requirements are not being  
 2037 met, the board shall revoke such certificate or shall impose  
 2038 restrictions or conditions, or both, as a condition of continued  
 2039 practice under the certificate.  
 2040 (d) The board may not issue a temporary certificate for  
 2041 practice in an area of critical need to any physician who is  
 2042 under investigation in any jurisdiction in the United States for  
 2043 an act that would constitute a violation of this chapter until  
 2044 such time as the investigation is complete, at which time the

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2045 provisions of s. 459.015 apply.

2046 (4) The application fee and all licensure fees, including  
 2047 neurological injury compensation assessments, shall be waived  
 2048 for those persons obtaining a temporary certificate to practice  
 2049 in areas of critical need for the purpose of providing  
 2050 volunteer, uncompensated care for low-income residents. The  
 2051 applicant must submit an affidavit from the employing agency or  
 2052 institution stating that the physician will not receive any  
 2053 compensation for any service involving the practice of medicine.

2054 Section 34. (1) The Department of Health shall conduct an  
 2055 evaluation and justification review of each division established  
 2056 under s. 20.43, Florida Statutes. The review shall be  
 2057 comprehensive in its scope and, at a minimum, must be conducted  
 2058 in such a manner as to specifically determine the following, and  
 2059 to consider and determine what changes, if any, are needed with  
 2060 respect thereto:

2061 (a) The identifiable cost of each division and programs  
 2062 within the division.

2063 (b) The specific purpose of each division and programs  
 2064 within the division, and the specific public health benefit  
 2065 derived therefrom.

2066 (c) Progress toward achieving the outputs and outcomes  
 2067 associated with each division and programs within the division.

2068 (d) An explanation of circumstances contributing to the  
 2069 department's ability to achieve, not achieve, or exceed its  
 2070 projected outputs and outcomes, as defined in s. 216.011,  
 2071 associated with each division and programs within the division.

2072 (e) Alternate courses of action that would result in

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2073 administration of the same program in a more efficient or  
 2074 effective manner. The courses of action to be considered must  
 2075 include, but are not limited to:

2076 1. Whether the department could be organized in a more  
 2077 efficient and effective manner, including whether each  
 2078 division's mission, goals, or objectives should be redefined.  
 2079 The report must include a rationale for each department division  
 2080 and programs within the division, the return on investment of  
 2081 each division and programs within the division, the relatedness  
 2082 of the division and programs within the division to a public  
 2083 health function, and any federal funding support for each  
 2084 division and programs within the division. The review should  
 2085 recommend the reduction and restructuring of department bureaus  
 2086 and divisions.

2087 2. Whether the division and programs within the division  
 2088 could be administered more efficiently or effectively to avoid  
 2089 duplication of activities and ensure that activities are  
 2090 adequately coordinated.

2091 3. Whether the division and programs within that division  
 2092 could be performed more efficiently or more effectively by  
 2093 another unit of government or a private entity.

2094 4. When compared to costs, whether effectiveness warrants  
 2095 elimination of the division or programs within the division or,  
 2096 if the division or a program within the division serves a  
 2097 limited interest, whether the division or program should be  
 2098 redesigned to require users to finance program costs.

2099 5. Whether the cost to administer the division or program  
 2100 within the division exceeds license and other fee revenues paid

ENROLLED  
 HB 5311, Engrossed 1

2010 Legislature

2101 by those being regulated.

2102 6. Whether other changes could improve the efficiency and

2103 effectiveness of the division or program within the division.

2104 (f) The consequences of discontinuing such division or

2105 programs within the division. If any discontinuation is

2106 recommended, such recommendation must be accompanied by a

2107 description of alternatives to implement such recommendation,

2108 including an implementation schedule for discontinuation and

2109 recommended procedures for assisting state agency employees

2110 affected by the discontinuation.

2111 (g) Whether current performance measures and standards

2112 should be reviewed or amended to assist department efforts in

2113 achieving outputs and outcome measures.

2114 (h) Whether the information reported as part of the

2115 state's performance-based program budgeting system has relevance

2116 and utility for the evaluation of each division and programs

2117 within the division.

2118 (i) Whether department management has established control

2119 systems sufficient to ensure that performance data are

2120 maintained and supported by department records and accurately

2121 presented in department performance reports.

2122 (3) No later than March 1, 2011, the department shall

2123 submit a report on its evaluation and justification review

2124 findings and recommendations to the President of the Senate, the

2125 Speaker of the House of Representatives, the chairs of the

2126 appropriate substantive committees, the chairs of the

2127 appropriations committees, the Legislative Auditing Committee,

2128 the Governor, and the State Surgeon General.

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2129 Section 35. Subsection (3) is added to section 381.00315,  
 2130 Florida Statutes, to read:

2131 381.00315 Public health advisories; public health  
 2132 emergencies.—The State Health Officer is responsible for  
 2133 declaring public health emergencies and issuing public health  
 2134 advisories.

2135 (3) To facilitate effective emergency management, when the  
 2136 United States Department of Health and Human Services contracts  
 2137 for the manufacture and delivery of licensable products in  
 2138 response to a public health emergency and the terms of those  
 2139 contracts are made available to the states, the department shall  
 2140 accept funds provided by counties, municipalities, and other  
 2141 entities designated in the state emergency management plan  
 2142 required under s. 252.35(2) (a) for the purpose of participation  
 2143 in those contracts. The department shall deposit those funds in  
 2144 the Grants and Donations Trust Fund and expend those funds on  
 2145 behalf of the donor county, municipality, or other entity for  
 2146 the purchase of the licensable products made available under the  
 2147 contract.

2148 Section 36. For fiscal year 2010-2011 only, and  
 2149 notwithstanding s. 216.181, Florida Statutes, the Department of  
 2150 Health is authorized to submit a budget amendment requesting  
 2151 additional Grants and Donations Trust Fund budget authority for  
 2152 the Florida Center for Nursing to make expenditures supported by  
 2153 grants and donations.

2154 Section 37. Paragraph (a) of subsection (1) of section  
 2155 409.9201, Florida Statutes, is amended to read:

2156 409.9201 Medicaid fraud.—

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2157 (1) As used in this section, the term:

2158 (a) "Prescription drug" means any drug, including, but not  
 2159 limited to, finished dosage forms or active ingredients that are  
 2160 subject to, defined by, or described by s. 503(b) of the Federal  
 2161 Food, Drug, and Cosmetic Act or by s. 465.003(8), s.  
 2162 499.003 (46) ~~(45)~~ or (53) ~~(52)~~, or s. 499.007(13).

2163  
 2164 The value of individual items of the legend drugs or goods or  
 2165 services involved in distinct transactions committed during a  
 2166 single scheme or course of conduct, whether involving a single  
 2167 person or several persons, may be aggregated when determining  
 2168 the punishment for the offense.

2169 Section 38. Subsection (3) of section 465.0265, Florida  
 2170 Statutes, is amended to read:

2171 465.0265 Centralized prescription filling.—

2172 (3) The filling, delivery, and return of a prescription by  
 2173 one pharmacy for another pursuant to this section shall not be  
 2174 construed as the filling of a transferred prescription as set  
 2175 forth in s. 465.026 or as a wholesale distribution as set forth  
 2176 in s. 499.003 (54) ~~(53)~~.

2177 Section 39. Paragraph (g) of subsection (2) of section  
 2178 499.01, Florida Statutes, are amended to read:

2179 499.01 Permits.—

2180 (2) The following permits are established:

2181 (g) Restricted prescription drug distributor permit.—A  
 2182 restricted prescription drug distributor permit is required for  
 2183 any person that engages in the distribution of a prescription  
 2184 drug, which distribution is not considered "wholesale

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2185 distribution" under s. 499.003 (54) ~~(53)~~ (a).

2186 1. A person who engages in the receipt or distribution of  
 2187 a prescription drug in this state for the purpose of processing  
 2188 its return or its destruction must obtain a permit as a  
 2189 restricted prescription drug distributor if such person is not  
 2190 the person initiating the return, the prescription drug  
 2191 wholesale supplier of the person initiating the return, or the  
 2192 manufacturer of the drug.

2193 2. Storage, handling, and recordkeeping of these  
 2194 distributions must comply with the requirements for wholesale  
 2195 distributors under s. 499.0121, but not those set forth in s.  
 2196 499.01212.

2197 3. A person who applies for a permit as a restricted  
 2198 prescription drug distributor, or for the renewal of such a  
 2199 permit, must provide to the department the information required  
 2200 under s. 499.012.

2201 4. The department may adopt rules regarding the  
 2202 distribution of prescription drugs by hospitals, health care  
 2203 entities, charitable organizations, or other persons not  
 2204 involved in wholesale distribution, which rules are necessary  
 2205 for the protection of the public health, safety, and welfare.

2206 Section 40. Paragraph (d) of subsection (4) of section  
 2207 499.0121, Florida Statutes, is amended to read:

2208 499.0121 Storage and handling of prescription drugs;  
 2209 recordkeeping.—The department shall adopt rules to implement  
 2210 this section as necessary to protect the public health, safety,  
 2211 and welfare. Such rules shall include, but not be limited to,  
 2212 requirements for the storage and handling of prescription drugs

ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2213 and for the establishment and maintenance of prescription drug  
 2214 distribution records.

2215 (4) EXAMINATION OF MATERIALS AND RECORDS.—

2216 (d) Upon receipt, a wholesale distributor must review  
 2217 records required under this section for the acquisition of  
 2218 prescription drugs for accuracy and completeness, considering  
 2219 the total facts and circumstances surrounding the transactions  
 2220 and the wholesale distributors involved. This includes  
 2221 authenticating each transaction listed on a pedigree paper, as  
 2222 defined in s. 499.003 (37) ~~(36)~~.

2223 Section 41. Paragraphs (a) and (b) of subsection (2) of  
 2224 section 499.01211, Florida Statutes, are amended to read:

2225 499.01211 Drug Wholesale Distributor Advisory Council.—

2226 (2) The State Surgeon General, or his or her designee, and  
 2227 the Secretary of Health Care Administration, or her or his  
 2228 designee, shall be members of the council. The State Surgeon  
 2229 General shall appoint nine additional members to the council who  
 2230 shall be appointed to a term of 4 years each, as follows:

2231 (a) Three different persons each of whom is employed by a  
 2232 different prescription drug wholesale distributor licensed under  
 2233 this part which operates nationally and is a primary wholesale  
 2234 distributor, as defined in s. 499.003 (47) ~~(46)~~.

2235 (b) One person employed by a prescription drug wholesale  
 2236 distributor licensed under this part which is a secondary  
 2237 wholesale distributor, as defined in s. 499.003 (52) ~~(51)~~.

2238 Section 42. Subsection (1) of section 499.03, Florida  
 2239 Statutes, is amended to read:

2240 499.03 Possession of certain drugs without prescriptions



ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2241 unlawful; exemptions and exceptions.—  
 2242 (1) A person may not possess, or possess with intent to  
 2243 sell, dispense, or deliver, any habit-forming, toxic, harmful,  
 2244 or new drug subject to s. 499.003(33)~~(32)~~, or prescription drug  
 2245 as defined in s. 499.003(43)~~(42)~~, unless the possession of the  
 2246 drug has been obtained by a valid prescription of a practitioner  
 2247 licensed by law to prescribe the drug. However, this section  
 2248 does not apply to the delivery of such drugs to persons included  
 2249 in any of the classes named in this subsection, or to the agents  
 2250 or employees of such persons, for use in the usual course of  
 2251 their businesses or practices or in the performance of their  
 2252 official duties, as the case may be; nor does this section apply  
 2253 to the possession of such drugs by those persons or their agents  
 2254 or employees for such use:  
 2255 (a) A licensed pharmacist or any person under the licensed  
 2256 pharmacist's supervision while acting within the scope of the  
 2257 licensed pharmacist's practice;  
 2258 (b) A licensed practitioner authorized by law to prescribe  
 2259 prescription drugs or any person under the licensed  
 2260 practitioner's supervision while acting within the scope of the  
 2261 licensed practitioner's practice;  
 2262 (c) A qualified person who uses prescription drugs for  
 2263 lawful research, teaching, or testing, and not for resale;  
 2264 (d) A licensed hospital or other institution that procures  
 2265 such drugs for lawful administration or dispensing by  
 2266 practitioners;  
 2267 (e) An officer or employee of a federal, state, or local  
 2268 government; or

## ENROLLED

HB 5311, Engrossed 1

2010 Legislature

2269 (f) A person that holds a valid permit issued by the  
2270 department pursuant to this part which authorizes that person to  
2271 possess prescription drugs.

2272 Section 43. Paragraphs (i) and (m) of subsection (1) of  
2273 section 499.05, Florida Statutes, are amended to read:

2274 499.05 Rules.—

2275 (1) The department shall adopt rules to implement and  
2276 enforce this part with respect to:

2277 (i) Additional conditions that qualify as an emergency  
2278 medical reason under s. 499.003 (54) ~~(53)~~ (b) 2.

2279 (m) The recordkeeping, storage, and handling with respect  
2280 to each of the distributions of prescription drugs specified in  
2281 s. 499.003 (54) ~~(53)~~ (a) - (d).

2282 Section 44. Subsection (1) of section 794.075, Florida  
2283 Statutes, is amended to read:

2284 794.075 Sexual predators; erectile dysfunction drugs.—

2285 (1) A person may not possess a prescription drug, as  
2286 defined in s. 499.003 (43) ~~(42)~~, for the purpose of treating  
2287 erectile dysfunction if the person is designated as a sexual  
2288 predator under s. 775.21.

2289 Section 45. Except as otherwise expressly provided in this  
2290 act, this act shall take effect July 1, 2010.