

CHAPTER 99-397

House Bill No. 2125

An act relating to health care; providing for the issuance of Medicaid numbers to certain children; amending s. 20.43, F.S.; revising powers and the internal structure of the department; amending s. 110.205, F.S.; exempting certain positions from career service; amending s. 120.80, F.S.; exempting certain hearings within the department from the requirement of being conducted by an administrative law judge from the Division of Administrative Hearings; amending s. 154.504, F.S.; revising standards for eligibility to participate in a primary care for children and families challenge grant; amending s. 287.155, F.S.; authorizing the department to purchase vehicles and automotive equipment for county health departments; amending s. 372.6672, F.S.; deleting an obsolete reference to the Department of Health and Rehabilitative Services; amending s. 381.004, F.S.; prescribing conditions under which an HIV test may be performed without obtaining consent; amending s. 381.0051, F.S.; authorizing the Department of Health to adopt rules to implement the Comprehensive Family Planning Act; amending s. 381.006, F.S.; providing the department with rule authority relating to inspection of certain group care facilities; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; redefining the term "private water system" and defining the term "multi-family water system"; providing that either type of system may include a rental residence in its service; regulating multi-family systems; amending s. 381.90, F.S.; revising membership of the Health Information Systems Council; prescribing its duties with respect to developing a review process; requiring a report; amending s. 382.003, F.S.; revising powers and duties of the department with respect to vital records; providing for forms and documents to be submitted under oath; amending s. 382.004, F.S.; restating the admissibility of copies of records; amending s. 382.008, F.S.; deleting provisions relating to restriction on disclosure of a decedent's social security number; amending s. 382.013, F.S.; revising provisions relating to who must file a birth registration; amending s. 382.015, F.S.; revising provisions relating to issuance of new birth certificates upon determination of paternity; amending s. 382.016, F.S.; prescribing procedures for amending records; amending s. 382.019, F.S.; providing for dismissal of an application for delayed registration which is not actively pursued; amending s. 382.025, F.S.; exempting certain birth records from confidentiality requirements; amending s. 382.0255, F.S.; revising provisions relating to disposition of the additional fee imposed on certification of birth records; amending s. 383.14, F.S.; conforming a reference to the name of a program; amending s. 385.202, F.S.; deleting provisions relating to reimbursing hospitals reporting information for the statewide cancer registry; amending s. 385.203, F.S.; establishing requirements and membership for the Diabetes Advisory Council; amending s. 391.028, F.S.; revising provisions relating to administration of the Children's Medical Services program; amending s. 391.0315, F.S.; revising standards for benefits provided under the program for certain children; amending s. 392.69, F.S.; providing for an advisory board for the A. G. Holley State Hospital; amending s. 401.25, F.S.; providing qualifications for licensure as basic or advanced life support service; amending s. 401.27, F.S.; providing standards for certification of emergency medical technicians and paramedics; creating s. 401.2701, F.S.; establishing criteria for emergency medical services training

programs; creating s. 401.2715, F.S.; providing for recertification training of emergency medical technicians and paramedics; providing for fees; amending s. 401.30, F.S.; providing for use and maintenance of records; amending s. 401.35, F.S.; providing rulemaking authority; amending s. 409.9126, F.S.; revising requirements for capitation payments to Children's Medical Services programs; amending s. 465.019, F.S.; revising definitions; amending s. 499.005, F.S.; revising the elements of certain offenses relating to purchase or receipt of legend drugs, recordkeeping with respect to drugs, cosmetics, and household products, and permit and registration requirements; amending s. 499.007, F.S.; revising conditions under which a drug is considered misbranded; amending s. 499.028, F.S.; providing an exemption from the prohibition against possession of a drug sample; amending s. 499.069, F.S.; providing penalties for certain violations of s. 499.005, F.S.; amending s. 742.10, F.S.; revising procedures relating to establishing paternity for children born out of wedlock; amending ss. 39.303, 385.203, 391.021, 391.221, 391.222, 391.223, F.S., to conform to the renaming of the Division of Children's Medical Services; repealing s. 381.731(3), F.S., relating to the date for submission of a report; repealing s. 383.307(5), F.S., relating to licensure of birth center staff and consultants; repealing s. 404.20(7), F.S., relating to transportation of radioactive materials; repealing s. 409.9125, F.S., relating to the study of Medicaid alternative networks; naming a certain building in Jacksonville the "Wilson T. Sowder, M.D., Building"; naming a certain building in Tampa the "William G. 'Doc' Myers, M.D., Building"; naming the department headquarters building the "Charlton E. Prather, M.D., Building"; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing intent and rulemaking authority for the Department of Health to implement standards of the National Environmental Laboratory Accreditation Program Accreditation Program; amending s. 381.0022, F.S.; authorizing the Department of Health to share certain information on Medicaid recipients regarding payment for services; amending s. 383.011, F.S.; amending requirements for rules relating to the Child Care Food Program; amending s. 468.304, F.S.; revising the application fees to be paid for radiologic technology certification examination; amending s. 468.306, F.S.; revising certain fees for radiologic technology certification examination; amending s. 468.309, F.S.; amending the timing of biennial certification renewal for radiologic technologists; amending ss. 455.57 and 455.565, F.S.; ensuring that an intern in a hospital is not subject to the credentialing or profiling laws; providing for clinical trials to be conducted on the use of the drug Secretin by a nonprofit provider; requiring a report; providing an appropriation; amending s. 232.435, F.S.; correcting a reference; amending s. 381.026, F.S.; providing a definition; amending s. 381.0261, F.S.; providing that the Department of Health or a regulatory board, rather than the Agency for Health Care Administration, may impose an administrative fine against any health care provider who fails to make available to patients a summary of their rights as required by law; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to develop a certified-match program for Healthy Start services under certain circumstances; amending s. 409.910, F.S.; providing for use of Medicare standard billing formats for certain data-exchange purposes; creating s. 409.9101, F.S.; providing a short title; providing legislative intent relating to Medicaid estate recovery; requiring certain notice of administration of the estate of a deceased Medicaid recipient; providing that receipt of Medicaid benefits creates a claim and interest by the agency against an estate; specifying the right of the agency to amend

the amount of its claim based on medical claims submitted by providers subsequent to the agency's initial claim calculation; providing the basis of calculation of the amount of the agency's claim; specifying a claim's class standing; providing circumstances for nonenforcement of claims; providing criteria for use in considering hardship requests; providing for recovery when estate assets result from a claim against a third party; providing for estate recovery in instances involving real property; providing agency rulemaking authority; amending s. 409.912, F.S.; eliminating a requirement that a Medicaid provider service network demonstration project be located in Orange County; amending s. 409.913, F.S.; revising provisions relating to the agency's authority to withhold Medicaid payments pending completion of certain legal proceedings; providing for disbursement of withheld Medicaid provider payments; creating s. 409.9131, F.S.; providing legislative findings and intent relating to integrity of the Medicaid program; providing definitions; authorizing onsite reviews of physician records by the agency; requiring notice for such reviews; requiring notice of due process rights in certain circumstances; specifying procedures for determinations of overpayment; requiring a study of certain statistical models used by the agency; requiring a report; amending s. 455.501, F.S.; redefining the terms "health care practitioner" and "licensee"; amending s. 455.507, F.S.; revising provisions relating to good standing of members of the Armed Forces with administrative boards to provide applicability to the department when there is no board; providing gender neutral language; amending s. 455.521, F.S.; providing powers and duties of the department for the professions, rather than boards, under its jurisdiction; amending s. 455.557, F.S.; revising the credentials collection program for health care practitioners; revising and providing definitions; providing requirements for health care practitioners and the Department of Health under the program; renaming the advisory council and abolishing it at a future date; prohibiting duplication of data available from the department; authorizing collection of certain other information; revising requirements for registration of credentials verification organizations; providing for biennial renewal of registration; providing grounds for suspension or revocation of registration; revising liability insurance requirements; revising rulemaking authority; specifying authority of the department after the council is abolished; amending s. 455.564, F.S.; prescribing the expiration date of an incomplete license application; revising the form and style of licenses; providing authority to the department when there is no board to adopt rules; revising and providing requirements relating to obtaining continuing education credit in risk management; correcting a reference; amending s. 455.5651, F.S.; prohibiting inclusion of certain information in practitioner profiles; amending s. 455.567, F.S.; defining sexual misconduct and prohibiting it in the practice of a health care profession; providing penalties; amending s. 455.574, F.S.; revising provisions relating to review of an examination after failure to pass it; amending s. 455.587, F.S.; providing authority to the department when there is no board to determine by rule the amount of license fees for the profession regulated; providing for a fee for issuance of a wall certificate to certain licensees or for a duplicate wall certificate; amending s. 455.601, F.S.; providing, for purposes of workers' compensation, a rebuttable presumption relating to blood-borne infections; amending s. 455.604, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of licensure and relicensure to practice dietetics and nutrition or nutrition counseling; amending s. 455.607, F.S.; correcting a reference; amending s. 455.624, F.S.; revising and providing grounds for discipline;

providing penalties; providing for assessment of certain costs; amending s. 455.664, F.S.; requiring additional health care practitioners to include a certain statement in advertisements for free or discounted services; correcting terminology; amending s. 455.667, F.S.; authorizing the department to obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto under certain circumstances for purposes of disciplinary proceedings; providing for charges for making reports or records available for digital scanning; amending s. 455.687, F.S.; providing for the suspension or restriction of the license of any health care practitioner who tests positive for drugs under certain circumstances; amending s. 455.694, F.S.; providing financial responsibility requirements for midwives; creating s. 455.712, F.S.; providing requirements for active status licensure of certain business establishments; amending s. 457.102, F.S.; defining the term "prescriptive rights" with respect to acupuncture; amending s. 458.307, F.S.; correcting terminology and a reference; removing an obsolete date; amending s. 458.309, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 458.311, F.S.; revising provisions relating to licensure as a physician by examination; eliminating an obsolete provision relating to licensure of medical students from Nicaragua and another provision relating to taking the examination without applying for a license; amending s. 458.3115, F.S.; updating terminology; amending s. 458.313, F.S.; revising provisions relating to licensure by endorsement; repealing provisions relating to reactivation of certain licenses issued by endorsement; amending s. 458.315, F.S.; providing additional requirements for recipients of a temporary certificate for practice in areas of critical need; amending s. 458.3165, F.S.; prescribing authorized employment for holders of public psychiatry certificates; correcting a reference; amending s. 458.317, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 458.319, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a physician; amending s. 458.331, F.S.; providing grounds for discipline; providing penalties; amending s. 458.347, F.S.; revising provisions relating to temporary licensure as a physician assistant; amending s. 459.005, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 459.0075, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 459.008, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as an osteopathic physician; amending s. 459.015, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 460.402, F.S.; providing an exemption from regulation under ch. 460, F.S., relating to chiropractic, for certain students; amending s. 460.403, F.S.; defining the term "community-based internship" for purposes of ch. 460, F.S.; redefining the terms "direct supervision" and "registered chiropractic assistant"; amending s. 460.406, F.S.; revising requirements for licensure as a chiropractic physician by examination to remove a provision relating to a training program; amending s. 460.407, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a chiropractic physician; amending s. 460.413, F.S.; increasing the administrative fine; conforming cross-references; amending s. 460.4165, F.S.; revising requirements for certification of chiropractic physician's assistants; providing for supervision of registered chiropractic physician's assistants; providing for biennial renewal; providing fees; providing applicability to current certificateholders; amending s. 460.4166, F.S.; authorizing registered chiropractic assistants to be

under the direct supervision of a certified chiropractic physician's assistant; amending s. 461.003, F.S.; defining the term "certified podiatric X-ray assistant" and the term "direct supervision" with respect thereto; redefining the term "practice of podiatric medicine"; amending s. 461.006, F.S.; revising the residency requirement to practice podiatric medicine; amending s. 461.007, F.S.; revising requirements for renewal of license to practice podiatric medicine; revising requirements for submitting fingerprints to the department for renewal of licensure; amending s. 461.013, F.S.; revising and providing grounds for discipline; providing penalties; creating s. 461.0135, F.S.; providing requirements for operation of X-ray machines by certified podiatric X-ray assistants; amending s. 464.008, F.S.; providing for remediation upon failure to pass the examination to practice nursing a specified number of times; amending s. 464.022, F.S.; providing an exemption from regulation relating to remedial courses; amending s. 465.003, F.S.; defining the term "data communication device"; revising the definition of the term "practice of the profession of pharmacy"; amending s. 465.016, F.S.; authorizing the redispensing of unused or returned unit-dose medication by correctional facilities under certain conditions; providing a ground for which a pharmacist may be subject to discipline by the Board of Pharmacy; increasing the administrative fine; amending ss. 465.014, 465.015, 465.0196, 468.812, 499.003, F.S.; correcting cross-references, to conform; creating the Task Force for the Study of Collaborative Drug Therapy Management; providing for staff support from the department; providing for participation by specified associations and entities; providing responsibilities; requiring a report to the Legislature; amending s. 466.021, F.S.; revising requirements relating to dental work orders required of unlicensed persons; amending s. 468.1155, F.S.; revising requirements for provisional licensure to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathologist or audiologist assistant; amending s. 468.307, F.S.; authorizing the issuance of subcategory certificates in the field of radiologic technology; amending s. 468.506, F.S.; correcting references; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the department relating to regulation of athletic trainers; amending s. 20.43, F.S.; placing the board under the Division of Medical Quality Assurance of the department; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; amending s. 468.805, F.S.; revising grandfathering provisions for the practice of orthotics, prosthetics, or pedorthics; amending s. 468.806, F.S.; providing for approval of continuing education providers; amending s. 478.42, F.S.; redefining the term "electrolysis or electrology"; amending s. 483.041, F.S., redefining the terms "clinical laboratory" and "licensed practitioner" and defining the term "clinical laboratory examination"; amending s. 483.803, F.S.; redefining the terms "clinical laboratory examination" and "licensed practitioner of the healing arts"; revising a reference; amending s. 483.807, F.S.; revising provisions relating to fees for approval as a laboratory

training program; amending s. 483.809, F.S.; revising requirements relating to examination of clinical laboratory personnel for licensure and to registration of clinical laboratory trainees; amending s. 483.812, F.S.; revising qualification requirements for licensure of public health laboratory scientists; amending s. 483.813, F.S.; eliminating a provision authorizing conditional licensure of clinical laboratory personnel for a specified period; amending s. 483.821, F.S.; authorizing continuing education or retraining for candidates who fail an examination a specified number of times; amending s. 483.824, F.S.; revising qualifications of clinical laboratory directors; amending s. 483.825, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 483.901, F.S.; correcting a reference; eliminating a provision authorizing temporary licensure as a medical physicist; correcting the name of a trust fund; amending s. 484.007, F.S.; revising requirements for opticians who supervise apprentices; amending s. 484.0512, F.S.; requiring sellers of hearing aids to refund within a specified period all moneys required to be refunded under trial-period provisions; amending s. 484.053, F.S.; increasing the penalty applicable to prohibited acts relating to the dispensing of hearing aids; amending s. 484.056, F.S.; providing that violation of trial-period requirements is a ground for disciplinary action; providing penalties; amending ss. 486.041, 486.081, 486.103, and 486.107, F.S.; eliminating provisions authorizing issuance of a temporary permit to work as a physical therapist or physical therapist assistant; amending s. 490.005, F.S.; revising educational requirements for licensure as a psychologist by examination; changing a date, to defer certain educational requirements; amending s. 490.006, F.S.; providing additional requirements for licensure as a psychologist by endorsement; amending s. 490.0085, F.S.; correcting the name of a trust fund; amending s. 491.0045, F.S.; revising requirements for registration as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern; amending s. 491.0046, F.S.; revising requirements for provisional licensure of clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.005, F.S.; revising requirements for licensure of clinical social workers, marriage and family therapists, and mental health counselors; providing for certification of education of interns; providing rulemaking authority to implement education and experience requirements for licensure as a clinical social worker, marriage and family therapist, or mental health counselor; revising future licensure requirements for mental health counselors and providing rulemaking authority for implementation thereof; amending s. 491.006, F.S.; revising requirements for licensure or certification by endorsement; amending s. 491.0085, F.S.; requiring laws and rules courses and providing for approval thereof, including providers and programs; correcting the name of a trust fund; amending s. 491.014, F.S.; revising an exemption from regulation relating to certain temporally limited services; amending s. 499.012, F.S.; redefining the term "wholesale distribution," relating to the distribution of prescription drugs, to provide for the exclusion of certain activities; amending ss. 626.883, 641.316, F.S.; requiring payments to a health care provider by a fiscal intermediary to include an explanation of services provided; creating a Task Force on Telehealth; providing its duties; requiring a report; amending s. 468.352, F.S.; redefining the term "board"; amending s. 468.353, F.S.; conforming provision; providing for the adoption of rules; amending s. 468.354, F.S.; creating the Board of Respiratory Care; providing for membership, powers, and duties; amending s. 468.355, F.S.; providing for periodic rather than annual review of certain examinations and standards; amending s. 458.357, F.S.;

conforming provisions; deleting obsolete provisions; amending s. 468.364, F.S.; deleting an examination fee; amending s. 468.365, F.S.; conforming provisions; amending s. 464.016, F.S., providing that the use of the title "nurse" without being licensed or certified is a crime; amending s. 458.3115, F.S.; revising requirements with respect to eligibility of certain foreign-licensed physicians to take and pass standardized examinations; amending s. 458.3124, F.S.; changing the date by which application for a restricted license must be submitted; amending s. 301, ch. 98-166, Laws of Florida; prescribing fees for foreign-licensed physicians taking a certain examination; providing for a detailed study and analysis of clinical laboratory services for kidney dialysis patients; amending s. 455.651, F.S.; providing for treble damages, reasonable attorney fees, and costs for improper disclosure of confidential information; amending ss. 641.261 and 641.411, F.S.; conforming references and cross-references; amending s. 733.212, F.S.; establishing the agency as a reasonably ascertainable creditor with respect to administration of certain estates; requiring that a task force be appointed to review sources of revenue for the trust fund; providing for appointments of its members and specifying topics to be studied; providing for its staffing; providing for meetings; requiring a report and recommendations; creating s. 395.40, F.S.; declaring legislative findings and intent with respect to creation of a statewide inclusive trauma system, as defined; amending s. 395.401, F.S.; deleting the definitions of the terms "local trauma agency" and "regional trauma agency"; defining the terms "trauma agency" and "trauma alert victim"; prescribing duties of the Department of Health with respect to implementation of inclusive trauma systems and trauma agency plans; amending s. 395.402, F.S.; removing legislative findings; prescribing duties of the department with respect to assignment of counties to trauma service areas; amending s. 395.4045, F.S.; prescribing transport requirements for emergency medical services providers; creating ss. 458.351 and 459.026, F.S.; requiring reports to the Department of Health of adverse incidents in specified settings; providing for review of such incidents and initiation of disciplinary proceedings, where appropriate; authorizing department access to certain records and preserving exemption from public access thereto; providing rulemaking authority; requiring the Department of Health to establish standards for compressed air used in recreational sport diving; providing that certain persons and entities are exempt from compliance with such standards; providing for testing compressed air; requiring that test results be provided to the department; requiring that persons or entities selling compressed air post a certificate of testing in a conspicuous location; providing a penalty; authorizing rules; creating the Minority HIV and AIDS Task Force within the Department of Health; requiring the task force to develop recommendations on ways to strengthen HIV and AIDS prevention and treatment programs in minority communities; requiring the Secretary of Health to appoint the members of the task force; requiring that the task force include representatives of certain groups and organizations; providing for the members to serve without compensation; requiring a report to the Legislature; providing for the task force to be abolished on a specified date; requiring that the Department of Health develop and implement a statewide HIV and AIDS prevention campaign that is directed to minorities; providing requirements for the campaign; requiring the department to establish positions within the department for regional and statewide coordinators; requiring that the department conduct a Black Leadership Conference on HIV and AIDS by a specified date; providing an appropriation; amending s. 20.41, F.S.; providing that area agencies on aging are subject to ch. 119 and ss. 286.011-286.012, F.S., as

specified; creating part XV of chapter 468, F.S.; providing definitions; requiring that the Department of Health maintain a state registry of certified nursing assistants; authorizing the department to contract for examination services; providing requirements for obtaining certification as a certified nursing assistant; requiring that the department adopt rules governing initial certification; specifying grounds for which the department may deny, suspend, or revoke a person's certification; authorizing the department to exempt an applicant or certificateholder from disqualification of certification; providing requirements for records and meetings held for disciplinary actions; exempting an employer from liability for terminating a certified nursing assistant under certain circumstances; providing penalties; providing for background screening; providing rulemaking authority; requiring persons who employ certified nursing assistants to make certain reports to the Department of Health; requiring that the department update the certified nursing assistant registry; providing for future repeal of such provisions; amending s. 400.211, F.S.; deleting obsolete provisions with respect to the regulation of certified nursing assistants; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to enter into agreements with certain organizations for purposes of providing vision screening; providing effective dates.

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

Section 4. Subsection (15) of section 120.80, Florida Statutes, 1998 Supplement, is amended to read:

120.80 Exceptions and special requirements; agencies.--

(15) DEPARTMENT OF HEALTH.--Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Health, the director of the Agency for Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by part II of chapter 455. Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child Care Food Program; Children's Medical Services Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Family Services for a hearing officer in these matters.