

ENROLLED  
 HB 5305, Engrossed 1

2011 Legislature

1                                   A bill to be entitled  
 2           An act relating to the Correctional Medical Authority;  
 3           repealing ss. 945.601, 945.602, 945.603, 945.6031,  
 4           945.6035, and 945.6036, F.S., relating to the Correctional  
 5           Medical Authority definitions, creation, powers and  
 6           duties, reports and surveys, dispute resolution, and  
 7           enforcement, respectively; amending ss. 381.90, 766.101,  
 8           944.8041, 945.35, 945.6032, 945.6034, and 951.27, F.S.;  
 9           conforming provisions to changes made by the act;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Sections 945.601, 945.602, 945.603, 945.6031,  
 15 945.6035, and 945.6036, Florida Statutes, are repealed.

16           Section 2. Subsection (3) of section 381.90, Florida  
 17 Statutes, is amended to read:

18           381.90 Health Information Systems Council; legislative  
 19 intent; creation, appointment, duties.—

20           (3) The council shall be composed of the following members  
 21 or their senior executive-level designees:

- 22           (a) The State Surgeon General;
- 23           (b) The Executive Director of the Department of Veterans'  
 24 Affairs;
- 25           (c) The Secretary of Children and Family Services;
- 26           (d) The Secretary of Health Care Administration;
- 27           (e) The Secretary of Corrections;
- 28           (f) The Attorney General;

ENROLLED  
 HB 5305, Engrossed 1

2011 Legislature

- 29        ~~(g) The Executive Director of the Correctional Medical~~
- 30 ~~Authority;~~
- 31        (g)~~(h)~~ Two members representing county health departments,
- 32 one from a small county and one from a large county, appointed
- 33 by the Governor;
- 34        (h)~~(i)~~ A representative from the Florida Association of
- 35 Counties;
- 36        (i)~~(j)~~ The Chief Financial Officer;
- 37        (j)~~(k)~~ A representative from the Florida Healthy Kids
- 38 Corporation;
- 39        (k)~~(l)~~ A representative from a school of public health
- 40 chosen by the Commissioner of Education;
- 41        (l)~~(m)~~ The Commissioner of Education;
- 42        (m)~~(n)~~ The Secretary of Elderly Affairs; and
- 43        (n)~~(o)~~ The Secretary of Juvenile Justice.

44  
 45 Representatives of the Federal Government may serve without  
 46 voting rights.

47        Section 3. Paragraph (a) of subsection (1) of section  
 48 766.101, Florida Statutes, is amended to read:

49        766.101 Medical review committee, immunity from  
 50 liability.—

- 51        (1) As used in this section:
- 52        (a) The term "medical review committee" or "committee"
- 53 means:
- 54        1.a. A committee of a hospital or ambulatory surgical
- 55 center licensed under chapter 395 or a health maintenance
- 56 organization certificated under part I of chapter 641;17

ENROLLED

HB 5305, Engrossed 1

2011 Legislature

57 |           b. A committee of a physician-hospital organization, a  
58 | provider-sponsored organization, or an integrated delivery  
59 | system;;~~;~~

60 |           c. A committee of a state or local professional society of  
61 | health care providers;;~~;~~

62 |           d. A committee of a medical staff of a licensed hospital  
63 | or nursing home, provided the medical staff operates pursuant to  
64 | written bylaws that have been approved by the governing board of  
65 | the hospital or nursing home;;~~;~~

66 |           e. A committee of the Department of Corrections ~~or the~~  
67 | ~~Correctional Medical Authority as created under s. 945.602,~~ or  
68 | employees, agents, or consultants of ~~either~~ the department;; ~~or~~  
69 | ~~the authority or both,~~

70 |           f. A committee of a professional service corporation  
71 | formed under chapter 621 or a corporation organized under  
72 | chapter 607 or chapter 617, which is formed and operated for the  
73 | practice of medicine as defined in s. 458.305(3), and which has  
74 | at least 25 health care providers who routinely provide health  
75 | care services directly to patients;;~~;~~

76 |           g. A committee of the Department of Children and Family  
77 | Services which includes employees, agents, or consultants to the  
78 | department as deemed necessary to provide peer review,  
79 | utilization review, and mortality review of treatment services  
80 | provided pursuant to chapters 394, 397, and 916;;~~;~~

81 |           h. A committee of a mental health treatment facility  
82 | licensed under chapter 394 or a community mental health center  
83 | as defined in s. 394.907, provided the quality assurance program  
84 | operates pursuant to the guidelines which have been approved by

ENROLLED  
 HB 5305, Engrossed 1

2011 Legislature

85 the governing board of the agency;~~;~~

86 i. A committee of a substance abuse treatment and  
 87 education prevention program licensed under chapter 397 provided  
 88 the quality assurance program operates pursuant to the  
 89 guidelines which have been approved by the governing board of  
 90 the agency;~~;~~

91 j. A peer review or utilization review committee organized  
 92 under chapter 440;~~;~~

93 k. A committee of the Department of Health, a county  
 94 health department, healthy start coalition, or certified rural  
 95 health network, when reviewing quality of care, or employees of  
 96 these entities when reviewing mortality records;~~;~~ or

97 1. A continuous quality improvement committee of a  
 98 pharmacy licensed pursuant to chapter 465,

99  
 100 which committee is formed to evaluate and improve the quality of  
 101 health care rendered by providers of health service, to  
 102 determine that health services rendered were professionally  
 103 indicated or were performed in compliance with the applicable  
 104 standard of care, or that the cost of health care rendered was  
 105 considered reasonable by the providers of professional health  
 106 services in the area; or

107 2. A committee of an insurer, self-insurer, or joint  
 108 underwriting association of medical malpractice insurance, or  
 109 other persons conducting review under s. 766.106.

110 Section 4. Section 944.8041, Florida Statutes, is amended  
 111 to read:

112 944.8041 Elderly offenders; annual review.—For the purpose

ENROLLED

HB 5305, Engrossed 1

2011 Legislature

113 of providing information to the Legislature on elderly offenders  
 114 within the correctional system, the department ~~and the~~  
 115 ~~Correctional Medical Authority~~ shall ~~each~~ submit annually a  
 116 report on the status and treatment of elderly offenders in the  
 117 state-administered and private state correctional systems and  
 118 the department's geriatric facilities and dorms. ~~In order to~~  
 119 ~~adequately prepare the reports, the department and the~~  
 120 ~~Department of Management Services shall grant access to the~~  
 121 ~~Correctional Medical Authority that includes access to the~~  
 122 ~~facilities, offenders, and any information the agencies require~~  
 123 ~~to complete their reports.~~ The report review shall ~~also~~ include  
 124 an examination of promising geriatric policies, practices, and  
 125 programs currently implemented in other correctional systems  
 126 within the United States. The report reports, with specific  
 127 findings and recommendations for implementation, shall be  
 128 submitted to the President of the Senate and the Speaker of the  
 129 House of Representatives on or before December 31 of each year.

130 Section 5. Subsections (3) and (9) of section 945.35,  
 131 Florida Statutes, are amended to read:

132 945.35 Requirement for education on human immunodeficiency  
 133 virus, acquired immune deficiency syndrome, and other  
 134 communicable diseases.—

135 (3) When there is evidence that an inmate, while in the  
 136 custody of the department, has engaged in behavior which places  
 137 the inmate at a high risk of transmitting or contracting a human  
 138 immunodeficiency disorder or other communicable disease, the  
 139 department may begin a testing program which is consistent with  
 140 guidelines of the Centers for Disease Control and Prevention ~~and~~

ENROLLED

HB 5305, Engrossed 1

2011 Legislature

141 ~~recommendations of the Correctional Medical Authority.~~ For  
 142 purposes of this subsection, "high-risk behavior" includes:

- 143 (a) Sexual contact with any person.
- 144 (b) An altercation involving exposure to body fluids.
- 145 (c) The use of intravenous drugs.
- 146 (d) Tattooing.
- 147 (e) Any other activity medically known to transmit the  
 148 virus.

149 (9) The department shall establish policies consistent  
 150 with guidelines of the Centers for Disease Control and  
 151 Prevention ~~and recommendations of the Correctional Medical~~  
 152 ~~Authority~~ on the housing, physical contact, dining, recreation,  
 153 and exercise hours or locations for inmates with  
 154 immunodeficiency disorders as are medically indicated and  
 155 consistent with the proper operation of its facilities.

156 Section 6. Section 945.6032, Florida Statutes, is amended  
 157 to read:

158 945.6032 Medical review committee; records and meetings  
 159 exemption ~~Quality management program requirements.-~~

160 ~~(1) The authority shall appoint a medical review committee~~  
 161 ~~pursuant to s. 766.101 to provide oversight for the Department~~  
 162 ~~of Corrections' inmate health care quality management program.~~  
 163 ~~The authority shall also designate one of its members to serve~~  
 164 ~~on the Department of Corrections' medical review committee in~~  
 165 ~~order to ensure coordination between the department and the~~  
 166 ~~authority with regard to issues of quality management and to~~  
 167 ~~enhance the authority's oversight of the Department of~~  
 168 ~~Corrections' quality management system.~~

ENROLLED

HB 5305, Engrossed 1

2011 Legislature

169           ~~(2) The authority's medical review committee shall review~~  
 170 ~~amendments to the Department of Corrections' inmate health care~~  
 171 ~~quality management program prior to implementation by the~~  
 172 ~~department.~~

173           ~~(3)~~ The findings and recommendations of a medical review  
 174 committee created by ~~the authority or~~ the department pursuant to  
 175 s. 766.101 are confidential and exempt from ~~the provisions of~~ s.  
 176 119.07(1) and s. 24(a), Art. I of the State Constitution, and  
 177 any proceedings of the committee are exempt from ~~the provisions~~  
 178 ~~of~~ s. 286.011 and s. 24(b), Art. I of the State Constitution.

179           Section 7. Subsections (2) and (3) of section 945.6034,  
 180 Florida Statutes, are amended to read:

181           945.6034 Minimum health care standards.—

182           ~~(2) The department shall submit all health care standards~~  
 183 ~~to the authority for review prior to adoption. The authority~~  
 184 ~~shall review all department health care standards to determine~~  
 185 ~~whether they conform to the standard of care generally accepted~~  
 186 ~~in the professional health community at large.~~

187           (2)~~(3)~~ The department shall comply with all adopted  
 188 department health care standards. Failure of the department to  
 189 comply with the standards ~~may result in a dispute resolution~~  
 190 ~~proceeding brought by the authority pursuant to s. 945.6035, but~~  
 191 shall not create a cause of action for any third parties,  
 192 including inmates or former inmates.

193           Section 8. Subsection (1) of section 951.27, Florida  
 194 Statutes, is amended to read:

195           951.27 Blood tests of inmates.—

196           (1) Each county and each municipal detention facility

## ENROLLED

HB 5305, Engrossed 1

2011 Legislature

197 shall have a written procedure developed, in consultation with  
198 the facility medical provider, establishing conditions under  
199 which an inmate will be tested for infectious disease, including  
200 human immunodeficiency virus pursuant to s. 775.0877, which  
201 procedure is consistent with guidelines of the Centers for  
202 Disease Control and Prevention ~~and recommendations of the~~  
203 ~~Correctional Medical Authority~~. It is not unlawful for the  
204 person receiving the test results to divulge the test results to  
205 the sheriff or chief correctional officer.

206 Section 9. This act shall take effect July 1, 2011.