

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/CS/SB 1680

SPONSOR: Appropriations Subcommittee on Health and Human Services; Finance and Taxation Committee; Health, Aging, and Long-Term Care Committee; and Senator Saunders

SUBJECT: The Licensure of Health Care Providers

DATE: March 31, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Fav/CS
2.	Keating	Johansen	FT	Fav/CS
3.	Peters	Belcher	AHS	Fav/CS
4.			AP	
5.				
6.				

I. Summary:

This bill divides chapter 408, F.S., into parts I-IV and consolidates core licensure requirements for health care providers licensed by the Agency for Health Care Administration (AHCA or Agency) in part II of chapter 408, F.S., consisting of newly created ss. 408.801-408.819, F.S. The bill defines common terminology and provides standardized minimum licensure requirements, including timeframes for license application processing, definition of a change of ownership, background screening, notice of exclusions from Medicare or Medicaid, compliance with local zoning requirements, notice of closure, record retention, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. Under this bill, the licensure period would be two years, and, accordingly, fees would be double the current amounts.

Health care providers that would be subject to the core requirements of part II of chapter 408, F.S., include Drug-Free Workplace Laboratories, Birth Centers, Abortion Clinics, Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, Residential Treatment Centers for Children and Adolescents, Hospitals, Ambulatory Surgical Centers, Mobile Surgical Facilities, Private Review Agents, Health Care Risk Managers, Nursing Homes, Assisted Living Facilities, Home Health Agencies, Nurse Registries, Companion Services or Homemaker Services Providers, Adult Day Care Centers, Hospices, Adult Family-Care Homes, Homes for Special Services, Transitional Living Facilities, Prescribed Pediatric Extended Care Centers, Home Medical Equipment Providers, Intermediate Care Facilities for the Developmentally Disabled, Health Care Services Pools, Health Care Clinics, Clinical Laboratories, and Multiphasic Health Testing Centers.

The bill also streamlines consumer information regarding nursing homes by combining AHCA's Guide to Nursing Homes with the Nursing Home Watch List and transfers primary rule writing authority from the Department of Elderly Affairs to AHCA for the assisted living facility, adult family care home, adult day care center, and hospice programs.

The bill revises requirements to require facilities to withhold or withdraw cardiopulmonary resuscitation if presented with an order to resuscitate. Requirements are provided for facilities to carry out when a patient has an advance directive, order not to resuscitate, or is designated an organ donor. A health care provider who refuses to carry out a patient's advance directive is required to transfer the patient within a specified time frame to a health care provider that will comply with the advance directive. Physicians and patients are encouraged to discuss end-of-life care and the bill specifies when an advance directive is to become part of a medical record.

The bill revises the provisions of the Health Care Clinic Act (ACT), part XIII of chapter 400, F.S. It includes both "mobile clinics" and "portable equipment providers" within the definition of a clinic for purposes of licensure. Additional exemptions from clinic licensure are provided for certain entities. AHCA is authorized to charge all applicants for certificates of exemption \$100 or actual cost, whichever is less, for processing the certificate. Provides that in accordance with s. 408.805, F.S., a license applicant shall pay a fee for each application submitted under this part and part II of chapter 408 and the amount of the fee can not exceed \$2,000. Creates a provision that permits AHCA to make refunds to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure. Creates provisions that any person or entity defined as a clinic shall not be in violation of the Act due to failure to apply for a clinic license by March 1, 2004, as previously required under s. 400.991, F.S. The bill also provides that payment to any person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that such person or entity failed to apply for or obtain a clinic license before July 1, 2004. Provides that the bill's provisions are contingent upon SB 2380 or similar legislation becoming law.

This bill amends ss. 112.045, 383.301, 383.305, 383.309, 383.315, 383.324, 383.33, 383.335, 390.011, 390.012, 390.014, 390.018, 394.455, 394.67, 394.875, 394.877, 394.878, 394.879, 394.90, 394.902, 395.003, 395.004, 395.0161, 395.0163, 395.0197, 395.0199, 395.1041, 395.1046, 395.1055, 395.1065, 395.10973, 395.10974, 395.10975, 400.022, 400.051, 400.062, 400.063, 400.071, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.17, 400.179, 400.18, 400.19, 400.191, 400.20, 400.21, 400.211, 400.23, 400.402, 400.407, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.417, 400.4174, 400.4176, 400.418, 400.419, 400.42, 400.424, 400.4255, 400.4256, 400.427, 400.4275, 400.431, 400.434, 400.441, 400.442, 400.444, 400.452, 400.454, 400.464, 400.471, 400.474, 400.484, 400.494, 400.495, 400.497, 400.506, 400.509, 400.512, 400.551, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5572, 400.559, 400.56, 400.562, 400.602, 400.605, 400.606, 400.6065, 400.607, 400.6095, 400.617, 400.619, 400.6194, 400.6196, 400.621, 400.6211, 400.625, 400.801, 400.805, 400.902, 400.903, 400.905, 400.907, 400.908, 400.912, 400.914, 400.915, 400.925, 400.93, 400.931, 400.932, 400.933, 400.935, 400.960, 400.962, 400.967, 400.968, 400.969, 400.980, 400.991, 400.9915, 400.992, 400.9925, 400.993, 400.9935, 400.995, 408.036, 408.831, 440.102, 468.711, 468.723, 483.035, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172, 483.201, 483.221, 483.23, 483.291, 483.294, 483.30, 483.302, 483.32, 651.118, 765.1105, 765.304, and 1012.46, F.S.

The bill creates ss. 395.10411, 400.0712, 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, and 765.1021, F.S.

The bill repeals ss. 383.304, 383.325, 383.331, 383.332, 390.013, 390.015, 390.016, 390.017, 390.019, 390.021, 394.876, 395.002(4), 395.0055, 395.0162, 400.021(5) and (20), 400.125, 400.241(1) and (2), 400.415, 400.4178(7), 400.435(1), 400.447(1), (2), and (3), 400.451, 400.515, 400.5575, 400.558, 400.564, 400.622, 400.906, 400.910, 400.911, 400.913, 400.916, 400.917, 400.95, 400.953(2), 400.955(4), 400.956, 400.963, 400.965, 400.9905(2), 400.992, 400.994, 400.9945, 483.131, 483.25, 483.311, 483.317(1), 483.322(1), and 483.328, F.S.

The bill creates two undesignated sections of law.

II. Present Situation:

Chapter 408, F.S., is titled “Health Care Administration” and contains the general statutory provisions assigned to the Agency for Health Care Administration. The Agency is created in s. 20.42, F.S., and is responsible for:

- Health facility licensure, inspection, and regulatory enforcement;
- Investigation of consumer complaints related to health care facilities and managed care plans;
- Implementation of the certificate-of-need program;
- Operation of the State Center for Health Statistics;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The licensure statutes for the various health care providers regulated by AHCA contain duplication and variation of certain basic licensing standards. These standards include the application process, changes of ownership, licensure categories, background screening, changes of administrator, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. The majority of licenses are required to be renewed annually, although some programs call for biennial licensure. Each of these regulatory statutes has evolved independently and, as such, they vary in how similar requirements are defined. Licensure processing occurs within the broad requirements of licensure under the Administrative Procedure Act, s. 120.60, F.S., and many unique requirements within each specific provider’s statutes or rules.

Consumers seeking information about nursing homes have many different tools available to review specific information about these facilities. However, the variation of the information presented can be confusing for consumers and appear conflicting. AHCA publishes the Guide to Nursing Homes in Florida (Guide) and the Nursing Home Watch List (Watch List). Both are required by s. 400.191, F.S., and are published quarterly. The Guide presents a 45-month review of regulatory compliance and demographic information for each nursing home licensed in Florida, while the Watch List reflects only those nursing homes that were issued a conditional

license or were under bankruptcy protection during a quarter. A conditional license can be used both for serious deficiencies and for the failure to correct relatively minor deficiencies. Therefore, a nursing home can appear on a Watch List but may have a high ranking in the Guide, thereby confusing consumers.

The DOEA currently has the rule-writing authority for the assisted living facility, adult family care home, adult day care center, and hospice programs. AHCA has rule-writing authority for the majority of other programs it licenses including hospitals, nursing homes, home health agencies, and others.

End-of-Life Care

Chapter 765, F.S., establishes procedures for health care advance directives, including life-prolonging procedures and organ donation. Various statutes authorize a health care provider to carry out the provisions of a living will, but compliance by a provider is not required. Over a number of years, consumers have complained to members of the Legislature about situations in which a health care provider refused to carry out an advance directive or order not to resuscitate.

Health Care Clinic Licensure

The genesis of licensing health care clinics arose from a recommendation contained in a report issued by the Fifteenth Statewide Grand Jury in September 2000 that had examined motor vehicle personal injury protection (PIP) insurance fraud.¹ In its report, the Grand Jury recommended to the Legislature that “all medical facilities” be regulated and licensed in Florida due to PIP fraud being committed by unscrupulous medical providers within unlicensed clinics.² In response to the Grand Jury proposals, the 2001 Legislature enacted broad PIP anti-fraud legislation that included establishing the registration of health care clinics under the Department of Health (DOH).³ Due to the difficulty in discerning which health care facilities in the state rendered PIP medical services, the language referring to “clinics” in the legislation defined the term broadly to include businesses at which “health care services are provided to individuals and which tender charges for reimbursement for such services.” The legislation exempted from the clinic definition certain entities currently licensed or registered by the state. These included abortion clinics, mental health facilities, hospitals, nursing homes and related facilities, optometry, pharmacy, dental, electrolysis, massage, and optical entities as well as certain practices wholly owned by licensed practitioners, and certain tax exempt entities.

The 2001 legislation required health care clinics to employ a licensed physician as medical director⁴ or a specified health care practitioner as clinical director who was to be legally responsible for various clinic activities and procedures. Criminal penalties were mandated for

¹ For a copy of the report issued in September 2000, go to:
<http://myfloridalegal.com/pages.nsf/4492d797dc0bd92f85256cb80055fb97/9ab243305303a0e085256cca005b8e2e!OpenDocument>

² The Grand Jury made seven legislative recommendations to help curtail PIP insurance fraud, along with similar recommendations to the Florida Bar, the insurance industry, and other professional groups.

³ Chapters 2001-271 and 2001-163, L.O.F. (s. 456.0375, F.S.)

⁴ Physicians licensed under chapters 458 (medical physician); 459 (osteopathic physician); 460 (chiropractic physician); and, 461 (podiatric physician), F.S.

unregistered clinics, while licensed health care practitioners who violated certain provisions could be disciplined according to their respective practice acts.

Prior to the beginning of the 2003 session, Senate President King appointed a Select Committee on Automobile Insurance/PIP Reform to examine problems with PIP insurance fraud. Officials with DOH testified before the Select Committee that 3,100 clinics had registered with their agency and paid a fee of \$155 for a two year registration period pursuant to the 2001 legislation. However, these officials stated that clinic regulation needed to be “tightened” because their department lacked the requisite expertise, investigative staff, and enforcement authority to adequately regulate health care clinics.⁵ In response to these concerns as well as other PIP anti-fraud related matters, the Legislature enacted comprehensive PIP legislation during 2003 Special Session A.⁶ That legislation created part XIII, chapter 400, F.S., the “Health Care Clinic Act,” (Act) and transferred health care clinic regulation from DOH to AHCA to strengthen clinic accountability by requiring clinics to meet specified financial and other conditions. It authorized AHCA to conduct clinic inspections, required criminal background screenings of clinic applicants who have a 5 percent or more ownership interest in the clinic, and provided for civil and criminal penalties.

Specified entities defined as “clinics”⁷ under the Act were required to register with AHCA, pay a license application fee of \$2,000 to obtain a biennial license, and submit their application by March 1, 2004. The Act prohibited clinic applicants who have committed specified crimes within the past 5 years from obtaining a clinic license or working as a licensed medical provider, medical director, or clinical director. It required clinics to allow AHCA complete access to premises and records; authorized the agency to impose administrative fines or seek corrective action from clinic owners or directors under specified circumstances; and required magnetic resonance imaging (MRI) clinics to become accredited by specified national organizations within 1 year of licensure.

The Act authorized AHCA to promulgate rules and to institute injunctive proceedings and other agency actions against clinics and health care providers under specified circumstances. It required that providers who are aware of the operation of an unlicensed clinic, but fail to report such clinic, be reported to an appropriate licensing board. The bill appropriated \$2.5 million from the Health Care Trust Fund for 51 full-time equivalent positions for AHCA to implement the clinic licensure program.⁸

According to discussions with representatives with AHCA, the agency has gone to great lengths to notify clinics which were formerly registered with DOH about the new licensing requirements under the Act. As of March 3, 2004, it has received 2,280 clinic license applications and

⁵ Final Report to Senate President King from the Select Committee, March 3, 2003.

⁶ Chapter 2003-411, L.O.F.

⁷ Under the Act, clinics were defined in a manner very similar to the definitions and exceptions contained in the 2001 legislation under s. 456.0375, F.S., with exceptions for entities that own, are owned or are under common ownership with specified licensed or registered entities. Exceptions to clinic licensure were made for community and university clinics, facilities affiliated with medical schools, and community care facilities. The definition of “medical director” remained substantially the same under the Act.

⁸ AHCA currently has hired 31 FTEs under the clinic program as of March 5, 2004. The 51 FTEs will consist of: 26 field examiners; 15 license/compliance reviewers; 6 attorneys; 2 background investigators; and, 1 information technician.

approximately 2,050 requests for exemption from licensure for a total of 4,330 submissions. According to these representatives, AHCA has no authority to refund any license application fee pursuant to s. 440.9925(3), F.S.

Since the enactment of the Health Care Clinic Act, concerns have been raised that the definition of a “clinic” may be too broad and encompass entities that are otherwise regulated by the state or federal government, or do not provide direct medical services to persons injured as a result of a motor vehicle accident. Such entities include the following (also included are estimates by AHCA of the number of these entities in parentheses):

- End-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U (260);
- Birth centers licensed under s. 383.30, F.S. (22);
- Clinical laboratories licensed under part I of chapter 483, F.S. (10,681);
- Charitable clinics exempt from federal taxation under 501 (C) (4) (22);
- Entities owned or operated by the federal or state government, including agencies, subdivisions, or municipalities (162) thereof; and,
- Therapy providers (speech, occupational, and physical) which are Medicare-certified under 42 C.F.R. part 485, subpart B or H (508).⁹

Another concern that non-Medicare-certified therapy providers have is that they usually have one director who is trained in one of the therapy specialties. However, under the Act, these entities must hire a physician as a medical director as opposed to employing a “therapy” director. These entities are precluded from employing one of their therapy colleagues as a clinic director since a clinic director can only supervise and be responsible for therapies that are *within* his or her scope of practice.

III. Effect of Proposed Changes:

This bill divides chapter 408, F.S., into parts I-IV and consolidates core licensure requirements for health care providers licensed by AHCA in part II of chapter 408, F.S., consisting of newly created ss. 408.801-408.819, F.S. The bill defines common terminology and provides standardized minimum licensure requirements, including timeframes for license application processing, definition of a change of ownership, background screening, notice of exclusions from Medicare or Medicaid, compliance with local zoning requirements, notice of closure, record retention, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation.

Health care providers that would be subject to the core requirements of part II of chapter 408, F.S., include Drug-Free Workplace Laboratories, Birth Centers, Abortion Clinics, Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, Residential Treatment Centers for Children and Adolescents, Hospitals, Ambulatory Surgical Centers, Mobile Surgical Facilities, Private Review Agents, Health Care Risk Managers, Nursing

⁹ These multiple therapy services participate in a federal certification process to become Medicare-certified outpatient rehabilitation facilities (ORFs) or comprehensive outpatient rehabilitation facilities (CORFs). These entities assert that they should be exempt from clinic licensure since they are regulated by the federal government. Such entities are certified under 42CFR, Part 485, Subpart B or H and Medicare has designated AHCA to implement the certification process for such programs.

Homes, Assisted Living Facilities, Home Health Agencies, Nurse Registries, Companion Services or Homemaker Services Providers, Adult Day Care Centers, Hospices, Adult Family-Care Homes, Homes for Special Services, Transitional Living Facilities, Prescribed Pediatric Extended Care Centers, Home Medical Equipment Providers, Intermediate Care Facilities for the Developmentally Disabled, Health Care Services Pools, Health Care Clinics, Clinical Laboratories, and Multiphasic Health Testing Centers.

Health Care Licensing Procedures Act

Section 1. Creates part I of chapter 408, F.S., consisting of ss. 408.02, 408.031, 408.032, 408.033, 408.034, 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040, 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05, 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10, 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302, 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071, F.S., entitled “Health Facility and Services Planning”.

Section 2. Creates part II of chapter 408, F.S., consisting of ss. 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, and 408.831, F.S., entitled “Health Care Licensing: General Provisions”.

Section 3. Creates part III of chapter 408, F.S., consisting of ss. 408.90, 408.901, 408.902, 408.903, 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909, F.S., entitled “Health Insurance Access”.

Section 4. Creates part IV of chapter 408, F.S., consisting of ss. 408.911, 408.913, 408.914, 408.915, 408.916, 408.917, and 408.918, F.S., entitled “Health and Human Services Eligibility Access System”.

Section 5. Creates ss. 408.801-408.819, F.S., to consolidate licensing requirements for facilities and services licensed by AHCA.

Section 408.801, F.S., provides that part II of chapter 408, F.S., may be cited as the “Health Care Licensing Procedures Act” and specifies the legislative intent to eliminate unnecessary duplication and variation of licensure requirements for health care providers regulated by AHCA. The purpose of this act is to create streamlined and consistent licensing requirements for all providers regulated by AHCA by standardizing terminology and basic licensure requirements not adequately addressed in the authorizing statutes for specific providers.

Section 408.802, F.S., specifies the applicability of part II of chapter 408, F.S., to the provision of services requiring licensure or registration of entities licensed or registered by AHCA as described in chapters 112, 383, 390, 394, 395, 400, 440, and 483, F.S. The entities include Drug-Free Workplace Laboratories, Birth Centers, Abortion Clinics, Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, Residential Treatment Centers for Children and Adolescents, Hospitals, Ambulatory Surgical Centers, Mobile Surgical Facilities, Private Review Agents, Health Care Risk Managers, Nursing Homes, Assisted Living Facilities, Home Health Agencies, Nurse Registries, Companion Services or Homemaker

Services Providers, Adult Day Care Centers, Hospices, Adult Family-Care Homes, Homes for Special Services, Transitional Living Facilities, Prescribed Pediatric Extended Care Centers, Home Medical Equipment Providers, Intermediate Care Facilities for the Developmentally Disabled, Health Care Services Pools, Health Care Clinics, Clinical Laboratories, and Multiphasic Health Testing Centers.

Section 408.803, F.S., defines standardized terms to be used by AHCA and applicants for licensure or registration:

Agency means the Agency for Health Care Administration (AHCA).

Applicant means an individual, corporation, partnership, firm, association, or governmental entity that submits an application to AHCA for a license.

Authorizing statute means the statute authorizing the licensed operation of a provider listed in s. 408.802, F.S.;

Certification means certification as a Medicare or Medicaid provider of the services that necessitate licensure, or certification pursuant to the federal Clinical Laboratory Improvement Amendments (CLIA);

Change of Ownership means an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a 2-year period which cumulatively total 45 percent or greater. However, a change solely in the management company is not a change of ownership.

Client means any person receiving services from a provider listed in s. 408.802, F.S.

Controlling interest means—

- The applicant for licensure or a licensee,
- A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the applicant or licensee, or
- A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the management company or other entity, related or unrelated, which the applicant or licensee may contract with to operate the provider.

The term does not include a voluntary board member.

License means any permit, registration, certificate, or license issued by AHCA.

Licensee means an individual, corporation, partnership, firm, association, or governmental entity that is issued a permit, registration, certificate, or license by AHCA. The licensee is legally responsible for all aspects of the provider operation.

Moratorium means a prohibition on the acceptance of new clients.

Provider means any activity, service, agency or facility regulated by AHCA and listed in s. 408.802, F.S.

Services that necessitate licensure means those services, including residential services, that require a valid license before those services may be provided in accordance with authorizing statutes and agency rules.

Voluntary board member means a board member of a not-for-profit corporation or organization who serves solely in a voluntary capacity for the licensee, does not receive any remuneration for his or her services on the board of directors, and has no financial interest in the corporation or organization. AHCA must recognize a person as a voluntary board member following submission of a statement to AHCA by the board member and the not-for-profit corporation or organization, which affirms the director, conforms to this definition. The statement affirming the status of the board member must be submitted to AHCA on a form provided by AHCA.

Section 408.804, F.S., prohibits the provision of services requiring licensure without first obtaining a license from AHCA. The license must be conspicuously displayed to clients who enter at the address that appears on the license. The bill specifies that licenses are only valid for the entity to whom it is issued, the location for which issued, and is not subject to sale, assignment or transfer.

Section 408.805, F.S., requires AHCA to collect license fees that cover, but do not exceed, the cost of regulation and enforcement, unless fee collection is otherwise limited by authorizing statutes. The bill requires the adjustment of licensure fees for biennial licensure in agency rules; requires annual licensure fee adjustments, including fees paid per bed, not to exceed the change in the Consumer Price Index; allows AHCA to adopt rules to adjust licensure fees; requires payment of inspection fees pursuant to authorizing statutes; specifies that licensure and inspection fees are nonrefundable; requires fee assessment for changes that require the issuance of a license by AHCA; and allows a fee assessment for issuance of a duplicate license, not to exceed duplication and postage costs.

Section 408.806, F.S., requires an applicant to submit a licensure application under oath on forms provided by AHCA with the appropriate licensure fee and information required by authorizing statutes and rules. The application must contain the applicant's and each controlling interest's name, address, and social security number if an individual; applicant and each controlling interest's name, address, federal employer identification number or taxpayer identification number if not an individual; provider name; requested beds or capacity; local zoning approval report; compliance with zoning pursuant to chapter 419, F.S., if the applicant meets the definition of community residential home; satisfactory fire safety report; name of person or persons operating the provider and the administrator's name if required; and other information AHCA deems necessary.

This section requires:

- Licensure renewal application submission by the applicant and received by AHCA at least 60 days prior to license expiration;
- Change of ownership application must be received by AHCA at least 60 days prior to the change of ownership date; and

- For all other applications or requests submissions must be received by AHCA at least 60 days prior to the requested effective date, unless otherwise specified by authorizing statutes or rules.

AHCA must review licensure applications and notify the applicant in writing of errors or omitted information within 30 days of receipt of the application. Information omitted from a licensure, renewal, or change of ownership application, other than an inspection, must be filed with AHCA within 21 days of AHCA's request, or the application will be deemed incomplete with no further consideration and the fees will be forfeited.

Licenses are issued for a two-year period, unless conditions of the license specify a shorter period, such as the issuance of a provisional license. The agency may not issue an initial license to a health care provider subject to the certificate-of-need (CON) program if the provider has not been issued a CON. An applicant's failure to apply for re-licensure prior to license expiration will render the license null and void. A licensee will be assessed a late fee of 50 percent of the license fee for failure to file a timely application and fee. License applications must be approved or denied within 60 days of AHCA's receipt of a complete application.

The bill requires that licenses include the licensee's name, the provider or service the licensee is authorized to operate or offer, the issuance and expiration dates, the maximum capacity of licensed premises if applicable, and other information required by authorizing statutes or deemed necessary by AHCA. An initial inspection is not required for Companion Services or Homemaker Services Providers, or Health Care Services Pools. All inspections other than initial inspections are unannounced except for inspections of clinical laboratories in physicians' offices licensed under s. 483.061(2), F.S., coordination of periodic hospital inspections under s. 395.0161(4), and coordination of periodic inspections of birth centers under s. 383.324(3), F.S. If a provider is unavailable at the time of inspection the application will be withdrawn from further consideration. The bill allows AHCA to develop procedures for electronic submission of applications and required signatures, payment of fees, application notarization, and of any other required documents.

Section 408.807, F.S., specifies that during changes of ownership the transferor (licensee/seller) must notify AHCA in writing a minimum of 60 days before the transfer of ownership date and the transferee (applicant/buyer) must submit a change of ownership application to AHCA at least 60 days prior to the change of ownership date. The bill states the transferor is responsible for the lawful operation of the provider and client welfare until the transferee is licensed and is responsible for all penalties imposed against the transferee before the change of ownership date. License restrictions such as a conditional license during change of ownership remain in place until removed by AHCA. The new owner must maintain required records of the previous owner including all client records, inspection reports, and all records required to be maintained on Medicaid recipients if applicable.

Section 408.808, F.S., identifies licensure categories, conditions for issuance, and licensure time periods. AHCA may issue a standard license to an applicant at the time of initial licensure, licensure renewal, or change of ownership when the applicant is in compliance with all statutory requirements and agency rules. Standard licenses must be issued for a 2-year period, unless sooner revoked.

AHCA may issue a provisional license to an applicant when individuals required to undergo background screening have met screening requirements through the Florida Department of Law Enforcement and the results with the Federal Bureau of Investigation are pending. Pending a licensure denial or revocation proceeding, a provisional license may be issued until final agency decision.

The bill allows the issuance of an inactive license to a health care provider subject to the certificate-of-need provisions in ss. 408.031-408.045, F.S., when the provider is currently licensed, does not have a provisional license, and is temporarily unable to provide services, but will resume services within 12 months. Inactive licenses are issued for a period not to exceed 12 months but can be renewed for up to 6 additional months based on the provider's progress toward reopening. Written submissions to AHCA from the licensee for inactive license status or to extend the inactive period must include justification, beginning and ending dates of inactivity, plan for transferring clients to other providers, and required licensure fees. Inactive license requests received by AHCA after the provider has initiated closure, suspension of service, or client notification of closure or suspension cannot be accepted. Providers approved for inactive license status must notify each client of discharge or transfer pursuant to authorizing statutes. The inactive license begins the date the provider ceases operation. The provider's license expires at the end of the inactive license period, and all fees must be paid, and may be prorated. An approved renewal application with appropriate fee, and agency inspections indicating compliance with all requirements of ss. 408.801-408.819, F.S., authorizing statutes, and applicable rules are required before reactivation of an inactive license.

The bill allows the issuance of other licensure types pursuant to authorizing statutes.

Section 408.809, F.S., requires employee background screening standards pursuant to chapter 435, F.S. Level 2 background screening must be conducted through AHCA on the individual owner, administrator or similar person responsible for day-to-day operations of the provider; financial officer or similar person responsible for financial operations of the licensee or provider; and any person with controlling interest if AHCA has reason to believe such person has been convicted of any offense prohibited by s. 435.04, F.S. The licensee must submit a description and explanation of the conviction with the license application.

The bill provides that documentation submitted of a satisfactory level 2 background screening conducted within the previous 5 years to meet AHCA, Department of Health, or Department of Children and Family Services provider or professional licensure requirements satisfies the background screening requirements, provided such proof is accompanied by an affidavit of current compliance with chapter 435, F.S. Proof of compliance with background screening requirements submitted within the last 5 years to operate a continuing care retirement community under chapter 651, F.S., satisfies the level 2 background check.

This bill allows AHCA to issue a provisional license upon satisfactory compliance with the Florida Department of Law Enforcement background check for persons required to be screened pending the agency's receipt of screening results from the Federal Bureau of Investigation. A standard license may be issued when AHCA receives a satisfactory Federal Bureau of Investigation background screening report or upon AHCA's granting a disqualification

exemption pursuant to chapter 435, F.S. Other persons required to undergo level 2 background screening may serve in their capacity pending AHCA's receipt of the Federal Bureau of Investigation screening results, but such persons may not continue to serve if the report contains a disqualifying offense and a disqualification exemption has not been requested of or granted by AHCA.

Changes of administrator must be reported to AHCA by the licensee within the timeframe specified in authorizing statutes or rules, unless otherwise reported to the professional board or the Department of Health, and the licensee must provide evidence of background screening compliance. An administrator may be employed upon satisfactory compliance with the Florida Department of Law Enforcement background check pending the Federal Bureau of Investigation screening results. If the Federal Bureau of Investigation report contains violations of background screening standards, the person cannot continue to serve as an administrator.

Background screening is not required for the owner or director of a clinical laboratory to obtain a Certificate of Exemption issued under s. 483.106, F.S.

Section 408.810, F.S., specifies requirements an applicant must meet in order to obtain and maintain a license issued by AHCA. In addition to the licensure requirements in authorizing statutes, each applicant must comply with background screening requirements and with disclosure of exclusion, suspensions, or terminations from Medicare, Medicaid, or Clinical Laboratory Improvement Amendments (CLIA) programs. Unless specified differently in authorizing statutes, or rules, any required reporting information must be submitted to AHCA within 10 calendar days after the report period or effective date of information.

Upon discontinuance of operation by a provider, the licensee must inform AHCA at least 30 days before discontinuance of operation, inform clients of discharge in accordance with authorizing statutes, and surrender the license to AHCA for cancellation. Upon licensee death or dissolution, the estate or agent of the licensee is responsible for (1) forwarding client records, as instructed by the client to the client or legal representative, attending physician, or health care provider where the client currently receives services, or (2) publishing a notice in the newspaper of greatest general circulation in the county where the provider was located, which notifies clients of the death or dissolution. The notice must advise clients that copies of their records may be obtained and must include the name, address and telephone number of the person from whom the copies may be obtained. The notice must appear at least once a week for four consecutive weeks. Failure to comply is a second degree misdemeanor.

The bill requires that each licensure applicant must provide notice, including toll-free telephone numbers, on or before the first day of services to a client, of the right to report complaints to AHCA and to report abuse, neglect, or exploitation to the central abuse hotline. AHCA must publish changes in toll-free telephone numbers at least 90-days before a change occurs. A licensee must establish policies and procedures for notifying clients.

The bill requires applicants to submit proof of legal right to occupy the property; proof of liability insurance pursuant to chapter 624, F.S., unless otherwise stated in authorizing statute; and proof of financial ability to operate for an initial or change of ownership application in accordance with authorizing statutes and applicable rules. AHCA must establish standards for

determining financial ability to operate, including the applicant's controlling interests, applicant documentation requirements, anticipated revenues and expenditures, basis for financing anticipated cash-flow, and access to contingency financing. A current certificate of authority under chapter 651, F.S., may be submitted to AHCA as proof of financial ability to operate, and the bill allows AHCA to require the licensee to submit proof of financial stability when evidence of financial instability exists.

The bill prohibits a licensee or controlling interest from withholding from AHCA evidence of financial instability. A violation of this provision is a second degree misdemeanor punishable by a \$500 fine.

Section 408.810(10), F.S., requires a certificate of need (CON) prior to licensure for those health care facilities already required to obtain a CON including hospitals, nursing homes, hospices, and intermediate care facilities for the developmentally disabled. The authorization contained in the CON will not have any effect on the termination of the license for any reason.

Section 408.811, F.S., authorizes AHCA to conduct inspections and investigations to determine compliance with licensure requirements. The right of inspection extends to businesses AHCA believes are being operated without the appropriate license, but such inspection of a suspected unlicensed entity requires permission of the owner or person in charge unless a warrant is obtained from a circuit court. An application for a license gives AHCA the right to conduct appropriate inspections in connection with the application. All inspections will be unannounced except as specified in s. 408.806, F.S. Re-licensure inspections must be conducted biennially unless otherwise specified in authorizing statutes or applicable rules.

The bill allows for certification inspections in lieu of complete licensure inspections. If certain licensure requirements are not included in the certification inspection, a licensure inspection may also be conducted. AHCA must have access to all required records and the licensee must provide copies of required records to AHCA at no cost.

A licensee must maintain and make available to the public all inspection filed with or issued by any governmental agency, unless those reports are exempt from or contain information that is exempt from s. 119.07(1), F.S., or is otherwise made confidential by law. Effective July 1, 2004, such reports must be retained in the provider's records for at least five years from the date filed and issued. A licensee must provide at the request of any person who has completed an admissions application to the provider, or any person who is a patient of the provider, or a relative, spouse, or guardian of such person, a copy of the last inspection report issued by AHCA or an accrediting organization if such a report is used in lieu of a licensure inspection.

Section 408.812, F.S., prohibits persons from offering or advertising services that require licensure without first obtaining a valid license from AHCA. A licensee is prohibited from advertising or holding out to the public a license other than the license actually held.

The bill specifies that operating or maintaining an unlicensed provider or providing services necessitating licensure is unlawful. Unlicensed activity constitutes harm materially affecting client health, safety and welfare. The bill allows AHCA, or any state attorney, to bring an action

for an injunction to cease unlicensed activity, or enjoin future operation, maintenance, or provision of services until compliance has been determined by AHCA.

An unlicensed provider owner or operator failing to cease operation and apply for licensure after agency notification commits a third degree felony, punishable by a term of imprisonment not exceeding 5 years, and/or a fine not exceeding \$5,000. Each day the provider continues to operate is a separate offense. A second or subsequent unlicensed provider violation is a second degree felony, punishable by a term of imprisonment not exceeding 15 years and/or a fine not exceeding \$10,000. AHCA may fine an unlicensed provider who fails to cease operation \$1,000 for each day of noncompliance.

A licensee having more than one provider, who fails to license any of the providers requiring licensure, is subject to license revocation of all licenses, moratoriums, or fines pursuant to the authorizing statutes, against the licensee until such time as the licensee is appropriately licensed.

In addition to an injunction, an owner of an unlicensed provider is subject to the same actions and fines imposed against a licensed provider if AHCA determines that a condition exists that poses a threat to client health, safety, or welfare. Persons aware of the operation of an unlicensed provider must report that provider and operator to AHCA.

Section 408.813, F.S., allows AHCA to impose an administrative fine for any violations of licensure requirements. The fine amount imposed must be in accordance with authorizing statutes or applicable rules. If the fine amount is not specified in authorizing statutes or applicable rules, AHCA may establish criteria for the fine amount by rule. If fines are upheld as a result of an administrative or judicial review, the violator must pay the fine plus interest for each day beyond the original date for payment.

Section 408.814, F.S., allows AHCA to impose an immediate moratorium or emergency suspension on a provider if conditions present a threat to client health, safety, or welfare. A provider subject to license denial or revocation may be subject to a moratorium or emergency suspension to run concurrent with licensure denial, revocation, or injunction. A moratorium or emergency suspension will remain in place after a change of ownership unless AHCA determines that conditions resulting in the moratorium or denial have been corrected. Moratorium or emergency suspension notices must be posted and visible to the public at the provider's location until the moratorium or emergency suspension has been removed by AHCA. Moratoria and emergency suspensions are specific to the facts of each case, not of general applicability, therefore not subject to rule making under chapter 120.

Section 408.815, F.S., allows AHCA to deny or revoke a license or application for violations and actions by a controlling interest that include false representation, or omission of material fact in the application; an intentional or negligent act affecting client health, safety, or welfare; a demonstrated pattern of deficient performance; and exclusion, suspension, termination, or involuntary withdrawal from the Medicaid or Medicare program or other governmental or private health care or health insurance program by an applicant, licensee, or controlling interest.

A licensee must continue to meet licensure requirements including submission of a license renewal application and fee while lawfully operating pending litigation for license denial or

revocation. The bill allows AHCA to withhold final decisions on any application or request filed with AHCA pending final agency action in the pending litigation.

A moratorium or license denial against a transferor may be grounds for license denial of a change of ownership to the transferee.

Section 408.816, F.S., allows AHCA to seek injunctive proceedings in court to restrain or prevent operation or establishment of an unlicensed provider or a provider in violation of regulations. AHCA also may seek injunctive relief when violations of licensure requirements result in an emergency immediately affecting client health, safety, or welfare. AHCA may enforce an order when administrative sanctions against the provider to correct the violations affecting client health, safety, or welfare have failed and may terminate the operation of a provider for violations of regulations and violations affecting client health, safety, or welfare. Injunctions may be temporary or permanent.

Section 408.817, F.S., requires that administrative proceedings challenging agency licensure enforcement actions be reviewed on the facts and conditions that resulted in agency action.

Section 408.818, F.S., requires all fees and fines collected to be deposited into the Health Care Trust Fund, created in s. 408.16, F.S., and used to offset agency regulatory costs, unless otherwise specified in authorizing statutes.

Section 408.819, F.S., authorizes AHCA to adopt rules to implement ss. 408.801-408.819, F.S. Licensed providers operating at time of rule adoption must be given a reasonable time, not to exceed 6 months after the effective date of the rule, to comply with such rule, unless otherwise specified by rule.

Drug-Free Workplace

Section 6. Amends Drug-Free Workplace licensure requirements in s. 112.0455, F.S., to conform to the provisions of the “Health Care Licensing Procedures Act” in part II of chapter 408, F.S. The bill deletes requirements for owner/operator background screening, basic grounds for agency action, and standard requirements for license renewal. Current annual fees of between \$8,000 and \$10,000 are modified to be between \$16,000 and \$20,000 for a two-year license. These providers remain exempt from the requirement to notify clients of the AHCA complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. The bill also changes the phrase “state drug-testing program” to “drug-free workplace testing”, to clarify AHCA’s rule making authority for drug free workplace licensure.

Birth Centers

Section 7. Amends birth center licensure requirements in s. 383.301, F.S., to conform to the provisions of the “Health Care Licensing Procedures Act” of part II of chapter 408, F.S.

Section 8. Repeals s. 383.304, F.S., to delete a requirement to be licensed and prohibition of unlicensed operation, which are now found in the “Health Care Licensing Procedures Act” of part II of chapter 408, F.S.

Section 9. Amends s. 383.305, F.S., removing requirements for birth center licensure that are now found in the “Health Care Licensing Procedures Act” of part II of chapter 408, F.S., regarding licensing and background screening requirements. The bill authorizes licensure fees to be established by rule. These providers remain exempt from the requirements to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 10. Amends s. 383.309, F.S., inserting references to the “Health Care Licensing Procedures Act” of part II of chapter 408, F.S., as additional requirements regarding the adoption and enforcement of rules related to birth centers. The bill deletes subsection (2) which provides existing facilities one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 11. Amends s. 383.315, F.S., modifying the time period for facility consultant agreements for birth centers to be consistent with the new two-year licensure period.

Section 12. Amends s. 383.324, F.S., removing language regarding inspections and investigations of birth centers; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 13. Repeals s. 383.325, F.S., removing language regarding the maintaining of inspection reports, and providing copies in birth centers; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 14. Amends s. 383.33, F.S., removing language regarding facility penalties, emergency orders, and moratoria on admissions, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., in their place; these standards are now in the core licensure requirements of part II of chapter 408, F.S.

Section 15. Repeals s. 383.331, F.S., removing language regarding agency injunctive relief regarding birth centers; and repeals s. 383.332, F.S., removing language regarding unlicensed operation of birth centers. These standards are now in the core licensure requirements of part II of chapter 408, F.S.

Section 16. Amends s. 383.335, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., in the birth center facility partial exemption provisions.

Abortion Clinics

Section 17. Amends s. 390.011(5), F.S., clarifying the definition of “hospital” as used in relation to abortion clinics.

Section 18. Amends abortion clinic licensure in s. 390.012, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to abortion clinics.

Section 19. Repeals s. 390.013, F.S., which provides existing abortion clinics one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 20. Amends s. 390.014, F.S., removing language regarding licensing procedures, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing requirements for abortion clinics. Deletes language regarding the display of the license within abortion clinics. Current annual fees of between \$35 and \$250 are modified to be between \$70 and \$500 for a two-year license. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 21. Repeals s. 390.015, F.S., removing language regarding licensing procedures for abortion clinics; repeals s. 390.016, F.S., removing language regarding license expiration for abortion clinics; repeals s. 390.017, F.S., removing language regarding suspension or revocation of abortion clinic licenses. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 22. Amends s. 390.018, F.S., removing language regarding facility penalties, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding facility discipline for abortion clinics; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 23. Repeals s. 390.019, F.S., removing language regarding inspections and investigations of abortion clinics; repeals s. 390.021, F.S., removing language regarding Agency injunctive relief regarding abortion clinics. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Community Mental Health Facilities, Including Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, and Residential Treatment Centers for Children and Adolescents

Section 24. Amends s. 394.455(13), F.S., clarifying the definition of “hospital” as used in relation to community mental health facilities.

Section 25. Amends s. 394.67(2), F.S., deleting language defining “applicant”; this definition is now in the core licensure requirements of part II of chapter 408, F.S. The bill adds a definition of “short-term residential treatment facility.”

Section 26. Amends s. 394.875, F.S., removing language regarding licensing and background screening requirements, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing of crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; adding a purpose

statement for short-term residential treatment units; providing for licensure exemption for hospitals licensed under chapter 395, F.S.; deleting a licensure exemption for homes for special services licensed under chapter 400, F.S. Community mental health facilities licensed by the AHCA will be exempt from requirements to provide proof of financial ability to operate and to report evidence of financial instability, and from certificate-of-need requirements.

Section 27. Repeals s. 394.876, F.S., removing language regarding licensing applications for community mental health facilities. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 28. Amends s. 394.877, F.S., removing language regarding licensing fees, inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., and authorizing fees to be determined by rule.

Section 29. Amends s. 394.878, F.S., removing language regarding licensing procedures for community mental health facilities. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 30. Amends s. 394.879, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to community mental health facilities

Section 31. Amends s. 394.90, F.S., inserting reference to section 408.811 of the “Health Care Licensing Procedures Act” regarding right of inspection of licensed community mental health facilities.

Section 32. Amends s. 394.902, F.S., removing language regarding facility penalties for community mental health facilities. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Hospitals, Ambulatory Surgical Centers, and Mobile Surgical Facilities

Section 33. Repeals s. 395.002(4), F.S., deleting language defining “applicant” as related to licensure of hospitals, ambulatory surgical centers, and mobile surgical facilities. This definition is now in the core licensure requirements of part II of chapter 408, F.S.

Section 34. Amends s. 395.003, F.S., removing language regarding licensing procedures, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing requirements for hospitals, ambulatory surgical centers and mobile surgical facilities.

Section 35. Amends s. 395.004, F.S., removing language regarding licensing fees, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing fees for hospitals, ambulatory surgical centers and mobile surgical facilities. Authorizes fees to be determined by rule.

Section 36. Repeals s. 395.0055, F.S., deleting language regarding background screening as related to licensure of hospitals, ambulatory surgical centers, and mobile surgical facilities. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 37. Amends s. 395.0161, F.S., to insert references to s. 408.805 and part II of chapter 408, F.S., regarding licensure inspection and inspection fees for hospitals, ambulatory surgical centers and mobile surgical facilities.

Section 38. Repeals s. 395.0162, F.S., deleting language regarding inspection reports for hospitals, ambulatory surgical centers, and mobile surgical facilities. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 39. Amends s. 395.0163, F.S., inserting reference to s. 408.811, F.S., of the “Health Care Licensing Procedures Act”, regarding inspection of mobile surgical facilities, and repealing s. 395.0163(2)(b), F.S., deleting an obsolete reference to the Planning and Regulation Trust Fund. Ambulatory surgical centers and mobile surgical facilities will be exempt from requirements of providing proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability, and certificate-of-need requirements. Hospitals are exempt from requirements of providing proof of financial ability to operate and the requirement to report evidence of financial instability. Hospitals are exempt from liability insurance requirements because they must already comply with requirements of medical malpractice insurance in chapter 766, F.S.

Section 40. Amends s. 395.0197(2), F.S., to require hospitals, ambulatory surgical centers and mobile surgical facilities to use the services of, rather than to hire, a risk manager. The current limitation that a risk manager may not be made responsible for more than four internal risk management programs is limited to hospitals; thus a risk manager could serve more than four ambulatory surgical centers or mobile surgical facilities.

Section 41. Amends private utilization review requirements in s. 395.0199, F.S., removing language regarding licensing and background screening requirements, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing and background screening requirements for utilization review agents; removes language regarding discipline for utilization review agents. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. The bill retains the maximum fee amount and authorizes fees to be established by rule.

Section 42. Amends s. 395.1046, F.S., inserting reference to s. 408.811, F.S., of the “Health Care Licensing Procedures Act” regarding agency right of entry for complaint investigation in hospitals.

Section 43. Amends s. 395.1055, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., as additional requirements regarding the adoption and enforcement of rules related to hospitals, ambulatory surgical centers, and mobile surgical facilities; deleting subsection (7) which provides existing facilities one year to meet the requirements of newly adopted rules.

Section 44. Amends s. 395.1065, F.S., removing language regarding facility penalties, emergency orders, and moratoria on admissions, and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding facility discipline for hospitals, ambulatory surgical centers, and mobile surgical facilities. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Risk Managers

Section 45. Amends s. 395.10973, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to health care risk managers.

Section 46. Amends s. 395.10974, F.S., removing language regarding licensing requirements and fees for fingerprinting and inserting references to the “Health Care Licensing Procedures Act,” part II of chapter 408, F.S., regarding licensing requirements for health care risk managers. These providers are exempt from background screening requirements, minimum licensure requirements, and inspections.

End-of-Life Care

Section 47. Amends s. 395.1041, F.S., to require that facilities must withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate.

Section 48. Creates s. 395.10411, F.S., providing requirements for facilities to carry out the advance directive, order not to resuscitate, or is a designated organ donor as follows:

- When a person who has a terminal condition or an end-stage condition or is in a persistent vegetative state and who has an advance directive, the facility must carry out the advance directive or transfer the patient to a facility that will carry out the advance directive. The cost of transferring the patient is to be paid from the facility from which the patient was transferred. A facility is prohibited from receiving payment of any state funds for life-prolonging treatment if the facility fails to carry out the patient’s advance directive.
- When a person who has a terminal condition or an end-stage condition or is in a persistent vegetative state and who has an order not to resuscitate, the facility must carry out the order not to resuscitate. Failure to carry out a patient’s order will prohibit the facility from receiving payment of any state funds for life-prolonging treatment provided to the patient.
- When a person who has a terminal condition or an end-stage condition or is in a persistent vegetative state and who has an advance directive is a designated organ donor, a facility must keep the organs of the person viable for a period not to exceed 36 hours once the decision has been made to remove life support. This requirement does not supersede an advance directive, and life-prolonging procedures may not be used beyond a period of 36 hours.

Section 49. Amends s. 765.1105, F.S., requiring a health care provider or facility that refuses to carry out a patient's advance directive to transfer the patient to a health care provider that will comply within 48 hours after determination by the attending physician that the patient's condition is such that the advance directive applies.

Section 50. Creates s. 765.1021, F.S., to encourage physicians and patients to discuss end-of-life care and to specify when an advance directive is to become part of a patient's medical record.

Section 51. Amends s. 765.304, F.S., to require an attending physician who refuses to comply with a person's living will to transfer the person to a physician who will comply.

Section 52. Amends s. 395.10975(2), F.S., deleting a reference to suspension of a license.

Nursing Homes

Section 53. Amends s. 400.021, F.S., to provide that a registered nurse employed by the facility to whom institutional responsibilities have been delegated may sign a resident care plan. The facility may not use an agency or temporary registered nurse to satisfy the foregoing requirement and must document the institutional responsibilities that have been delegated to the registered nurse.

Section 54. Repeals s. 400.021(5) and (20), F.S., deleting nursing home definitions for "controlling interest" and "voluntary board member". Definitions are now in the core licensure requirements of part II of chapter 408, F.S.,

Section 55. Amends s. 400.022(3), F.S., regarding grounds for Agency action for nursing home violations of residents' rights to include a reference to the "Health Care Licensing Procedures Act," part II of chapter 408, F.S.

Section 56. Amends s. 400.051(1)(b), F.S., to correct a cross-reference in the definition of hospital used in this part.

Section 57. Amends s. 400.062, F.S., to reference the requirement of a nursing home license to operate pursuant to part II of chapter 408, F.S. The bill establishes a biennial licensure period. Current annual per bed fees of \$50 are modified to be \$100 for a two-year license unless modified by rule. The bill deletes reference to the adjustment of a per bed licensure fee by the Consumer Price Index; this is now addressed in the core licensure requirements of part II of chapter 408, F.S. The current resident protection fee of 25 cents per bed is modified to be 50 cents per bed for a two-year license. The current Resident Protection Trust Fund rate of \$10 per bed is modified to be \$20 per bed for a two-year license. The bill authorizes AHCA to prorate the biennial license fee for any license issued for less than two years and removes language regarding fee deposits and display of a license. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 58. Amends s. 400.063(1), F.S., to correct a cross-reference to the Resident Protection Trust Fund to revise the statutory reference of s. 400.062(3)(b) to s. 400.062(3), F.S. The bill

also deletes the statutory reference to s. 400.111(1), F.S., pertaining to the expiration of a license. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 59. Amends s. 400.071, F.S., regarding application for licensure to delete sections regarding the application and licensure processes which are now referenced in part II of chapter 408, F.S. The bill adds the reference to controlling interests as defined in s. 408.803, F.S. Deletes language related to AHCA issuing an inactive license to a nursing home.

Section 60. Creates s. 400.0712, F.S., to authorize AHCA to issue an inactive license to a nursing home facility for all or a portion of its beds. All requests for an inactive license must be submitted to AHCA in the approved format. Approval must be received from AHCA before a facility initiates any suspension of services, notifies residents or initiates facility closure. A facility that violates these procedures may be issued an inactive license. Upon approval of an inactive license, the nursing home must notify residents of any necessary discharges or transfers.

AHCA may issue an inactive license to a nursing home that chooses to use an unoccupied contiguous portion of the facility for an alternative use to meet the needs of elderly persons through the use of less restrictive, less institutional services. An inactive license may be granted for a period not to exceed 12 months and may be renewed annually for 12 months. A request to extend the inactive license must be submitted to AHCA for approval. Nursing homes that receive an inactive license to provide alternative services must not receive preference for participation in the Assisted Living for the Elderly Medicaid waiver.

An inactive license may be issued by AHCA to a nursing home that will be temporarily unable to provide services but is reasonably expected to resume services. An inactive license may not exceed 12 months and may be renewed for an additional 6 months. All licenses must be current and paid in full before the inactive license is issued. Inactive licenses may be reactivated under certain circumstances. AHCA is authorized to adopt rules to implement this section.

Section 61. Amends s. 400.102, F.S., regarding grounds for action by AHCA against a nursing home licensee to add a reference to part II of chapter 408, F.S., and to delete specific violations in this section that are included in the core licensure requirements of part II of chapter 408, F.S.

Section 62. Amends the title of s. 400.111, F.S., to Renewal of License; deletes references to the expiration of licenses that will be provided in part II of chapter 408, F.S., and requires compliance with ss. 408.801-408.819, F.S.

Section 63. Amends subsections (2) and (5) of s. 400.1183, F.S., regarding resident grievance procedures, to replace the term “annually” with “at the time of licensure” for reporting the total number of grievances handled by the facility. The bill deletes subsection (5) regarding the execution of an administrative fine for noncompliance with this section; such action is already authorized as general compliance with chapter 400, part II.

Section 64. Amends the title of s. 400.121, F.S., to “Denial or revocation of license; administrative fines; procedure; order to increase staffing”, and deletes references to the suspension of a license and moratorium on admissions. The bill provides grounds for action based on violation of any provision of this part, part II of chapter 408, F.S., or applicable rule.

The bill deletes references for failure to pay any outstanding fines assessed by final order, exclusion from the Medicare or Medicaid program and execution of a moratorium; these standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. The bill eliminates reference to the term permanent suspension and replaces it with revocation.

Section 65. Repeals s. 400.125, F.S., regarding injunction proceedings. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 66. Amends various subsections of s. 400.141, F.S., regarding the administration and management of nursing home facilities. The bill corrects a cross-reference to s. 400.071(1)(a), F.S., regarding submission of a signed affidavit of financial or ownership interest by a controlling interest. The bill requires quarterly submission of staff-to-resident ratios, staff turnover and staff stability instead of semiannual submission. The bill clarifies that a facility must meet 100% of the direct care staffing ratios during the effective period of a conditional license and provides for the reporting of vacant beds on the last day of the month. The bill incorporates the statutory reference to ss. 408.801-408.819, F.S., defining general and professional liability insurance.

Section 67. Deletes the reference to suspension of a license in subsections (4) and (5) of s. 400.17, F.S., regarding the prohibition of bribes and kickbacks.

Section 68. Amends the title of s. 400.179, F.S., to Liability for Medicaid underpayments and overpayments, and deletes subsections (2), (3) and (4) regarding the sale or transfer of ownership of a nursing facility; change of ownership requirements are now addressed in the core licensure requirements of part II of chapter 408, F.S. With regard to the requirements of a leasehold licensee, the bill changes the reference of payment at the time of any subsequent annual license renewal to payment annually thereafter since licensure will be biennial. The bill deletes the reference to “operator” and inserts “licensee” and eliminates the terms “cancel” or “suspend” a license. The bill provides a reference to part II of chapter 408, F.S., in regard to assigning a moratorium.

Section 69. Amends s. 400.18(1) and (4), F.S., regarding closing of a nursing facility, to delete the requirement to notify AHCA 90 days prior to voluntary closure and to the surrendering of the license to AHCA immediately upon discontinuing operation. These requirements are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 70. Amends s. 400.19(1), (2) and (3), F.S., regarding the right of entry and inspections. The bill provides a reference to part II of chapter 408, F.S., and deletes references to the right of entry and inspection to any premises which AHCA has reason to believe is being operated without a license and the right of entry into facilities applying for initial or renewal of a license. The bill deletes references to the distribution of rules promulgated pursuant to this part as this standard is now in the core licensure requirements of part II of chapter 408, F.S. The bill deletes the requirement to pay one-half of the 6-month survey fine (\$3,000) after the completion of each survey. This installment has been difficult to monitor as surveys are unscheduled and since the fine is imposed by final Agency action; the entire fine amount is appropriate to be collected as specified in AHCA’s final order. The bill eliminates reference to an annual licensure cycle. The

bill eliminates the Agency's ability to correct a Class III deficiency without an onsite visit; this is consistent with federal nursing home certification requirements.

Section 71. Amends s. 400.191, F.S., regarding the availability, distribution and posting of reports and records to include the provision that AHCA may provide electronic access to inspection reports as a substitute for sending copies. In addition, the section specifies the publication of the Guide to Nursing Homes in Florida and provides that the Guide will include any prior name a facility was known by during the previous 12-month period and the most recently available facility occupancy data. Other amendments include replacing the reference to the Health Care Financing Administration with the new title of Centers for Medicare and Medicaid Services and reducing the time period from the previous 45 months to 30 months for supplying survey and deficiency information in the Guide. This will make the time period for the Guide consistent with the time period for the Nursing Home Gold Seal Program.

AHCA publication of the "Nursing Home Guide Watch List" would be in the Guide to Nursing Homes, providing a consolidated document for consumers to reference when reviewing nursing home information. The Watch List history information would be changed from the number of times a facility has appeared on a Watch List to the number and percentage of days a facility had a conditional license and was on a watch list in the past 30 months; a more accurate representation of the duration of problems. AHCA must send a copy of all Guide pages listing the facility to each nursing home facility upon publication. The bill requires each nursing home to submit required information electronically when such option is available.

Section 72. Amends s. 400.20, F.S., regarding licensed nursing home administrators to establish that a facility may not operate except under the supervision of a licensed nursing home administrator.

Section 73. Amends subsection (4) of s. 400.211, F.S., to replace the requirement that certified nursing assistants (CNAs) receive at least 18 hours of in-service training with compliance with s. 464.203(7), F.S., which requires 18 hours of annual in-service training for continued certification as a nursing assistant. Nursing homes are also required to provide 12 hours of in-service training annually to CNAs as a condition of federal certification as a Medicare or Medicaid provider, see 42 Code of Federal Regulation (CFR) 483.75.

Section 74. Amends s. 400.23(2), (7), and (8), F.S., and adds a new (10) regarding rules, evaluation and deficiencies, and licensure status, to include reference to part II of chapter 408, F.S., and to delete reference to the requirement that each licensee post its license in a prominent place. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S. Requires agency records, reports, ranking systems, Internet information, and publications must be promptly updated to reflect the most current agency action.

Section 75. Repeals s. 400.241(1) and (2), F.S., regarding the unlawful act of operating a nursing home without a valid license and to advertise or hold out to the public that it holds a license for a facility other than that for which it actually holds a license. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Assisted Living Facilities

Section 76. Amends s. 400.402, F.S., repealing subsection (5), the definition of applicant, which is defined in the core licensure requirements of part II of chapter 408, F.S. The bill also deletes “department” and inserts “agency” to conform to the moving of rule development authority from the Department of Elderly Affairs to AHCA.

Section 77. Amends s. 400.407(1), F.S., by striking language requiring an ALF license to operate and inserting new language that the requirements of part II of chapter 408, F.S., and part III of chapter 400, F.S., apply to the provision of services requiring licensure, and to ALF licensed entities and applicants. However, an applicant for licensure is exempt from certificate-of-need requirements in s. 408.810(10), F.S.

The bill also amends s. 400.407(3), F.S., by deleting certain items required on an ALF license which are specified in s. 408.806 of this bill as applicable to all licensure programs. The bill inserts reference to s. 408.806, F.S., for purposes of designation of an extended congregate care services (ECC) license; requires approval or denial notification of an ECC application to be in accordance with part II of chapter 408, F.S.; and eliminates use of permanent suspension but retains revocation and denial authority. The bill strikes “on admissions” after moratorium, relying on the definition of moratorium in part II of chapter 408, F.S.; strikes “department” for purposes of rule development; deletes department responsibility for an annual ECC report to the Governor and Legislature and requires AHCA to be responsible for the report; inserts reference to s. 408.806, F.S., for purposes of designation of limited nursing services (LNS) license, and requires the approval or denial notification of a LNS application to be in accordance with part II of chapter 408, F.S.

The bill amends s. 400.407(4), F.S., to require license fees to be paid pursuant to s. 408.805, F.S., and requires AHCA to establish the amount in rule. The bill deletes AHCA’s ability to adjust per-bed fees and license fees annually by changes in the Consumer Price Index; deletes AHCA’s ability to adjust ECC per bed fees and ECC license fees annually by not more than the average rate of inflation; and deletes AHCA’s ability to adjust LNS per bed fees and LNS license fees biennially by not more than the average rate of inflation. The bill deletes the requirement to display an ALF license in a conspicuous place inside the facility and deletes conditions under which an ALF license is valid. The bill deletes AHCA’s ability to charge a facility for a duplicate license. These standards are now addressed in the core licensure requirements of s part II of chapter 408, F.S.

Section 78. Amends s. 400.4075(1), F.S., by inserting a reference to s. 408.806, F.S., for purposes of designation of a limited mental health (LMH) license, and requires the approval or denial notification of an LMH application to be in accordance with part II of chapter 408, F.S.

Section 79. Amends s. 400.408(1), F.S., by deleting the prohibition of owning, operating, or maintaining an ALF without a license; deleting the operation of an unlicensed ALF as a third degree felony; deleting the operation of an unlicensed ALF a second or subsequent time as a second degree felony; removing language allowing AHCA to fine unlicensed facilities for each day of noncompliance for failing to cease operations; deleting AHCA’s authority to revoke the license, impose a moratorium, or impose a fine against a licensed ALF owner who fails to license

all ALF operations in which the owner has interest; removing the provision that owners of unlicensed ALFs in which conditions exist threatening resident health, safety or welfare are subject to the same adverse actions and fines of licensed facilities; deleting the requirement for persons to report unlicensed ALFs to AHCA; and removing the requirement for AHCA to provide the Department of Elderly Affairs' information and referral providers a county list of licensed ALFs for persons considering placement. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.408(3), F.S., by inserting a new statutory reference for imposition of a moratorium pursuant to s. 408.814, F.S., for referral to an ALF under moratorium.

Section 80. Amends s. 400.411(1), F.S., by inserting that each ALF applicant must comply with all requirements of part II of chapter 408, F.S. The bill deletes a description of applicant; a requirement that the application be under oath; disclosure of the applicant name, address, date of birth, and social security number, and the name and address of persons with 5 percent or greater ownership interest in a corporation; disclosure of the name and address of long-term-care facilities which the applicant has owned or been employed by within the previous 5 years and those entities which closed due to financial problems, had a receiver appointed, license denied, suspended, revoked, moratorium imposed, or had an injunction proceeding initiated. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill deletes the requirement for an ALF to report the name and address of any professional service, firm, association, partnership or association that provides goods or services to the ALF.

The bill deletes the requirement to provide satisfactory proof of financial ability to operate; submission of a continuing care retirement community certificate of authority; proof of liability insurance; proof of compliance with chapter 419, F.S., requirements; proof of legal right to occupy property; proof of a satisfactory firesafety inspection; and compliance with level 2 background screening for owners/operators. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 81. Amends s. 400.412, F.S., by inserting compliance with part II of chapter 408, F.S., for ALF changes of ownership. The bill revises s. 400.412(1), F.S., by deleting transferee submission of an application at least 60 days before transfer of ownership, and transferor versus transferee responsibilities; these standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 82. Amends s. 400.414, F.S., by inserting the Agency ability to impose a moratorium and deleting the Agency ability to suspend a license. The bill inserts a violation of chapter 400, part III, part II of chapter 408, F.S., or applicable rule as a basis for license denial, revocation, moratorium, or administrative fine. The bill deletes violation of a moratorium, failure of an applicant to meet minimum licensure requirements, a fraudulent statement or omission of material fact, or suspension or termination from the Medicare or Medicaid programs, as a basis for denial or revocation. The provision that administrative proceedings are to be reviewed on the basis of facts and conditions resulting in AHCA action is deleted. The bill deletes officer or board member of an applicant and inserts controlling interest as defined in s. 408.803, F.S., for purposes of the Agency's ability to deny a license due to ownership interest in other facilities

that within the previous 5 years closed due to financial inability to operate, had a receiver appointed, had a license denied, suspended, revoked, or a moratorium imposed, or had an injunction proceeding initiated. The deleted standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 83. Amends s. 400.417, F.S., by deleting reference to the biennial licensure timeframe and expiration and the agency notification to a renewal applicant 120 days prior to license expiration and submission of a renewal application by an applicant at least 90 days prior to license expiration. The bill deletes that fees must be prorated and deletes assessment of late fees. The bill inserts that licenses shall be renewed pursuant to part II of chapter 408, F.S. The bill deletes that licenses must be renewed within 90 days of the applicant timely filing, and inserts compliance with the background screening requirements of s. 408.809, F.S. The bill deletes the renewal applicant requirement to establish proof of financial ability to operate; deletes a provision that the license not be renewed if the licensee has outstanding fines; deletes the requirement for an affidavit of compliance with background screening requirements, and deletes the ability to issue a conditional license pending final agency action. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.417(7), F.S., by deleting “department” and inserting “Agency” for rule development authority.

Section 84. Repeals s. 400.415, F.S., regarding a moratorium on admissions to an ALF.

Section 85. Amends s. 400.4174, F.S., by deleting level 2 background screening requirements and issuance of a provisional license pending Federal Bureau of Investigation results. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 86. Amends s. 400.4176, F.S., by deleting a requirement that background screening be completed on any new administrator. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 87. Repeals s. 400.4178(7), F.S., regarding Alzheimer’s disease and related disorders training fees. The bill deletes an obsolete exemption from training fees for ALFs that serve a large proportion of Optional State Supplement (OSS) residents. Training has been privatized and exemptions cannot be made to fees charged by private entities.

Section 88. Amends s. 400.418, F.S., by deleting language showing fees are to be deposited into the Health Care Trust Fund; this is now in the core licensure requirements of part II of chapter 408, F.S.

The bill further amends s. 400.418, F.S., by deleting trust funds to be used for the costs of conducting background investigations, and inserting trust funds to be used for the purpose of conducting inspections and monitoring visits pursuant to part II of chapter 408, F.S. Applicants and licensees directly pay their own costs of background screening fees and these fees are not funded through licensure fees.

Section 89. Amends s. 400.419(1), F.S., by inserting a violation of chapter 400, part III, part II of chapter 408, F.S., or applicable rule as grounds to impose an administrative fine. The bill deletes language in subsections (6) – (9) regarding payment of a fine with interest for Agency actions upheld following administrative or judicial review and deletes unlicensed activity fines. These deleted standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 90. Amends s. 400.42, F.S., eliminating permanent suspension but retaining denial or revocation as a sanction for violations.

Section 91. Repeals s. 400.421, F.S., regarding injunctive proceedings against ALFs.

Section 92. Amends s. 400.423(10), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 93. Amends s. 400.424(8), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 94. Amends s. 400.4255(3), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 95. Amends s. 400.4256(6), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 96. Amends s. 400.427(8), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 97. Amends s. 400.4275(4), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 98. Amends s. 400.431, F.S., by deleting facility written notification to AHCA at least 90 days prior to voluntary closure and deleting the provision that administrative fines collected pursuant to facility closure violations be deposited into the Health Care Trust Fund. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 99. Amends s. 400.434, F.S., by deleting the right of inspection for unlicensed activity and authority for inspection. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 100. Repeals s. 400.435(1), F.S., regarding facility retention and availability to the public of all inspection reports. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 101. Amends s. 400.441(1), F.S., by deleting “department” and inserting “agency” for rule development authority to administer chapter 400, part III, and part II of chapter 408, F.S. The bill provides that AHCA must consult with the Department of Elderly Affairs and the Department of Community Affairs in the rulemaking process. The bill requires assisted living

facilities to conduct resident elopement prevention and response drill. The bill deletes the Agency from promulgating rules regarding license application, license renewal, charging for copies of regulations, transfer of ownership, financial ability to operate, and moratoriums. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S..

The bill amends s. 400.441(2), F.S., by deleting “department” and inserting “agency” for rule development authority.

The bill amends s. 400.441(3), F.S., by deleting the requirement that a copy of the proposed ALF rule be submitted to the Speaker of the House of Representatives, the President of the Senate, and the appropriate committees for review and comment before promulgation, and deletes “department” and inserts “agency” for rule development authority. Rule distribution standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.441(4), F.S., by requiring the Agency, rather than the Department of Elderly Affairs, to report annually to the Legislature about its use of an abbreviated biennial standard licensure inspection.

The bill deletes s. 400.441(5), F.S., regarding fees to be charged to persons requesting a copy of chapter 400, part III, F.S., or rules promulgated under that part.

Section 102. Amends s. 400.442(4), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 103. Amends s. 400.444(3), F.S., by deleting “department” and inserting “agency” for rule development authority.

Section 104. Repeals s. 400.447(1), (2), and (3), F.S., regarding unlawful advertising, withholding evidence of financial instability, and violation of second degree misdemeanor. These requirements are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill also repeals s. 400.451, F.S., allowing facilities up to 6 months to comply with new rules and standards. This standard is now in the core licensure requirements of part II of chapter 408, F.S.

Section 105. Amends s. 400.452(1), (3), and (6), F.S., by adding the Agency for purposes of promulgating training rules.

Section 106. Amends s. 400.454(1), F.S., by deleting “department” and inserting “agency” for purposes of collection of information requested by the Legislature, to conduct field visits and audits as necessary. The bill also amends s. 400.454(2), F.S., by deleting “department” and inserting “agency” approval of a local government or organization contribution to the cost of care of local facility residents.

Home Health Agencies

Section 107. Amends s. 400.464, F.S., by adding the requirement that home health agencies comply with the requirements for licensing in part II of chapter 408, F.S.; deleting the requirement to be licensed to operate; and deleting the one year time period for a license. However the bill exempts home health agencies from certificate-of-need requirements in s. 408.810(10), F.S.

The bill deletes the requirement that a home health agency has a valid license in order to offer, advertise or provide services and deletes the penalty for advertising and offering services without a license. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. The bill changes the statutory reference for an injunction from s. 400.515 to s. 408.816, F.S.

Section 108. Amends s. 400.471, F.S., by adding the requirement that applicants for a home health agency license must comply with part II of chapter 408, F.S., and deleting the requirement that application be made under oath on forms provided by AHCA. The bill deletes the requirement that the applicant provide proof of financial ability to operate, background screening compliance, and exclusions from Medicare or Medicaid, as well as the time frame for AHCA to take final action on applications for initial licensure. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S..

The bill requires payment of a fee for each application as required in part II of chapter 408, F.S., and as established by rule. Current annual fees which may not exceed \$1,000 are modified not to exceed \$2,000 for a two-year license. The bill deletes the requirement for the deposit of fees in the Health Care Trust Fund. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill deletes a requirement to display the license and that it cannot be sold, assigned or transferred; deletes issuance of a provisional license when a revocation or suspension proceeding is pending; and deletes the Agency prohibition from issuing a license to a home health agency with an unpaid fine. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S..

Section 109. Amends s. 400.474, F.S., by eliminating “suspension” from the section title, and eliminating suspension of a license as an agency action. Requirements in part II of chapter 408, F.S., chapter 400, part III, and applicable rules are the basis for denial, suspension, fines or injunction actions for home health agencies.

The bill deletes the penalties for operating without a license for home health agencies and clarifies that home health agencies found to be operating without a license and obtaining any government reimbursement shall be reported for fraud. The bill deletes s. 400.474(4), F.S., which provides authority for AHCA to deny, revoke or suspend the license or impose an administrative fine on home health agencies for specified violations. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 110. Amends s. 400.484(1), F.S., by adding reference to s. 408.811, F.S., on the right of inspection by AHCA; by deleting the right of inspection in suspected unlicensed activity; and deleting the provision that an application permits inspection for verification of information. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.484(2), F.S., by adding reference to compliance with s. 408.814, F.S., for moratoriums.

Section 111. Amends s. 400.494, F.S., regarding confidentiality of patient information, by correcting the reference to the Medicaid Fraud Control Unit as being in the Office of the Attorney General and clarifying that the section does not apply to information requested under s. 408.811, F.S., for inspections by AHCA.

Section 112. Amends s. 400.495, F.S., by referencing the requirements in s. 408.810(5), F.S., for distribution of toll-free phone numbers; and by deleting the requirement for distribution of the central abuse hotline number and advance notification if the hotline number changes. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 113. Amends s. 400.497, F.S., by requiring AHCA to adopt rules to implement part II of chapter 408, F.S.

Nurse Registries and Companion or Homemaker Services Providers

Section 114. Amends s. 400.506, F.S., by adding the requirement that nurse registries comply with the requirements for licensure in part II of chapter 408, F.S. The bill deletes the background screening requirements for applicants through FDLE and FBI; the authority to grant a provisional license when FDLE requirements are met; the requirement for applicant information on any exclusion from Medicare or Medicaid and any convictions of prohibited offenses; and the authority to deny an application for such exclusions or certain false information. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. Nurse registries remain exempt from the requirement to provide proof of right to occupy property and certificate of need.

Current annual fees which may not exceed \$1,000 are modified not to exceed \$2,000 for a two-year license. Fees are established by rule.

The bill deletes violations that may result in denial, revocation, and suspension of nurse registry licenses and imposition of administrative fines. The bill deletes the one-year licensure period, renewal licensing requirements, and authority to issue a conditional license when revocation or suspension proceedings are pending. The bill deletes AHCA's authority to institute injunctive proceedings under s. 400.515, F.S., and deletes the prohibition of offering or advertising services without a license and providing for injunctive proceedings for violation. The bill deletes the right of AHCA to make inspections to respond to complaints and verify compliance and to report suspected criminal activity or abuse, neglect or exploitation. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. The bill requires AHCA to adopt rules to implement part II of chapter 408, F.S.

Section 115. Amends s. 400.509(2), F.S., by requiring applicants for homemaker or companion services registration to comply with part II of chapter 408, F.S., with the exception of ss. 408.810(6)-(10), and 408.812(3)-(5), F.S., and by deleting the application content requirements. Companion or homemaker services providers remain exempt from the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. The current annual fee of \$25 is modified to \$50 for a two-year license.

The bill deletes background screening requirements for applicants; the requirement for applicant information on any exclusion from Medicare or Medicaid and any convictions of prohibited offenses; and the authority to deny an application for such exclusions or certain false information. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill deletes the requirements for notification of the toll-free central abuse hotline number; the one year time period for the registration; the reasons to deny, suspend or revoke a registration; the provision for injunctive proceedings under s. 400.515, F.S.; the Agency's right to make inspections to investigate complaints or determine compliance; and to report suspected criminal activity or abuse, neglect or exploitation. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill provides that notwithstanding the penalties provided in s. 408.812(3), any registrant that provides personal care to a client in the client's private residence commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the client's residence is not a facility licensed in accordance with part II of chapter 408. The bill also provides that s. 408.812 shall apply to all other unlicensed activity by a registrant, including the offering or advertising of any services that necessitates licensure under part II of chapter 408.

Section 116. Deletes s. 400.512(2), F.S., requiring the managing employee of each nurse registry and homemaker or companion service to sign an affidavit annually that all personnel have been background screened. This is no longer necessary since all direct care staff must be screened. The bill amends s. 400.512(7), F.S., by deleting the penalty in (a)2. for operating with persons who do not meet the minimum standards for good moral character, as this standard has been replaced by background screening.

Section 117. Repeals s. 400.515, F.S., regarding injunctions. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Adult Day Care Centers

Section 118. Amends s. 400.551, F.S., by inserting "licensee" in the definitions of operator and owner.

Section 119. Amends s. 400.554(1), F.S., by striking existing language requiring an adult day care center (ADCC) license before operating an ADCC and inserting new language that the requirements of part II of chapter 408, F.S., and chapter 400, part V, F.S., apply to the provision

of services requiring licensure and to ADCC licensed entities and applicants. However centers are exempt from the certificate-of-need requirements in s. 408.810(10), F.S.

The bill amends s. 400.554(3), F.S., by inserting authority to charge license fees pursuant to s. 408.805, F.S., and to establish the amount in rule.

The bill deletes the requirement to display the ADCC license in conspicuous place inside the center and the conditions under which an ADCC license is valid. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 120. Amends s. 400.555, F.S., by deleting the required submission of an ADCC licensure application and the appropriate fee to the Agency and inserting that each ADCC applicant must comply with all requirements of part II of chapter 408, F.S. The bill deletes a requirement to provide satisfactory proof of financial ability to operate, liability insurance, and compliance with level 2 background screening, and a description of Medicare or Medicaid exclusions, suspensions or terminations. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 121. Amends s. 400.556, F.S., by inserting Agency authority to impose a moratorium in subsection (1) and deleting the Agency's authority to suspend a license. The bill inserts a violation of chapter 400, part V, F.S., part II of chapter 408, F.S., or applicable rule as a basis for license denial, revocation, moratorium, or administrative fine, and deletes suspension or termination from the Medicare or Medicaid programs as a basis for denial, revocation, moratorium, or administrative fine. The deleted standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 122. Amends s. 400.5565(1), F.S., by inserting part II of chapter 408, F.S., as a basis for actions against an adult day care center. The bill deletes a provision regarding payment of a fine with interest for Agency actions that are upheld following administrative or judicial review; this standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 123. Amends s. 400.557, F.S., by deleting reference to a biennial licensure timeframe and licensure expiration; the requirement for Agency notification to renewal applicants 120-days prior to license expiration and submission of a renewal application by an applicant at least 90 days prior to license expiration; a renewal applicant requirement to establish proof of financial ability to operate; and the authority for the Agency to issue a conditional license at time of renewal if there is a license revocation or suspension pending at the time of renewal. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 124. Amends s. 400.5572, F.S., by deleting level 2 background screening requirements and issuance of a provisional license pending Federal Bureau of Investigation results. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 125. Repeals ss. 400.5575 and 400.558, F.S., regarding disposition of fees and administrative fines and injunctive relief. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 126. Amends s. 400.559, F.S., by deleting the requirement for adult day care center written notification to AHCA at least 60 days prior to voluntary closure; the requirement for the center to surrender its license upon discontinuing operation; the requirement that a new center owner apply for a license at least 60 days before the change of ownership date; and the requirement to notify AHCA in writing within 30 days of a change of operator. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 127. Amends s. 400.56, F.S., by deleting the right of inspection for licensure or unlicensed activity. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 128. Amends s. 400.562(1), F.S., by deleting the Department of Elderly Affairs and inserting Agency rule development authority to administer part V of chapter 400, F.S., and part II of chapter 408, F.S. The bill provides that AHCA must consult with the department in the rulemaking process; and inserts consultation with the Department of Elderly Affairs in developing components of the comprehensive emergency management plan.

The bill deletes s. 400.562(2), F.S., allowing AHCA to charge a fee to persons requesting a copy of the ADCC law and rule. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S..

Section 129. Repeals s. 400.564, F.S., regarding unlawful advertising, the violation of which is a second degree misdemeanor. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Hospices

Section 130. Amends s. 400.602, F.S., by adding that hospices must comply with the requirements for licensure in part II of chapter 408, F.S., and by deleting the requirement to have a license to operate a hospice and the display and assignment of the license. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 131. Amends s. 400.605(1), F.S., by requiring AHCA to write hospice rules in consultation with the Department of Elderly Affairs pursuant to this part and part II of chapter 408, F.S., and by deleting that the rules include the licensure application procedures and requirements. Rules for licensure application procedures are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.605(2), F.S., by requiring payment of a fee for each licensure application as specified in part II of chapter 408, F.S., and as established by rule; current annual fees of no more than \$600 are modified to be no more than \$1,200 for a two-year license. The bill deletes the requirement that AHCA furnish the application forms and issue licenses. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.605(3), F.S., by adding the requirements of s. 400.811, F.S., for conducting inspections and the requirements of part II of chapter 408, F.S., and applicable rules

for determining compliance; and by deleting the provisions regarding AHCA's right of inspection of hospices.

The bill amends s. 400.605(4), F.S., by adding that AHCA may impose a fine in accordance with part II of chapter 408, F.S., for any violations of those subsections or applicable rules.

Section 132. Amends s. 400.606, F.S., by adding that any change of ownership must include the same plan for delivery of services as currently required for initial applicants; by deleting the requirement that the plan include a statement of financial resources and personnel; and by clarifying the reference to existing health care providers as being licensed to operate. The bill deletes the requirement for the application forms; the submission of information on any Medicare or Medicaid exclusions by the owners or board members; the time period for the hospice license and the requirements for renewal of the hospice license; and the issuance of a conditional license to any hospice that has pending revocation or suspension proceedings. These deleted standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 133. Amends s. 400.6065, F.S., by deleting background screening requirements for hospice owners and operators; deleting subsection (6) requiring an affidavit annually that all personnel have been screened; and by deleting the penalty for operating with persons who do not meet the minimum standards for good moral character.

Section 134. Amends s. 400.607, F.S., by deleting the references to permanent suspensions, by adding that a moratorium may be imposed, by adding that administrative actions may be taken for violation of any provision of this part, part II of chapter 408, F.S., or applicable rules. The bill deletes the provisions for denial or revocation of a hospice license, and injunctive relief to enforce compliance. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S..

Section 135. Amends s. 400.6095(8), F.S., to state that AHCA instead of the Department of Elderly Affairs will write rules on the implementation of orders to withhold or withdraw cardiopulmonary resuscitation.

Adult Family Care Homes

Section 136 Amends s. 400.617(5), F.S., by deleting department authority and inserting agency authority for rule development for adult family care homes (AFCH).

Section 137. Amends s. 400.619, F.S., by striking existing language requiring an AFCH to apply for a license at least 90 days before they intend to operate the home and inserting new language that the requirements of part VII of chapter 400, and part II of chapter 408, F.S., apply to the provision of services requiring licensure and to AFCH licensed entities and applicants. However, adult family care homes are exempt from providing proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate-of-need requirements in s. 408.810(7), (8), (9), and (10), F.S. The bill authorizes AHCA to charge license fees pursuant to s. 408.805, F.S. Current annual fees of \$100 are modified to be \$200 for a two-year license. The bill deletes the requirement for agency notification to a renewal applicant 120 days prior to license expiration. The bill amends s. 400.619(4), F.S., clarifying that an applicant

or licensee is responsible for paying the required background screening fees. The bill deletes the requirement to submit a description and explanation of any exclusions, suspensions, or terminations from the Medicare or Medicaid programs, or other health care programs; one-year licensure timeframe and expiration; items required on a license; assessment of renewal application late fee; conditions under which an AFCH license is valid; and collection of license fees and fines to be deposited into the Department of Elderly Affairs Administrative Trust Fund. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends s. 400.619(10), F.S., by deleting department authority and inserting agency authority for rule development.

Section 138. Amends s. 400.6194, F.S., by deleting agency ability to permanently suspend an AFCH license, and adds the requirements of part II of chapter 408, F.S., as a basis for license denial or revocation. The bill deletes license denial or revocation due to an intentional or negligent act affecting resident health, safety or welfare; license denial or revocation due to a fraudulent statement or omission of material fact; license denial or revocation due to failure to pay an administrative fine pursuant to chapter 400, part VII; license denial or revocation due to conditions or practices directly threatening resident physical or emotional health, safety or welfare; and license denial or revocation due to failure to submit a complete application within the required timeframe. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S..

Section 139. Amends s. 400.6196, F.S., changing the title to “Classification of deficiencies; administrative fines”. The bill amends s. 400.6196(1), F.S., by inserting a violation of part II of chapter 408, F.S., chapter 400, part VII, F.S., or applicable rules as cause for AHCA to impose an administrative fine in accordance with part II of chapter 408, F.S., and such violation is a basis for imposing an administrative fine for violations that cannot be cited as a Class I, II, III, or IV violation. The bill deletes each day of violation as a separate offense; collection of civil penalties to be deposited into the Department of Elderly Affairs Administrative Trust Fund; and moratorium on admissions. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 140. Amends s. 400.621, F.S., by deleting “department” and inserting “agency” for rule development authority. The bill deletes subsection (4), which provides existing facilities six months to meet the requirements of newly adopted rules; this standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 141. Amends s. 400.6211(3), F.S., by deleting department and inserting agency development of a reasonable time period for providers to complete AFCH basic training.

Section 142. Repeals s. 400.622, F.S., regarding injunctive proceedings. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 143. Amends s. 400.625(2), F.S., by deleting department and inserting agency rule development authority.

Intermediate, Special Services, and Transitional Living Facilities

Section 144. Amends Home for Special Services licensure requirements in s. 400.801, F.S., to delete the current licensure and fee requirements and add a reference to part II of chapter 408, F.S., to include the application for licensure and payment of a fee to be established by rule. However, homes for special services will be exempt from requirements for providing proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate-of-need requirements in s. 408.810(7), (8),(9), and (10), F.S. Current annual fees of no more than \$1,000 are modified to be no more than \$2,000 for a two-year license. The bill deletes owner/operator background screening, basic grounds for agency action, and annual licensure standard requirements for license renewal. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 145. Amends Transitional Living Facility licensure requirements in s. 400.805, F.S., to delete current licensure and fee requirements and include licensure and fee requirements pursuant to part II of chapter 408, F.S. Current annual fees of \$2,000 per facility and \$39.25 per bed are modified to be \$4,000 per facility and \$78.50 per bed for a two-year license, unless modified by rule. The bill deletes owner/operator background screening, basic grounds for agency action, and annual licensure standard requirements for license renewal. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Prescribed Pediatric Extended Care Centers

Section 146. Amends s. 400.902(4), F.S., to modify definition of “owner or operator” to mean a licensee.

Section 147. Adds subsection (3) to s. 400.903, F.S., to insert part II of chapter 408, F.S., as a requirement of licensure of prescribed pediatric extended care (PPEC) facilities. However PPEC facilities are exempt from the certificate-of-need requirements in s. 408.810(10), F.S.

Section 148. Amends s. 400.905, F.S., to reference the requirements of part II of chapter 408, F.S., regarding the requirement of a license and the payment of fees. Current annual fees of between \$500 and \$1,500 are modified to be between \$1,000 and \$3,000 for a two-year license. The bill deletes owner/operator background screening, basic grounds for agency action, and annual licensure standard requirements for license renewal. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 149. Repeals s. 400.906, F.S., regarding initial application processing for licensure of PPEC facilities. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 150. Amends s. 400.907, F.S., to reference the requirements of part II of chapter 408, F.S., regarding the denial or revocation of a license. The bill eliminates permanent suspension as an agency sanction and deletes agency investigation responsibility. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 151. Amends s. 400.908, F.S., regarding administrative fines to include a violation of part II of chapter 408, F.S., as grounds for agency fines.

Section 152. Repeals ss. 400.910 and 400.911, F.S., regarding the expiration of a license, license renewal, issuance of a conditional license, and injunction proceedings. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 153. Amends s. 400.912, F.S., regarding the closing of a PPEC facility to delete the requirement that a facility inform AHCA in writing at least 30 days before the discontinuance of operation. Reference to surrendering the license is also deleted. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 154. Repeals s. 400.913, F.S., regarding the right of entry and inspection. This standard is now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 155. Amends s. 400.914(1), F.S., to require AHCA to adopt rules pursuant to part II of chapter 408, F.S.

Section 156. Amends s. 400.915, F.S., to reference the requirements of part II of chapter 408, F.S., regarding construction and renovation of PPEC facilities.

Section 157. Repeals ss. 400.916 and 400.917, F.S., regarding prohibited acts, such as operating without a license and the subsequent penalties; and repeals requirements for the disposition of moneys from fines and fees. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Home Medical Equipment

Section 158. Amends s. 400.925, F.S., by deleting the definitions of affiliated person and applicant; and revising the definition of moratorium so that it has the same meaning as s. 408.803, F.S., except that home medical equipment sold prior to the moratorium must continue to be serviced unless deemed otherwise by AHCA.

Section 159. Amends s. 400.93, F.S., by adding the requirement that home medical equipment providers comply with the requirements for licensing in part II of chapter 408, F.S.; by deleting the requirement to be licensed to operate; deleting the two-year time period for a license; and deleting the penalties for operating an unlicensed provider. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 160. Amends s. 400.931, F.S., deleting the requirements for submitting a home medical equipment application for a license on agency forms; demonstrating financial ability to operate if there was previously financial inability to operate; background screening requirements for owners/operators; the requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; the requirement to submit an affidavit of compliance with background screening for personnel; and the requirements for issuing provisional licenses, for renewing licenses, and for submitting applications for changes of ownership.

The bill clarifies that the current surety bond is submitted in lieu of the requirements of s. 408.810(8), F.S., and adds the reference to part II of chapter 408, F.S. regarding insurance.

The bill amends subsection (11) by requiring payment of a fee in accordance with s. 408.805, F.S., for each licensure application submitted under this part and part II of chapter 408, F.S. Current annual fees of no more than \$150 are modified to be no more than \$300 for a two-year license. The requirement that fees are non refundable and are deposited in the Health Care Trust Fund is deleted. The bill deletes reference to the licensing fee and clarifies that the existing inspection fee is also paid as currently required. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill deletes s. 400.931(13) through (17), F.S., removing the requirements for fees for changes that require issuance of a license, for issuing duplicate licenses, and for mailing application forms; removing the requirement for display of the license and the prohibition against transfer of a license; and removing the authorization for issuance of a provisional license when a revocation or suspension proceeding is pending. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 161. Amends s. 400.932, F.S., by eliminating the reference to permanent suspension of a license; deleting the provision that making false representation or omission of a material fact, including ownership, is grounds for denial or revocation; and deleting AHCA's authority to issue emergency orders to suspend or revoke licenses and to impose moratoriums. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 162. Amends s. 400.933, F.S., by deleting the provisions for making inspections and complaint investigations; and by renumbering subsequent sections. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 163. Amends s. 400.935, F.S., by adding rule writing authority for the provisions of part II of chapter 408, F.S., and by deleting the requirement that standards be included in the rules for license application and renewal and fees.

Section 164. Repeals s. 400.95, F.S., requiring notice of the central abuse toll-free telephone number; repeals the requirement in ss. 400.953(2) and 400.955(4) for the general manager to sign an affidavit of compliance with background screening of personnel; and repeals s. 400.956, F.S., on injunction proceedings. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Intermediate Care Facilities for the Developmentally Disabled (ICF-DD)

Section 165. Amends s. 400.960(5), F.S., to revise the definition of "client" to mean any person receiving services in an intermediate care facility for the developmentally disabled.

Section 166. Amends intermediate care facilities for the developmentally disabled licensure requirements in s. 400.962, F.S., to conform to the provisions of part II of chapter 408, F.S., and deletes requirements similar to those in the core licensure requirements of part II of chapter 408, F.S. The deleted provisions include owner/operator background screening, basic grounds for

agency action, and standard requirements for license renewal. This section does not provide for the payment of fees with the submission of an application. Intermediate care facilities for the developmentally disabled are exempt from the requirement to provide proof of liability insurance in s. 408.810(7), F.S. The bill modifies the ICF-DD licensure fee to reflect biennial licensure.

Section 167. Repeals ss. 400.963 and 400.965, F.S., regarding injunctive proceedings and grounds for Agency action against an ICF-DD. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 168. Amends s. 400.967, F.S., regarding rules and classification of deficiencies to include references to part II of chapter 408, F.S.; corrects a technical error of the word “and” to “an”; and deletes references to civil penalties deposited in the Health Care Trust fund. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 169. Amends s. 400.968, F.S., by partially deleting the section title and renaming it Right of Entry. The bill deletes subsections (2) and (3) regarding injunctive proceedings and imposing a moratorium on admissions when conditions in a facility present a threat to the health, safety, or welfare of the residents. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 170. Amends s. 400.969(1), F.S., by specifying that a violation of part II of chapter 408, F.S., is punishable by an administrative or civil penalty not to exceed \$5,000.

Health Care Services Pools

Section 171. Amends Health Care Services Pool licensure requirements in s. 400.980, F.S., by requiring applicants for health care services pool registration to comply with part II of chapter 408, F.S. These providers remain exempt from the requirement provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate-of-need requirements. The bill deletes the requirement that each separate business location be registered; the provision that AHCA may inspect to determine compliance; information required in the application; background screening requirements; the requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; the time frame for AHCA action on an application; and the authority to deny an application or suspend or revoke a registration for specified violations. The bill deletes the prohibition of a health care services pool from offering or advertising services without a registration, and the registration period and requirements for submission of renewal and change of ownership applications. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

The bill amends subsection (10) to include the authority to write rules for part II of chapter 408, F.S.

Health Care Clinics

Section 172. Amends s. 400.9905, F.S., by eliminating the definition of “applicant”. Clarifies the definition of “clinic” to include a mobile clinic and a portable equipment provider. Provides exemptions from clinic licensure for the following entities:

- Birth centers licensed under s. 383.30, F.S.;
- Clinical laboratories licensed under part I of chapter 483, F.S.;
- End-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U;
- Charitable clinics exempt from federal taxation under 501 (C) (4);
- Entities owned or operated by the federal or state government, including agencies, subdivisions, or municipalities thereof; and,
- Therapy providers (speech, occupational, and physical) which are Medicare-certified under 42 C.F.R. part 485, subpart B or H.

Amends paragraph (f), which is the current exemption from health clinic licensure for a sole proprietorship (group practice, or corporation) that provides specified health care services, which are wholly owned by one or more licensed health care practitioners and a spouse, parent, or child, so long as one of the owners who is a licensed practitioner is supervising the “business activities” and is legally responsible for the entity’s compliance with federal and state law. Provides that a “violation of state or federal law by an employee, owner, partner, or shareholder who provides health care services at the entity constitutes a violation of s. 456.072(1)(k)¹⁰ by the licensee who commits the violation and by the supervising owner.

Amends s. 400.9905(4), F.S., the definition of “medical director” to clarify that if a clinic does not provide services pursuant to these respective physician practices acts, e.g., chapters 458 (medical physician); 459 (osteopathic physician); 460 (chiropractic physician); and 461 (podiatric physician), then it may appoint a Florida licensed health care practitioner who does not provide services pursuant to the above referenced physician practices acts, to serve as a clinic director. It deletes certain health care provider chapters because that list did not include all applicable providers.

Provides that multiple therapy providers under s. 456.053(3)(b), F.S., offering speech, occupational, and physical therapy may utilize one therapy director as clinic director.

Defines mobile clinic and portable equipment provider.

Section 173. Amends s.400.991, F.S., effective upon becoming law and applying retroactively to March 1, 2004 to:

- Provide that the requirements of part II, Chapter 408 apply to the “provision of services that necessitate licensure under this part (s. 400.991, F.S.) and to entities licensed by or applying for licensure from AHCA under this part; however, an applicant for licensure is exempt from s. 408.810(6), (7), and (10), F.S.

¹⁰ Failing to perform any statutory or legal obligation placed upon a licensee constitutes grounds for which disciplinary actions may be taken against health professions.

- Specify certain licensing and other requirements for mobile clinics and portable equipment providers. Revises the date of initial clinic license application to July 1, 2004.
- Delete notary and fee requirements for clinic licenses; deletes information required of 5 % owner.
- Require health care practitioners at the clinic to be subject to background screening under s. 408.809, F.S.
- Delete clinic licensure provisions that an applicant must comply with including: level 2 criminal background screenings under chapter 435; submission of prior Medicaid and Medicare suspensions or terminations; and denial of license (or revocation) for false representations of material facts or omissions on applications.

Section 174. Amends s. 400.9915, F.S., related to clinic inspections, emergency suspensions, and costs to:

- Delete clinic inspections by AHCA; deletes provisions for AHCA to make unannounced inspections of a clinic; deletes requirements that clinics allow AHCA full and complete access to the premises and to billing records.
- Provide that failure of a clinic to allow full and complete access to premises and to billing records or information by AHCA constitutes a ground for an action under s. 408.814, F.S.

Section 175. Repeals s. 400.992, F.S., related to license renewal; transfer of ownership; provisional license.

Section 176. Amends s. 400.9925, F.S., related to rulemaking authority and license fees to provide for AHCA rulemaking under chapter 408. Provides that in accordance with s. 408.805, F.S., a license applicant shall pay a fee for each application submitted under this part and part II of chapter 408 and amount of the fee can not exceed \$2,000.

Section 177. Amends s. 400.993, F.S., related to unlicensed clinics; penalties; fines; and verification of licensure status to delete the following provisions:

- that it is unlawful to own or maintain a clinic without a license and a person who owns such unlicensed clinic commits a 3rd degree felony;
- a person commits a 2nd degree felony if found guilty of owning an unlicensed clinic a second or subsequent time;
- provision of penalties for ceasing to operate as an unlicensed clinic;
- provision that AHCA may not issue a license to a clinic that has unpaid fines;

Provides that in addition to the requirements of part II of ch 408, a health care provider who is aware of the operation of an unlicensed clinic shall report that facility to AHCA and failure to report shall be reported to the provider's licensing board.

Section 178. Amends s. 400.9935, F.S., related to clinic responsibilities to:

- Delete the requirement that a business that becomes a clinic must, within 5 days after becoming a clinic, file a license application to AHCA.
- Delete the requirement that AHCA may fine, suspend, or revoke the license of any clinic for violating the requirements of Part XIII. (Health Care Clinic Act).
- Delete the authorization for AHCA to investigate allegations of noncompliance with the Health Care Clinic Act.
- Authorize AHCA to charge all applicants for certificates of exemption \$100 or actual cost, whichever, is less, for processing the certificate.
- Delete the requirement that a clinic display its license in a conspicuous location within the clinic readily visible to patients.

Section 179. Repeals s. 400.994, F.S., (authority to AHCA to institute injunctive proceedings in a court in order to enforce the provisions of the Health Care Clinic Act) and repeals s. 400.9945, F.S., (pertaining to agency actions by AHCA).

Section 180. Amends s. 400.995, F.S., related to administrative fines to:

- Authorize AHCA to deny the application for a license renewal or revoke or suspend the license and impose specified fine.
- Delete the provision that each day of continuing violation after the date fixed for termination of the violation by a clinic, as ordered by AHCA constitutes an additional, separate, distinct violation.
- Delete the imposition of specified fines and interest imposed on violators;
- Provide that if AHCA issues a notice of intent to deny a license application after a temporary license has been issued under s. 400.991(3), F.S., the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review under chapter 120, F.S. (Administrative Procedure Act).

Section 181. Creates a provision that permits AHCA to make refunds to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure as follows: 75 percent of the application fee if the temporary license has not been issued; 50 percent of the application fee if the temporary license has been issued but the inspection has not been completed; and no refund if the inspection has been completed.

Section 182. Creates provisions that any person or entity defined as a clinic shall not be in violation of the Act due to failure to apply for a clinic license by March 1, 2004, as previously required under s. 400.991, F.S. The bill also provides that payment to any person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that such person or entity failed to apply for or obtain a clinic license before July 1, 2004. Provides that the bill's provisions are contingent upon SB 2380 or similar legislation becoming law.

Certificate of Need

Section 183. Amends s. 408.036, F.S., to add an exemption from certificate of need review, notwithstanding the moratorium on community nursing home beds authorized in chapter 2001-45, L.O.F. for the addition of skilled nursing facility beds licensed under part II of chapter 400 to a licensed skilled nursing facility located in a county having up to 50,000 residents, in a number that may not exceed 10 total beds or 10 percent of the licensed capacity of the facility, whichever is greater, if:

- Occupancy for the prior 12-month period at the facility or in the applicable subdistrict et or exceeded 94 percent, and the facility has had no conformed complaints or a conditional license for the prior 30-month period; or
- For a facility that has been licensed for less than 24 months, facility occupancy exceeded 94 percent for the most recent 6-month period and the facility has not had a confirmed complaint or a conditional license since its initial licensure.

The new construction of a skilled nursing facility with up to 10 beds in a county having up to 50,000 residents if there are no licensed skilled nursing facility beds in that county.

Section 184. Amends s. 408.831(1), F.S. This section of law currently gives AHCA authority to take action against any entity it regulates or to deny any submission that requires agency review and approval for failure to pay all outstanding monies due to AHCA. The ability to seek permanent suspension is eliminated and the term “affiliated business entity” is added clarifying that if an affiliated entity of an applicant owes monies, an application may be denied or a license or registration revoked.

The bill deletes a reference to chapter 381, F.S., and adds chapter 765, F.S., which governs health care advance directives, to the list of laws over which s. 408.831, F.S., would take precedence. This change probably aims to correct a reference for Organ and Tissue Procurement agencies which were moved during the 2003 legislative session from chapter 381, F.S., to part V of chapter 765, F.S.

Section 185. Amends the Drug-Free Workplace Program licensure requirements in s. 440.102(9) and (10), F.S., to conform to the provisions of part II of chapter 408, F.S. Section 440.102(10), F.S., is also amended to change the phrase “state drug-testing program” to “drug-free workplace laboratories”. The effect of this change is to clarify AHCA’s rule making authority. These providers remain exempt from the requirement to notify clients of AHCA complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate-of-need requirements.

Section 186. Amends s. 468.711, F.S., to delete the requirement that continuing education of athletic trainers include first aid.

Section 187. Amends s. 468.723, F.S., to delete a person employed as a teacher apprentice trainer I, a teacher apprentice trainer II, or a teacher athletic trainer under s. 1012.46, F.S., from being exempt from licensure requirements.

Section 188. Amends s. 1012.46, F.S., to provide that a first responder for a school district may not represent himself or herself as an athletic trainer. Athletic trainers must be licensed under chapter 468 and may not be used by the school district as a professional, temporary, part-time, adjunct, or substitute teacher unless they hold a certificate.

Clinical Laboratories

Section 189. Amends s. 483.035, F.S., to conform to the provisions of part II of chapter 408, F.S. These providers remain exempt from the requirement to notify clients of AHCA complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate-of-need requirements.

Section 190. Amends s. 483.051(1), F.S., deleting agency authority to deny or revoke a license. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 191. Amends s. 483.061, F.S., deleting agency right of entry. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S. The bill modifies AHCA's requirement to inspect an out-of-state clinical laboratory to "may" instead of "shall," as some of these labs are located great distances from the state.

Section 192. Amends s. 483.091, F.S., deleting the requirement to have a license, the prohibition on transferring a license, and 60-day application filing requirements for changes of ownership. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 193. Amends s. 483.101, F.S., to delete the requirement to submit an application; background screening requirements of owner/operators; grounds for revocation or denial of a license; requirements for license renewal applications; and the agency requirement to send copies of regulations upon request. These standards are addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 194. Amends s. 483.111, F.S., to incorporate rules adopted to implement part II of chapter 408, F.S.

Section 195. Repeals s. 483.131, F.S., deleting the requirement to display a license. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 196. Amends s. 483.172, F.S., regarding licensure fees to delete a reference to the Health Care Trust Fund for deposit of fees. The bill makes no change to fee amounts; these fees may be modified by rule.

Section 197. Amends s. 483.201, F.S., deleting the making of a false application as grounds for agency action. This standard is addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 198. Amends s. 483.221, F.S., modifying the title by changing “penalties” to “fines” and authorizing fines for violations of part II of chapter 408, F.S. The bill deletes agency authority for emergency actions, and deletes a reference to the Health Care Trust Fund for deposit of fees. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 199. Amends s. 483.23, F.S., deleting criminal penalties for failure to obtain a license when required. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 200. Repeals s. 483.25, F.S., to delete agency injunctive authority. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Multiphasic Health Testing

Section 201. Amends s. 483.291, F.S., to give AHCA authority to adopt rules for part II of chapter 408, F.S. The bill deletes an annual licensing requirement. Current annual fees of between \$300 and \$1,000 are modified to be between \$600 and \$2,000 for a two-year license.

Section 202. Amends s. 483.294, F.S., to delete requirements for agency inspections, as these requirements are found in part II of chapter 408, F.S. The bill retains requirements for annual inspections.

Section 203. Amends s. 483.30, F.S., to delete the requirement to obtain a license, the prohibition against the transfer of a license, change of ownership requirements, procedures for submission of applications, requirements for background screening of owner/operators, and agency authority to deny or revoke a license. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S. These providers remain exempt from the requirement to notify clients of AHCA complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 204. Amends s. 483.302, F.S., deleting the requirement to provide application information. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 205. Repeals s. 483.311, F.S., and subsection (1) of s. 483.317, F.S., regarding display of a license and grounds for action based on fraudulent statements. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 206. Amends s. 483.32, F.S., modifying the title by changing “penalties” to “fines”, and authorizing fines for violations of part II of chapter 408, F.S. The bill deletes agency authority for emergency actions, and deletes a reference to the Health Care Trust Fund for deposit of fees.

These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 207. Repeals s. 483.322(1), F.S., and s. 483.328, F.S., deleting prohibitions against unlicensed activity, and agency injunctive authority. These standards are now addressed in the core licensure requirements of part II of chapter 408, F.S.

Section 208. Provides that the requirements of part II of chapter 408, F.S., will prevail over the authorizing statutes in case of a conflict.

Section 209. This section allows AHCA between October 1, 2004 and September 30, 2005 to issue any license for a period of less than 2 years by charging a prorated fee and specifying a different renewal date. This provision will allow for staggering of expiration dates as providers change from annual to biennial licensure.

Section 210. Amends s. 651.118, F.S., to clarify continuing care facility and nursing facility in the use of sheltered nursing home beds by certain persons.

Effective Date

Section 211. Provides that the bill will take effect October 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The fiscal impact of the bill was removed in the Committee Substitute.

B. Private Sector Impact:

If increases are necessary to support the actual cost of regulation, licensure fees may be adjusted annually, within existing maximum levels, based on the change in the consumer price index.

C. Government Sector Impact:

AHCA does not anticipate a cost to the agency. Licensure fees may be adjusted annually based on the change in the Consumer Price Index, within existing maximum levels, if increases are necessary to support the actual cost of regulation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
