

HEALTH CARE PRACTITIONERS

HB 109 — Clinical, Counseling, and Psychotherapy Services

by Rep. Bemby and others (SB 498 by Senator Baker)

The bill provides that there is no liability and no cause of action against a licensed clinical social worker, marriage and family therapist, or mental health counselor (collectively known as psychotherapists) when the psychotherapist makes a disclosure of otherwise confidential communications regarding a patient or client to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

In order to obtain the waiver of liability, the licensed psychotherapist must make a clinical judgment that there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society, and the licensed psychotherapist may only communicate the information to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 114-0

CS/HB 185 — Access to Health Care

by Health Care Regulation Policy Committee and Rep. Hudson and others (CS/SB 702 by Banking and Insurance Committee and Senator Gaetz)

The bill adds a representative from the dental community to the Florida Healthy Kids Corporation board of directors. The member will be appointed by the Governor from three candidates who are nominated by the Florida Dental Association.

The bill creates two new provider contract prohibitions for prepaid limited health service organization (PLHSO) contracts entered into on or after July 1, 2009. Contracts between a PLHSO and a provider of limited health services may not contain provisions that prohibit or restrict the provider from contracting with other PLHSOs. The bill also prohibits PLHSOs from requiring providers to accept the terms of other health care practitioner contracts with the PLHSO, as a condition of contract continuation or renewal.

The bill authorizes health care practitioners to meet their service obligations over the biennial licensure period, rather than annually, in order to be eligible for the benefits available to health care providers who volunteer their services under the Access to Health Care Act. Practitioners who volunteer 160 hours of service over two years and provide the necessary documentation to the Department of Health are eligible for a waiver of their biennial licensure renewal fee and credit for up to 25 percent of their continuing education credits. Retired health care practitioners must volunteer 800 hours over the biennium.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 114-0

HB 387 — Medical Faculty Certificates

by Rep. Rivera (SB 1136 by Senator Gelber)

The bill increases the maximum number, from 15 to 30, of medical faculty certificates that may be issued to the faculty at each of the following institutions: the University of Florida, University of Miami, University of South Florida, Florida State University, Florida International University, University of Central Florida, and the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida. The bill increases the maximum number, from 5 to 10, of medical faculty certificates that may be issued to the faculty at the Mayo Medical School at the Mayo Clinic in Jacksonville, Florida.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

CS/SB 720 — Physician Practice

by Health Regulation Committee and Senators Peaden, Oelrich, and Sobel

The bill prohibits a medical physician from holding himself or herself out as a board-certified specialist in dermatology unless the agency that recognizes the specialty is reviewed and reauthorized by the Board of Medicine every three years.

The bill provides that a supervising medical or osteopathic physician may not be required to review and cosign charts or medical records of a physician assistant under the physician's supervision. The bill also deletes the requirement for a supervising medical or osteopathic physician to review and sign prescription and dispensing records created by a physician assistant that the physician supervises.

The bill clarifies an exemption to physician supervision requirements in offices where hair removal is being performed by an advanced registered nurse practitioner or a physician assistant. The bill exempts offices at which the exclusive service being performed is laser hair removal by an advanced registered nurse practitioner or physician assistant from the physician supervision requirements under s. 458.348(3) and (4), F.S.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 118-0

CS/SB 948 — Emergency Medical Services

by Health Regulation Committee and Senator Jones

The bill authorizes the Department of Health to determine, by rule, what portion of the paramedic field internship may be satisfied aboard an advanced life supported vehicle other than an ambulance. The bill revises the minimum requirements for drivers of basic life support vehicles, advanced life support vehicles, and air ambulances. The bill eliminates the ineligibility of a person who has been convicted of reckless driving within the past three years. Additionally, the 3-year period of ineligibility for a person to become an ambulance driver is limited to when the person was initially designated as a driver.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 118-0

CS/HB 1139 — Florida Center for Nursing

by Health Care Regulation Policy Committee and Rep. Y. Roberson and others (CS/SB 2030 by Health Regulation Committee and Senator Rich)

The bill requires the Board of Nursing to provide specified information regarding the Florida Center for Nursing to nurses at the time of licensure renewal. The Board of Nursing must provide the nurse with a summary of the center's work, a link to the center's Internet website, and the following statement: "The Florida Center for Nursing's operating revenues are derived in part from your donation. In order for the Florida Center for Nursing to continue its work on behalf of nurses, please donate."

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 115-0

CS/CS/HB 1209 — Nursing Programs

by Government Accountability Act Council; State and Community Colleges and Workforce Policy Committee; and Rep. Grimsley (CS/CS/SB 2284 by Health and Human Services Appropriations Committee; Higher Education Committee; and Senator Haridopolos)

The bill streamlines the application process for new programs for the prelicensure education of professional or practical nurses. The bill repeals the Board of Nursing's (BON's) authority to adopt rules for the approval of nursing programs and instead codifies the program standards in law. The BON must approve or deny a program within 90 days if the application documents compliance with: program standards set by the bill for faculty qualifications; clinical training and clinical simulation requirements; faculty-to-student supervision ratios; and curriculum and instruction requirements.

The BON's rulemaking authority is limited to rules that prescribe the format for nursing programs to submit program applications and summary descriptions of program compliance. The BON is prohibited from imposing any condition or requirement on a nursing program submitting

an application, an approved program, or a program on probationary status except as authorized under the bill. The BON is directed to repeal all rules in existence on July 1, 2009, that are inconsistent with the bill.

The bill requires the Florida Center for Nursing and the Office of Program Policy Analysis and Government Accountability to monitor the administration of these new requirements and report their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually through January 30, 2015.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 111-0

CS/CS/SB 1868 — Practice of Pharmacy

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peadar

The bill amends the law relating to health insurance coverage for use of drugs in the treatment of cancer to update the definition of “standard reference compendium” to mean an authoritative compendium identified by the Secretary of the United States Department of Health and Human Services and recognized by the federal Centers for Medicare and Medicaid Services.

The bill revises requirements for written prescriptions for medicinal drugs to delete a requirement that the quantity of the drug prescribed be in both textual and numerical formats and that the prescription be dated with the month written out in textual letters. The bill requires a written prescription for a controlled substance to have the quantity of the drug prescribed in both textual and numerical formats and be dated with the abbreviated month written on the face of the prescription.

If the prescriber of a controlled substance is unavailable to verify a prescription, the pharmacist may dispense the drug under specified circumstances. The pharmacist may dispense a controlled substance but may require the person to whom it is dispensed to provide valid photographic identification. The bill authorizes the pharmacist to dispense a controlled substance for a prescription that does not include the quantity or date written out in textual format without verification of the quantity or date written on the prescription. The pharmacist may do so only if the pharmacy previously dispensed another prescription for the person to whom the prescription was written.

The bill transfers a provision that exempts pharmacists from ch. 468, part XIV, F.S., relating to orthotics, prosthetics, and pedorthics, to ch. 465, F.S., the Florida Pharmacy Act.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

HEALTH CARE FACILITIES AND SERVICES

CS/CS/SB 162 — Electronic Health Records

by Governmental Oversight and Accountability Committee; Health Regulation Committee; and Senator Ring

This bill creates the “Florida Electronic Health Records Exchange Act” and defines terms related to electronic health records and the exchange thereof.

The Agency for Health Care Administration (Agency) is required to develop a universal patient authorization form to document patient authorization for the use or release of an identifiable health record. A health care provider must accept this authorization form, but is not required to use this authorization form. The bill provides for immunity from civil liability for accessing or releasing an identifiable health record in response to the universal patient authorization form and establishes liability for compensatory damages for an unauthorized release, plus attorney’s fees and costs, for a person who fraudulently uses an authorization form or fraudulently obtains an identifiable health record of another person.

The bill provides for the emergency release of an identifiable health record without the patient’s consent for use in the treatment of the patient for an emergency medical condition when the health care provider is unable to obtain the patient’s consent or the consent of the patient’s representative. A health care provider is immune from civil liability when the provider, in good faith, releases or accesses an identifiable health record of a patient in accordance with this emergency authorization.

Licensed hospitals, ambulatory surgical centers, and mobile surgical facilities are authorized to release patient records without the consent of the patient or his or her legal representative to health care practitioners and providers currently involved in the care or treatment of the patient for use only in connection with the treatment of the patient. In addition, clinical laboratories are authorized to disclose a patient’s test results, without the patient’s consent, to a health care practitioner or provider who did not request that the test be performed but who is involved in the care or treatment of the patient.

The bill authorizes the Agency to establish a certified electronic health record technology adoption loan program from any donations from public or private entities and federal funding from the American Recovery and Reinvestment Act of 2009, subject to a specific appropriation.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 119-0

CS/SB 408 — Clinical Laboratories/Drug Tests/Human Specimens

by Judiciary Committee and Senators Fasano and Lynn

This bill eliminates the statutory requirement that initial drug tests performed in compliance with a drug-free workplace program be conducted by a licensed or certified laboratory. Confirmation

tests would still be required to be conducted by a licensed or certified laboratory. The bill also requires clinical laboratories to accept human specimens submitted for examination by Florida-licensed advanced registered nurse practitioners.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

CS/SB 620 — Health Facilities

by Health Regulation Committee and Senator Oelrich

This bill expands the definition of a health facility for purposes of eligibility to access financing through debt issued by a health facilities authority. The additional facilities include any private corporation organized as a not-for-profit and authorized by law to provide assisted living services, hospice services, or independent living facilities and services as part of a retirement community that provides nursing home care services or assisted living services on the same campus.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 117-0

CS/CS/HB 873 — Inactive Licenses and Certificates of Need for Health Care Providers

by Health and Family Services Policy Council; Health Care Regulation Policy Committee; and Rep. A. Williams and others (CS/SB 1926 by Health Regulation Committee and Senator Lawson)

The bill extends the period in which a certificate of need is valid from 18 months to 3 years if an applicant has not commenced construction, if the project provides for construction, or incurred an enforceable capital expenditure commitment for a project, if the project does not provide for construction. CS/CS/CS/SB 1986, which passed after this bill, modifies this extension to apply only to a certificate of need that was issued prior to April 1, 2009.

The bill also authorizes a second renewal of an inactive license for a statutory rural hospital if the licensee has plans approved by the agency and construction has commenced, if construction or renovation is required; or the licensee has made an enforceable capital expenditure greater than 25 percent of the total costs associated with the hiring of staff and the purchase of equipment and supplies needed to operate the facility upon opening, if construction or renovation is not required. The maximum period for an inactive license of a statutory rural hospital is extended from 24 months to 36 months.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 114-1

CS/CS/CS/SB 1986 — Health Care (Licensure-related sections)

by Health and Human Services Appropriations Committee; Criminal Justice Committee; Health Regulation Committee; and Senators Gaetz, Peadar, and Lynn

This bill addresses Medicaid fraud and abuse and streamlines health facility regulation through the Agency for Health Care Administration (Agency). The sections of the bill related to licensure reduce duplicative and unnecessary regulation by:

- Eliminating duplicative reporting, certain annual reports, an outdated pilot project, a multi-agency workgroup, registration of utilization review agents, quality-of-care monitors, provisions related to dining assistance which are addressed in federal law, and the requirement for a certificate of exemption for a clinical laboratory that performs only waived tests;
- Revising conditions which qualify as an adverse event that must be reported by nursing homes and assisted living facilities. Abuse, neglect, or exploitation is no longer classified as an adverse incident and is required to be reported immediately to the central abuse hotline and within 5 days to the Agency;
- Eliminating the requirement for a nursing home to post the facility's policy and procedures regarding a resident's personal property and instead requiring the facility to provide a copy to employees and residents at admission and when revised;
- Revising provisions related to licensure and accreditation of clinics engaged in magnetic resonance imaging services;
- Modifying uniform provisions for facilities licensed by the Agency, including:
 - Revising the definition of a "change of ownership" for facility licensure and for purposes of Medicaid enrollment;
 - Eliminating the requirement for submission of a statement regarding a voluntary board member's status;
 - Requiring submission of information regarding a facility's administrator and financial officer;
 - Submission timeframes for licensure renewal applications and other applications and requests;
 - Authorizing the Agency to send documents electronically and to issue provisional licenses;
 - Providing for the Agency's communication of deficiencies, submission of corrective action plans by licensed facilities, and the classification of violations; and
 - Providing for emergency management planning and operations, including the designation of a safety liaison to serve as the primary contact for emergency operations, and inactive licenses;
- Designating additional disqualifying offenses for persons who work with facilities licensed by the Agency; and
- Deleting the requirement for the Agency to publish certain information about nursing homes in printed form and to post information about nursing home deficiencies on the

Internet since this information duplicates data available through a website maintained at the federal level.

The bill also removes the Agency from participating in the certification and regulation of 211 Network providers, prohibits any provider licensed by the Agency from knowingly discharging a patient or client to an unlicensed facility, and eliminates the requirement for the Agency to require a medical assessment of a resident in an adult living facility if it appears that the resident needs care beyond the licensed capabilities of the facility.

A specialty-licensed children's hospital is authorized to provide certain cardiovascular services as a continuum-of-care for adults with congenital heart disease without obtaining additional licensure as a provider of adult cardiovascular services.

The bill modifies the definitions of "standard reference compendium" pertaining to coverage for the use of drugs in treatment of cancer in insurance contracts to reflect the current authoritative compendia and "rural hospital" to extend the current designation as a rural hospital for certain hospitals until 2015. Finally, the bill modifies a provision passed in CS/CS/HB 873, to specify that the extension of a certificate of need only applies to certificates of need issued prior to April 1, 2009.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 117-0

CS/CS/SB 2658 — Fraud and Abuse in State-funded Programs

by Criminal Justice Committee; Health Regulation Committee; and Senator Baker

The bill increases the requirements for applicants for licensure as home health agencies, home medical equipment providers, and health care clinics to include: additional financial documentation and a \$500,000 surety bond for non-immigrant aliens. The bill creates a moratorium on new and change of ownership home health agency licenses in counties that meet certain criteria until July 1, 2010. The bill also creates new third-degree felony offenses for certain violations relating to home health agencies, home medical equipment providers, and health care clinics.

The bill amends the Florida False Claims Act to make it more difficult to award attorney's fees to a False Claims Act defendant by specifying that if the defendant is the prevailing party in a False Claims Act case, the court *may* award attorney's fees if the court finds that the action was clearly frivolous, clearly vexatious, or brought primarily for the purposes of harassment. The bill specifies that the amendment to the Florida False Claims Act applies to any pending or future action on or after July 1, 2009.

The bill also designates Miami-Dade County as a health care fraud crisis area.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 116-0

MEDICAID/KIDCARE

CS/HB 285 — Medicaid Low-Income Pool Council

by Health Care Regulation Policy Committee and Rep. Patronis and others (CS/CS/SB 556 by Policy and Steering Committee on Ways and Means; Health Regulation Committee; and Senators Gaetz, Bennett, Detert, Dean, Wise, Smith, Fasano, Altman, Siplin, Pruitt, Lawson, Haridopolos, Lynn, and Baker)

The bill increases the membership of the Low-Income Pool (LIP) Council from 17 members to 24 members. The LIP Council advises the Agency for Health Care Administration (AHCA) on Medicaid supplemental financing. The seven additional members include:

- Two members appointed by the Speaker of the House of Representatives;
- Two members appointed by the President of the Senate;
- One member representing federally qualified health centers;
- One member representing the Department of Health; and
- One nonvoting member from the AHCA to serve as chair of the LIP Council.

The bill requires that only one of the members appointed by the Speaker of the House of Representatives must be a physician, and that only one of the members appointed by the President of the Senate must be a physician. These appointed physicians must routinely take calls in a trauma center or hospital emergency department.

The bill prohibits individuals who are registered lobbyists under s. 11.045, F.S., or s. 112.3215, F.S., from serving as members of the LIP Council, with the exception of a full-time employee of a public entity.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 37-0; House 117-0

HB 807 — Florida Kidcare Program Outreach Study

by Rep. Clarke-Reed and others (SB 338 by Senator Wilson)

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study the effectiveness of the Florida KidCare outreach program and submit a report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010. The OPPAGA is directed to work with KidCare stakeholders and examine certain KidCare administrative procedures specified in the bill. If the OPPAGA finds shortcomings in the KidCare outreach efforts, the report must include options for improvement.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-0

CS/CS/SB 918 — Florida KidCare Program Administration

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senators Rich, Lynn, Bennett, Aronberg, Sobel, Gaetz, Smith, Lawson, and Joyner

The bill makes several changes to the Florida KidCare program. The bill streamlines the KidCare application process by requiring the family income of applicants to be verified electronically. The bill removes administrative barriers to the KidCare program by:

- Decreasing the period of time that a child is disenrolled from the KidCare program for nonpayment of premiums from 60 to 30 days;
- Reducing the waiting period from 6 months to 60 days for KidCare eligibility for families that have voluntarily cancelled their employer-sponsored or private health insurance coverage; and
- Increasing the number of “good cause” reasons that families can use to voluntarily cancel their health insurance coverage and be immediately eligible for KidCare coverage without a waiting period.

The bill also adds a representative of the Department of Children and Family Services to the board of directors of the Florida Healthy Kids Corporation.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 40-0; House 116-0

CS/CS/CS/SB 1986 — Health Care (Fraud-related sections)

by Health and Human Services Appropriations Committee; Criminal Justice Committee; Health Regulation Committee; and Senators Gaetz, Peadar, and Lynn

The bill addresses systemic health care fraud. The bill increases the Medicaid program’s authority to address fraud, particularly as it relates to home health services by:

- Requiring that home health services for Medicaid recipients be medically-necessary and ordered by a physician via a written prescription that meets the specified requirements in law.
- Requiring all Medicaid recipients to receive information once a year on how to report criminal Medicaid fraud, the Medicaid Fraud Control Unit’s toll-free hotline number, and the reward program created in the bill.
- Requiring the Agency for Health Care Administration (AHCA) to post a list of all Medicaid providers that have been sanctioned or terminated for cause from the Medicaid program on its website.
- Requiring the AHCA to use technology to address health care fraud.
- Requiring the AHCA to track Medicaid provider prescription and billing patterns and evaluate them against Medicaid medical-necessity criteria and coverage limitation

guidelines adopted by rule and include this information in the Medicaid Program Integrity and Medicaid Fraud Control Unit's joint annual report.

- Requiring the Medicaid Program Integrity Unit to take action against a provider that violates s. 409.913, F.S. Previously this authority was permissive.
- Authorizing the AHCA to enroll a Medicaid provider located outside of Florida if the provider's location is no more than 50 miles from the Florida state line or the AHCA determines a need for that provider type.
- Requiring all health care facilities licensed by the AHCA to provide their clients an AHCA-written description of Medicaid fraud and the statewide toll-free telephone number for the central Medicaid fraud hotline.

The bill designates Miami-Dade County as a health care fraud crisis area and directs the AHCA to implement two pilot projects in Miami-Dade County to prevent the overutilization of home health services and control, verify, and monitor the delivery of home health services in the Medicaid program.

The bill increases health care facility and health care practitioner licensing standards to keep fraudulent actors from obtaining a health care license in Florida by:

- Requiring the AHCA to deny a license to any health care facility applicant, and the Department of Health (DOH) to deny a license, certificate, or registration to any health care practitioner applicant, if the applicant or any controlling interest has been:
 - Convicted of, or enters a plea of guilty or no contest to, a felony under ch. 409, 817, or 893, F.S., 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence or any subsequent period of probation ended more than 15 years ago;
 - Terminated for cause from the Florida Medicaid Program, unless the applicant has been in good standing with the Florida Medicaid Program for the most recent five years; or
 - Terminated for cause from the federal Medicare program or another state Medicaid program, unless the applicant has been in good standing with a state Medicaid program for the most recent five years and the termination occurred at least 20 years prior to the date of the application.
- Requiring pharmacy permit applicants to be fingerprinted and pass a state and national criminal history records check.
- Authorizing the AHCA to deny, revoke, or suspend the license of a home health agency, and requiring the AHCA to impose a fine of \$5,000 against a home health agency, that demonstrates a pattern of billing the Medicaid program for medically-unnecessary services.
- Increasing the requirements for applicants for licensure as home health agencies, home medical equipment providers, and health care clinics to include additional financial documentation and a \$500,000 surety bond for non-immigrant aliens.
- Prohibiting the AHCA from renewing a home health agency license, if the applicant is located in a county that has at least one home health agency and the county has more than

one home health agency per 5,000 persons, based on the most recent population estimates published by the Legislature's Office of Economic and Demographic Research, and the applicant or any controlling interest has been administratively sanctioned by the AHCA in the last 2 years for a specified list of violations.

- Creating a moratorium on new and change of ownership home health agency licenses in counties that meet certain criteria until July 1, 2010.

In addition, the bill creates incentives for persons to report incidents of Medicaid fraud by: offering monetary rewards for persons who report Medicaid fraud to the authorities; removing a disincentive to pursue an action under the Florida False Claims Act; and providing civil immunity for persons who report suspected Medicaid fraud.

The bill creates disincentives to commit Medicaid fraud directly by creating additional criminal felonies for committing health care fraud by:

- Creating a first and second degree felony for persons who commit Medicaid provider fraud. The new penalties increase in severity based on the amount of money stolen from the Medicaid program or the amount of money the provider attempted to steal.
- Requiring Medicaid providers convicted of Medicaid fraud to also pay the state a fine equal to five times the amount of money stolen from the state or the total amount of money stolen from the Medicaid program, whichever is greater.
- Creating a third degree felony for persons who apply for a home health agency, durable medical equipment, or clinic license and knowingly file information on the licensure application that is misleading or false.

The bill decreases the financial surplus requirements for entities that contract with the AHCA on a prepaid basis, including Medicaid HMOs, provider services networks, and prepaid mental health plans. The surplus requirements will be the same as for commercial HMOs.

The bill also directs the AHCA to develop a plan to implement a medical home pilot project that utilizes primary care case management enhanced by medical home networks to provide coordinated and cost-effective care that is reimbursed on a fee-for-service basis, and to compare the performance of medical home networks with other existing Medicaid managed care models.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 117-0

PUBLIC HEALTH

HB 331 — Public Health Initiatives

by Rep. Skidmore and others (SB 902 by Senator Deutch)

The bill changes the name of the Florida Public Health Foundation, Inc., to the Florida Public Health Institute, Inc.; modifies the purpose of the institute; deletes the mission statement for the institute; revises the membership of the board of directors of the institute and the terms of members; deletes the duties of the institute to facilitate communication between biomedical researchers and health providers; and requires the Florida Public Health Institute, Inc., to provide an annual report of its activities, excluding its finances, to the presiding officers in each house of the Legislature.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 36-0; House 116-1

CS/CS/SB 440 — Public Records/Department of Health/Prescription Drug Monitoring Program

by Governmental Oversight and Accountability Committee; Health Regulation Committee; and Senators Fasano and Crist

This bill makes confidential and exempt from the Public Records Law and s. 24(a), Art. I of the State Constitution identifying information, including, but not limited to, the name, address, telephone number, insurance plan number, government-issued identification number, provider number, Drug Enforcement Administration number, or any other unique identifying information or number of a patient, a patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy, that is contained in records held by the Department of Health (DOH) under s. 893.055, F.S.

CS/CS/CS/CS/SB 462, the companion bill to CS/CS/SB 440, creates s. 893.055, F.S., to establish an electronic system in the DOH for tracking controlled substance prescriptions. The DOH is required to give specified entities or persons access to the confidential and exempt information after using a verification process to ensure the legitimacy of that person's or entity's request for the information in particular instances.

This bill establishes criminal penalties for violating the provisions of the bill and subjects the exemption to future repeal and review under the Open Government Sunset Review Act. This bill provides a statement of the public necessity for the exemption.

If approved by the Governor, these provisions take effect July 1, 2009, if CS/CS/CS/CS/SB 462 or similar legislation establishing an electronic system to monitor the prescribing and dispensing of controlled substances is adopted in the same legislative session or extension thereof and becomes law.

Vote: Senate 40-0; House 115-0

CS/CS/CS/CS/SB 462 — Prescription Drugs

by Health and Human Services Appropriations Committee; Governmental Oversight and Accountability Committee; Judiciary Committee; Health Regulation Committee; and Senators Fasano, Aronberg, and Crist

The bill requires the Department of Health (DOH), by December 1, 2010, to design and establish a comprehensive electronic system to monitor the prescribing and dispensing of certain controlled substances. The bill requires prescribers and dispensers of certain controlled substances to report specified information to the DOH for inclusion in the system. When the direct support organization authorized in the bill receives at least \$20,000 in nonstate moneys or the state receives at least \$20,000 in federal grants for the prescription drug monitoring program, the DOH must adopt rules to implement the system. The rules must be adopted by the DOH in consultation with the Office of Drug Control and must address the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information in the system.

Data regarding the dispensing of each controlled substance must be submitted to the DOH no more than 15 days after the date the drug was dispensed, by a procedure and in a format established by the DOH, and must include minimum information specified in the bill. Any person who knowingly fails to report the dispensing of a controlled substance commits a first-degree misdemeanor. The bill provides exemptions from the data reporting requirements for controlled substances when specified acts of dispensing or administering occur for that specific act of dispensing or administration.

The Office of Drug Control, in coordination with the DOH, is authorized to establish a direct-support organization to provide assistance, funding, and promotional support for activities authorized for the prescription drug monitoring program. The bill creates a 12-member Program Implementation and Oversight Task Force within the Executive Office of the Governor to monitor the implementation and safeguarding of the electronic system established for the prescription drug monitoring program.

The bill provides immunity from liability for prescribers and dispensers who in good faith receive and use information from the prescription drug monitoring program. A person may not recover damages against a prescriber or dispenser authorized to access information under the drug monitoring program for accessing or failing to access such information.

The bill requires each physician who practices in a privately owned pain-management facility that primarily engages in the treatment of pain by prescribing narcotic medications to register the facility with the DOH, unless it is a Florida-licensed hospital, ambulatory surgical center, or mobile surgical facility. The bill creates an exemption to the registration requirements for pain management clinics, to be enforced by the Board of Medicine or the Board of Osteopathic Medicine, as applicable, for a privately owned clinic, facility, or office that advertises in any medium for any type of pain management services or employs one or more physicians who are primarily engaged in the treatment of pain by prescribing or dispensing controlled substances if

the majority of the physicians who provide services in the clinic, facility, or office primarily provide surgical services.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 39-0; House 103-10

HB 707 — Management of Wastewater

by Rep. Aubuchon and others (CS/SB 1296 by General Government Appropriations Committee and Senator Bennett)

The bill requires the Department of Health (DOH), when it issues a health advisory against swimming in beach waters due to bacterial contamination, to notify the appropriate local government and the local office of the Department of Environmental Protection (DEP). The DEP must investigate wastewater treatment facilities within one mile of the affected beach to determine whether a facility experienced an incident that may have contributed to the contamination. Upon completion of its investigation, the DEP must provide written notification to the local government in which the affected beach is located.

The DOH may, upon the request of any multicounty independent special district, assign the responsibility and functions for regulating public swimming pools and bathing places to the district.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 40-0; House 115-0

CS/SB 718 — Discretionary Sales Surtaxes

by Health Regulation Committee and Senator King

The bill amends the discretionary sales surtax provision for the “Indigent Care and Trauma Center Surtax” to delete the exclusion of a county that has a population of at least 800,000 residents and is consolidated with one or more municipalities (Duval County) from levying this surtax. The bill will have the effect of authorizing Duval County to levy the Indigent Care and Trauma Center Surtax at the rate of 0.5 percent to fund health care services for indigent and medically poor persons, as well as Level 1 trauma center services. This tax may be imposed by either an extraordinary vote of the county’s governing body or by voter approval in a county-wide referendum.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

CS/CS/SB 766 — Anatomical Gifts

by Judiciary Committee; Health Regulation Committee; and Senators Oelrich and Sobel

This bill revises Florida's anatomical gift law to incorporate certain provisions from the Revised Uniform Anatomical Gift Act of 2006. The bill:

- Defines what constitutes “reasonably available” when a procurement organization must contact a person for action with respect to making, amending, or revoking an anatomical gift;
- Establishes a priority for the purposes of an anatomical gift if a priority is not designated in the document of gift, so that an anatomical gift will be used first for transplantation or therapy if suitable, then for research or education;
- Modifies the manner and effect of making or revoking an anatomical gift;
- Provides safeguards from civil liability or administrative discipline for persons making or using an anatomical gift, the donor's estate, or persons acting on representations related to an individual's relationship to the donor;
- Provides for the validity and interpretation of certain documents of gift; and
- Provides for cooperation between the medical examiner and procurement organizations to facilitate and expedite completion of the medical examiner's responsibilities in a manner that will maximize opportunities to recover anatomical gifts.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

CS/CS/SB 1144 — Prescription Drugs

by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peaden

This bill revises the definition of “manufacturer” under the Florida Drug and Cosmetic Act to include:

- A person registered under the federal Food, Drug, and Cosmetic Act (federal Act) as a prescription drug manufacturer who has entered into a written agreement with another prescription drug manufacturer to distribute that manufacturer's prescription drugs as the drug's manufacturer, consistent with the federal Act;
- An affiliated group member of a prescription drug manufacturer who distributes prescription drugs manufactured only by other members of the affiliated group, whether or not the affiliated group member who is distributing the prescription drugs obtains title to the drugs prior to the distribution. An affiliated group is defined in the bill; and
- A licensed third party logistics provider, while providing warehousing, distribution services, or other services on behalf of the prescription drug's manufacturer.

A prescription drug manufacturer is not required to provide a pedigree paper (information about the ownership and possession of the prescription drug) upon the wholesale distribution of the prescription drugs for which it is deemed the manufacturer. The bill conforms the pedigree paper requirements to allow for a distribution within a manufacturer's affiliated group and facilitate the subsequent wholesale distributions of the drug.

In addition, the bill expands the types of business entities that are eligible to apply for a health care clinic establishment permit in order to purchase prescription drugs for use in providing health care or veterinary services.

If approved by the Governor, these provisions take effect October 1, 2009.

Vote: Senate 39-0; House 118-0

CS/HB 1269 — Breast Cancer Detection and Screening

by Health and Family Services Policy Council and Rep. Homan and others (CS/SB 1880 by Health Regulation Committee and Senators Peaden, Joyner, and Lynn)

This bill creates a breast cancer early detection and treatment referral program within the Department of Health to: promote referrals for the screening, detection, and treatment of breast cancer; educate the public regarding breast cancer and the benefits of early detection; and provide referral services for persons seeking treatment of breast cancer. The program focuses on women aged 19 to 64 who are at or below 200 percent of the federal poverty level for individuals and who do not have health insurance that covers breast cancer screening services. The bill requires the State Surgeon General to submit a report to the Legislature annually regarding breast cancer.

If approved by the Governor, these provisions take effect July 1, 2009.

Vote: Senate 38-0; House 117-0

CS/HB 1405 — Influenza Vaccine Information

by Health Care Services Policy Committee and Rep. Homan and others (CS/SB 2296 by Health Regulation Committee and Senator Constantine)

This bill requires child care facilities, family day care homes, and large family child care homes to provide information regarding influenza immunizations to parents of children enrolled in the facility or home during the months of August and September of each year.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 116-0

HB 7023 — Open Government Sunset Review/Florida Patient Safety Corporation

by Governmental Affairs Policy Committee and Rep. Mayfield (SB 1896 by Health Regulation Committee and Senator Lynn)

This bill repeals provisions of law creating the Florida Patient Safety Corporation (FPSC), the public records exemption and confidentiality provisions for patient safety data or other records held by the FPSC, and the public meetings exemption for portions of meetings held by the FPSC during which confidential and exempt information is discussed.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 113-0