



26 | purpose; providing for membership, meetings, and  
27 | duties of the council; requiring the council to submit  
28 | a report to the Governor, the Legislature, the  
29 | Secretary of Health Care Administration, and the State  
30 | Surgeon General by a specified date; providing for  
31 | sovereign immunity of council members under certain  
32 | circumstances; requiring the agency to adopt specified  
33 | rules based on the council's recommendations;  
34 | providing for future legislative review and repeal of  
35 | certain provisions; amending s. 765.543, F.S.;  
36 | revising the duties of the Organ and Tissue  
37 | Procurement and Transplantation Advisory Board;  
38 | requiring the board to submit certain recommendations  
39 | to the agency by a specified date; creating s.  
40 | 765.548, F.S.; providing duties of the agency relating  
41 | to organ transplantation facilities and organ  
42 | procurement organizations and organ donation  
43 | procedures and protocols; requiring the agency to  
44 | publish certain data and information by a specified  
45 | date; providing an effective date.

46 |  
47 | Be It Enacted by the Legislature of the State of Florida:

48 |  
49 | Section 1. Section 408.0455, Florida Statutes, is amended  
50 | to read:

51 408.0455 Rules; pending proceedings.—The rules of the  
 52 agency in effect on June 30, 2004, ~~shall~~ remain in effect and  
 53 are ~~shall be~~ enforceable by the agency with respect to ss.  
 54 408.031-408.045 until such rules are repealed or amended by the  
 55 agency. Rules 59C-1.039 through 59C-1.044, Florida  
 56 Administrative Code, including, but not limited to, the minimum  
 57 volume standards for organ transplantation and neonatal  
 58 intensive care services, remain in effect for the sole purpose  
 59 of maintaining licensure requirements for the applicable  
 60 services until the agency has adopted rules for the  
 61 corresponding services pursuant to s. 395.1055(1)(i), Florida  
 62 Statutes 2018.

63 Section 2. Subsections (3) and (4) of section 627.6045,  
 64 Florida Statutes, are renumbered as subsections (4) and (5),  
 65 respectively, and a new subsection (3) is added to that section,  
 66 to read:

67 627.6045 Preexisting condition.—A health insurance policy  
 68 must comply with the following:

69 (3) A preexisting condition provision may not limit or  
 70 exclude coverage solely on the basis that an insured is a living  
 71 organ donor.

72 Section 3. Paragraph (f) of subsection (1) of section  
 73 765.514, Florida Statutes, is amended to read:

74 765.514 Manner of making anatomical gifts.—

75 (1) A person may make an anatomical gift of all or part of





126           2. The contractor shall coordinate with the head of a  
 127 state agency or other political subdivision of the state, or his  
 128 or her designee, to establish convenient times, dates, and  
 129 locations for educating that entity's employees.

130           Section 5. Subsection (4) of section 765.517, Florida  
 131 Statutes, is amended to read:

132           765.517 Rights and duties at death.—

133           (4) All reasonable additional expenses incurred in the  
 134 procedures to preserve the donor's organs or tissues shall be  
 135 reimbursed by the procurement organization. An organ  
 136 transplantation facility may not charge a donor or his or her  
 137 family member any fee for services relating to the procurement  
 138 or donation of his or her organs.

139           Section 6. Subsection (3) of section 765.522, Florida  
 140 Statutes, is amended to read:

141           765.522 Duty of hospital administrators; liability of  
 142 hospital administrators and procurement organizations.—

143           (3) The agency shall establish rules and guidelines  
 144 concerning the education of individuals who may be designated to  
 145 perform the request and the procedures to be used in making the  
 146 request, including a requirement that such individuals clearly  
 147 explain to patients and living organ donors the protocols of the  
 148 hospital and the federal and state regulations regarding  
 149 donation. The agency is authorized to adopt rules concerning the  
 150 documentation of the request, where such request is made.

151 Section 7. Section 765.53, Florida Statutes, is amended to  
152 read:

153 (Substantial rewording of section. See  
154 s. 765.53, F.S., for present text.)

155 765.53 Organ Transplant Technical Advisory Council.—

156 (1) CREATION AND PURPOSE.—The Organ Transplant Technical  
157 Advisory Council, an advisory council as defined in s. 20.03, is  
158 created within the agency to develop standards for measuring  
159 quality and outcomes of adult and pediatric organ transplant  
160 programs. In order to increase the number of organs available  
161 for transplant in this state, the council shall advise the  
162 agency and Legislature regarding the cost savings, trends,  
163 research, and protocols and procedures relating to organ  
164 donation and transplantation, including the availability of  
165 organs for donation. Unless expressly provided otherwise in this  
166 section, the council shall operate in a manner consistent with  
167 s. 20.052.

168 (2) MEMBERS.—

169 (a) Voting members of the council must have technical  
170 expertise in adult or pediatric organ transplantation. The chief  
171 executive officer of each of the following organ transplantation  
172 facilities shall each appoint one representative, who must be an  
173 organ transplant nurse coordinator licensed under chapter 464 or  
174 an organ transplant surgeon licensed under chapter 458 or  
175 chapter 459, to serve as a voting member of the council:

- 176        1. Jackson Memorial Hospital in Miami.
- 177        2. Tampa General Hospital in Tampa.
- 178        3. University of Florida Health Shands Hospital in  
 179 Gainesville.
- 180        4. AdventHealth Orlando in Orlando.
- 181        5. Mayo Clinic in Jacksonville.
- 182        6. Cleveland Clinic Florida in Weston.
- 183        7. Largo Medical Center in Largo.
- 184        8. Broward Health Medical Center in Fort Lauderdale.
- 185        (b) The Secretary of Health Care Administration shall  
 186 serve as the chair and a nonvoting member of the council.
- 187        (c) The Secretary of Health Care Administration shall  
 188 appoint the following individuals to serve as voting members of  
 189 the council:
- 190        1. The State Surgeon General or his or her designee.
- 191        2. A parent of a child who has an organ transplant.
- 192        3. An adult who has an organ transplant.
- 193        4. An adult patient who is on an organ transplant waiting  
 194 list.
- 195        5. A licensed physician who practices in each of the  
 196 following organ transplantation areas:
- 197            a. Kidneys.
- 198            b. Lungs.
- 199            c. Heart.
- 200            d. Liver.



201 e. Pancreas.

202 (d) Appointments made under paragraph (a) are contingent  
203 upon the hospital's compliance with chapter 395 and rules  
204 adopted thereunder. A member of the council appointed under  
205 paragraph (a) whose hospital fails to comply with such law and  
206 rules may serve only as a nonvoting member until the hospital  
207 comes into compliance.

208 (e) Any vacancy on the council must be filled in the same  
209 manner as the original appointment. Members are eligible for  
210 reappointment.

211 (f) Members of the council shall serve without  
212 compensation but may be reimbursed as provided in s. 112.061 for  
213 per diem and travel expenses incurred in the performance of  
214 their duties under this section.

215 (3) MEETINGS.—The council shall meet at least twice  
216 annually and upon the call of the chair. The council may use any  
217 method of telecommunications to conduct its meetings.

218 (4) DUTIES.—The council shall recommend to the agency and  
219 the Legislature the standards for quality care of adult and  
220 pediatric organ transplant patients, including recommendations  
221 on minimum volume of transplants by organ type, personnel,  
222 physical plant, equipment, transportation, and data reporting  
223 for hospitals that perform organ transplants. The council may  
224 further advise the agency and the Legislature regarding research  
225 focused on improving overall organ availability. A voting member

226 may vote on standards related to a specific type of organ only  
 227 if he or she represents a hospital that has a transplant program  
 228 for that organ.

229 (5) REPORT.—By October 1, 2021, the council shall submit a  
 230 report of its recommendations to the Governor, the President of  
 231 the Senate, the Speaker of the House of Representatives, the  
 232 Secretary of Health Care Administration, and the State Surgeon  
 233 General.

234 (6) SOVEREIGN IMMUNITY.—Members of the council acting in  
 235 good faith in the performance of their duties under this section  
 236 are considered agents of the state for purposes of s. 768.28.

237 (7) AGENCY RULES.—

238 (a) Based on the recommendations of the council, the  
 239 agency shall develop and adopt rules for organ transplant  
 240 programs which, at a minimum, include all of the following:

241 1. Quality of care standards for adult and pediatric organ  
 242 transplants, including minimum volume thresholds by organ type,  
 243 personnel, physical plant, equipment, transportation, and data  
 244 reporting.

245 2. Outcome and survival rate standards that meet or exceed  
 246 nationally established levels of performance in organ  
 247 transplantation.

248 3. Specific steps to be taken by the agency and licensed  
 249 facilities when the facilities do not meet the volume, outcome,  
 250 or survival rate standards within a specified timeframe that

251 includes the time required for detailed case reviews and the  
252 development and implementation of corrective action plans.

253 (b) This subsection is repealed July 1, 2030, unless  
254 reviewed and saved from repeal through reenactment by the  
255 Legislature.

256 Section 8. Subsection (3) of section 765.543, Florida  
257 Statutes, is amended to read:

258 765.543 Organ and Tissue Procurement and Transplantation  
259 Advisory Board; creation; duties.—

260 (3) The board shall:

261 (a) Assist the agency, in collaboration with other  
262 relevant public or private entities, in the development of  
263 necessary professional qualifications, including, but not  
264 limited to, the continuing education, training, and performance  
265 of persons engaged in the various facets of organ and tissue  
266 procurement, processing, preservation, and distribution for  
267 transplantation;

268 (b) Assist the agency in monitoring the appropriate and  
269 legitimate expenses associated with organ and tissue  
270 procurement, processing, and distribution for transplantation  
271 and developing methodologies to assure the uniform statewide  
272 reporting of data to facilitate the accurate and timely  
273 evaluation of the organ and tissue procurement and  
274 transplantation system;

275 (c) Provide assistance to the Florida Medical Examiners

276 Commission in the development of appropriate procedures and  
277 protocols to ensure the continued improvement in the approval  
278 and release of potential donors by the district medical  
279 examiners and associate medical examiners;

280 (d) Develop with and recommend to the agency the necessary  
281 procedures and protocols required to assure that all residents  
282 of this state have reasonable access to available organ and  
283 tissue transplantation therapy and that residents of this state  
284 can be reasonably assured that the statewide procurement  
285 transplantation system is able to fulfill their organ and tissue  
286 requirements within the limits of the available supply and  
287 according to the severity of their medical condition and need;  
288 and

289 (e) Develop with and recommend to the agency any changes  
290 to the laws of this state or administrative rules or procedures  
291 to ensure that the statewide organ and tissue procurement and  
292 transplantation system is able to function smoothly,  
293 effectively, and efficiently, in accordance with the Federal  
294 Anatomical Gift Act and in a manner that assures the residents  
295 of this state that no person or entity profits from the  
296 altruistic voluntary donation of organs or tissues. In addition  
297 to the general duties described in this subsection, the board  
298 must submit to the agency, by September 1, 2021, recommendations  
299 that address the following:

300 1. The frequency of communication between patients and

301 organ transplant coordinators.

302 2. The monitoring of each organ transplantation facility  
303 and the annual reporting and publication of relevant information  
304 regarding the statewide number of patients placed on waiting  
305 lists and the number of patients who receive transplants,  
306 aggregated by the facility.

307 3. The establishment of a coordinated communication system  
308 between organ transplantation facilities and living organ donors  
309 for the purpose of minimizing the cost and time required for  
310 duplicative lab tests, including the sharing of lab results  
311 between facilities.

312 4. The potential incentives for organ transplantation  
313 facilities that may be necessary to increase organ donation in  
314 the state.

315 5. The creation of a more efficient regional or statewide  
316 living organ donor process.

317 6. The potential opportunities and incentives for organ  
318 transplantation research.

319 7. The best practices for organ transplantation facilities  
320 and organ procurement organizations that promote the most  
321 efficient and effective outcomes for patients.

322 8. The monitoring of organ procurement organizations.

323 Section 9. Section 765.548, Florida Statutes, is created  
324 to read:

325 765.548 Duties of the agency; organ donation.-

326 (1) The agency shall:

327 (a) Monitor the operation of each organ transplantation  
328 facility and organ procurement organization located in the  
329 state.

330 (b) Develop uniform statewide rules regarding organ  
331 donations which may include, but need not be limited to,  
332 procedures for maintaining a coordinated system of communication  
333 between organ transplantation facilities.

334 (c) Evaluate the current protocols and procedures used by  
335 organ transplantation facilities and make recommendations for  
336 improving such protocols and procedures.

337 (d) Establish annual reporting requirements for organ  
338 transplantation facilities and organ procurement organizations.

339 (e) Develop, in consultation with the State Board of  
340 Education and the contractor procured by the agency pursuant to  
341 s. 765.5155, a curriculum for educating high school students  
342 regarding the laws of this state relating to organ donation.

343 (2) By December 1, 2021, and each year thereafter, the  
344 agency shall publish any data and other information relevant to  
345 adequately inform patients and potential donors.

346 Section 10. This act shall take effect July 1, 2020.