

By Senator Saunders

37-768A-04

1                                   A bill to be entitled  
2           An act relating to the licensure of health care  
3           providers; creating ss. 408.801-408.819, F.S.;  
4           providing a short title; providing legislative  
5           findings and intent; providing applicability;  
6           providing definitions; prohibiting the  
7           provision of certain services without obtaining  
8           a license from the Agency for Health Care  
9           Administration; requiring that the license be  
10          displayed; requiring that licensure fees cover  
11          the agency's cost of the licensure, inspection,  
12          and regulation of providers; authorizing the  
13          agency to adopt rules; providing requirements  
14          for license application; providing for late  
15          fees; providing duties of the agency, including  
16          requirements for inspections; authorizing the  
17          electronic submission of information to the  
18          agency; providing requirements for licensure  
19          upon a change of ownership of a provider;  
20          specifying license categories; requiring  
21          background screening of a licensee,  
22          administrator, financial officer, or  
23          controlling interest; providing minimum  
24          licensure requirements; providing requirements  
25          for a licensee that discontinues operation;  
26          requiring that notice be provided to clients;  
27          requiring a licensee to inform clients of  
28          certain rights; requiring an applicant for  
29          licensure to provide proof of liability  
30          insurance and financial ability to operate;  
31          authorizing the agency to make inspections and

1 investigations; prohibiting certain unlicensed  
2 activity; providing penalties; providing for  
3 administrative fines; authorizing the agency to  
4 impose a moratorium under certain  
5 circumstances; specifying grounds under which  
6 the agency may deny or revoke a license;  
7 authorizing the agency to institute proceedings  
8 for an injunction against a provider; requiring  
9 that fees and fines be deposited into the  
10 Health Care Trust Fund and used for  
11 administering the laws and rules governing  
12 providers; providing rulemaking authority;  
13 amending s. 112.045, F.S., relating to the  
14 Drug-Free Workplace Act; requiring drug-testing  
15 laboratories to be in compliance with ss.  
16 408.801-408.819, F.S.; deleting obsolete and  
17 repetitive provisions; providing for rules and  
18 licensure fees; amending ss. 383.301, 383.305,  
19 383.309, 383.315, 383.324, 383.33, and 383.335,  
20 F.S., and repealing ss. 383.304, 383.325,  
21 383.331, and 383.332, F.S., relating to the  
22 Birth Center Licensure Act; requiring birth  
23 centers to be in compliance with ss.  
24 408.801-408.819, F.S.; providing for licensure  
25 fees; authorizing the agency to adopt rules;  
26 providing for administrative fines; conforming  
27 provisions with the requirements of ss.  
28 408.801-408.819, F.S.; amending ss. 390.011,  
29 390.012, 390.014, and 390.018, F.S., and  
30 repealing ss. 390.013, 390.015, 390.016,  
31 390.017, 390.019, and 390.021, F.S., relating

1 to the regulation of abortion clinics;  
2 requiring abortion clinics to be in compliance  
3 with ss. 408.801-408.819, F.S.; providing for  
4 licensure fees; authorizing the agency to adopt  
5 rules; providing for administrative fines;  
6 conforming provisions with the requirements of  
7 ss. 408.801-408.819, F.S.; amending s. 394.455,  
8 F.S., relating to the Florida Mental Health  
9 Act; clarifying a definition; amending ss.  
10 394.67, 394.875, 394.877, 394.878, 394.879,  
11 394.90, and 394.902, F.S., and repealing s.  
12 394.876, F.S., relating to the Community  
13 Substance Abuse and Mental Health Services Act;  
14 defining the term "short-term residential  
15 treatment facility"; requiring substance abuse  
16 or mental health facilities, programs, and  
17 services to be in compliance with ss.  
18 408.801-408.819, F.S.; providing for licensure  
19 fees; authorizing the agency to adopt rules;  
20 providing for administrative penalties;  
21 conforming provisions with the requirements of  
22 ss. 408.801-408.819, F.S.; amending ss.  
23 395.003, 395.004, 395.0161, 395.0163, 395.0199,  
24 395.1046, 395.1055, and 395.1065, F.S., and  
25 repealing ss. 395.002(4), 395.0055, and  
26 395.0162, F.S., relating to hospitals and other  
27 licensed facilities; requiring hospitals and  
28 other licensed facilities to be in compliance  
29 with ss. 408.801-408.819, F.S.; providing for  
30 licensure fees; authorizing the agency to adopt  
31 rules; providing for administrative fines;

1 conforming provisions with the requirements of  
2 ss. 408.801-408.819, F.S.; amending ss.  
3 395.10973, 395.10974, and 395.10975, F.S.,  
4 relating to health care risk managers;  
5 requiring health care risk managers to comply  
6 with ss. 408.801-408.819, F.S.; providing for  
7 fees; authorizing the agency to adopt rules;  
8 providing for administrative fines; conforming  
9 provisions with the requirements of ss.  
10 408.801-408.819, F.S.; amending ss. 400.022,  
11 400.051, 400.062, 400.063, 400.071, 400.102,  
12 400.111, 400.1183, 400.121, 400.141, 400.17,  
13 400.179, 400.18, 400.19, 400.191, 400.20,  
14 400.211, and 400.23, F.S., and repealing ss.  
15 400.021(5) and (20), 400.125, and 400.241(1)  
16 and (2), F.S., relating to nursing homes;  
17 requiring nursing homes to be in compliance  
18 with ss. 408.801-408.819, F.S.; providing for  
19 licensure fees; authorizing the agency to adopt  
20 rules; providing for administrative fines;  
21 revising reporting requirements; conforming  
22 provisions with the requirements of ss.  
23 408.801-408.819, F.S.; amending ss. 400.402,  
24 400.407, 400.4075, 400.408, 400.411, 400.412,  
25 400.414, 400.417, 400.4174, 400.4176, 400.418,  
26 400.419, 400.42, 400.424, 400.4255, 400.4256,  
27 400.427, 400.4275, 400.431, 400.434, 400.441,  
28 400.442, 400.444, 400.452, and 400.454, F.S.,  
29 and repealing ss. 400.415, 400.4178(7),  
30 400.435(1), 400.447(1), (2), and (3), and  
31 400.451, F.S., relating to assisted living

1 facilities; requiring assisted living  
2 facilities to be in compliance with ss.  
3 408.801-408.819, F.S.; providing for licensure  
4 fees; authorizing the agency to adopt rules;  
5 providing for administrative fines; conforming  
6 provisions with the requirements of ss.  
7 408.801-408.819, F.S.; amending ss. 400.464,  
8 400.471, 400.474, 400.484, 400.494, 400.495,  
9 400.497, 400.506, 400.509, and 400.512, F.S.,  
10 and repealing s. 400.515, F.S., relating to  
11 home health agencies and nurse registries;  
12 requiring home health agencies and nurse  
13 registries to be in compliance with ss.  
14 408.801-408.819, F.S.; providing for licensure  
15 fees; authorizing the agency to adopt rules;  
16 providing for administrative fines; conforming  
17 provisions with the requirements of ss.  
18 408.801-408.819, F.S.; amending ss. 400.551,  
19 400.554, 400.555, 400.556, 400.5565, 400.557,  
20 400.5572, 400.559, 400.56, and 400.562, F.S.,  
21 and repealing ss. 400.5575, 400.558, and  
22 400.564, F.S., relating to adult day care  
23 centers; requiring adult day care centers to be  
24 in compliance with ss. 408.801-408.819, F.S.;  
25 providing for licensure fees; authorizing the  
26 agency to adopt rules; providing for  
27 administrative fines; conforming provisions  
28 with the requirements of ss. 408.801-408.819,  
29 F.S.; amending ss. 400.602, 400.605, 400.606,  
30 400.6065, 400.607, and 400.6095, F.S., relating  
31 to hospices; requiring hospices to be in

1 compliance with ss. 408.801-408.819, F.S.;

2 providing for licensure fees; authorizing the

3 agency to adopt rules; providing for

4 administrative fines; conforming provisions

5 with the requirements of ss. 408.801-408.819,

6 F.S.; amending ss. 400.617, 400.619, 400.6194,

7 400.6196, 400.621, 400.6211, and 400.625, F.S.,

8 and repealing s. 400.622, F.S., relating to

9 adult family-care homes; requiring adult

10 family-care homes to be in compliance with ss.

11 408.801-408.819, F.S.; providing for licensure

12 fees; authorizing the agency to adopt rules;

13 providing for administrative fines; conforming

14 provisions with the requirements of ss.

15 408.801-408.819, F.S.; amending ss. 400.801 and

16 400.805, F.S., relating to homes for special

17 services and transitional living facilities;

18 requiring such homes and facilities to be in

19 compliance with ss. 408.801-408.819, F.S.;

20 providing for licensure fees; authorizing the

21 agency to adopt rules; providing for

22 administrative fines; conforming provisions

23 with the requirements of ss. 408.801-408.819,

24 F.S.; amending ss. 400.902, 400.903, 400.905,

25 400.907, 400.908, 400.912, 400.914, and

26 400.915, F.S., and repealing ss. 400.906,

27 400.910, 400.911, 400.913, 400.916, and

28 400.917, F.S., relating to prescribed pediatric

29 extended care centers; requiring such centers

30 to be in compliance with ss. 408.801-408.819,

31 F.S.; providing for licensure fees; authorizing

1 the agency to adopt rules; providing for  
2 administrative fines; conforming provisions  
3 with the requirements of ss. 408.801-408.819,  
4 F.S.; amending ss. 400.925, 400.93, 400.931,  
5 400.932, 400.933, and 400.935, F.S., and  
6 repealing ss. 400.95, 400.953(2), 400.955(4),  
7 and 400.956, F.S., relating to home medical  
8 equipment providers; requiring home medical  
9 equipment providers to be in compliance with  
10 ss. 408.801-408.819, F.S.; providing for  
11 licensure fees; authorizing the agency to adopt  
12 rules; providing for administrative fines;  
13 conforming provisions with the requirements of  
14 ss. 408.801-408.819, F.S.; amending ss.  
15 400.960, 400.962, 400.967, 400.968, and  
16 400.969, F.S., and repealing ss. 400.963 and  
17 400.965, F.S., relating to intermediate care  
18 facilities for the developmentally disabled;  
19 requiring such facilities to be in compliance  
20 with ss. 408.801-408.819, F.S.; providing for  
21 licensure fees; authorizing the agency to adopt  
22 rules; providing for administrative fines;  
23 conforming provisions with the requirements of  
24 ss. 408.801-408.819, F.S.; amending s. 400.908,  
25 F.S.; requiring health care services pools to  
26 be in compliance with ss. 408.801-408.819,  
27 F.S.; providing for licensure fees; authorizing  
28 the agency to adopt rules; providing for  
29 administrative fines; conforming provisions  
30 with the requirements of ss. 408.801-408.819,  
31 F.S.; amending ss. 400.991, 400.9915, 400.992,

1 400.9925, 400.993, 400.9935, and 400.995, F.S.,  
2 and repealing ss. 400.9905(2), 400.994, and  
3 400.9945, F.S., relating to health care  
4 clinics; requiring health care clinics to be in  
5 compliance with ss. 408.801-408.819, F.S.;  
6 providing for licensure fees; authorizing the  
7 agency to adopt rules; providing for  
8 administrative fines; conforming provisions  
9 with the requirements of ss. 408.801-408.819,  
10 F.S.; amending s. 408.831, F.S., relating to  
11 the authority of the Agency for Health Care  
12 Administration to impose certain penalties  
13 against a regulated or licensed entity;  
14 conforming provisions to changes made by the  
15 act; amending s. 440.102, F.S., relating to the  
16 drug-free workplace program; requiring  
17 laboratories to be in compliance with the  
18 requirements of ss. 408.801-408.819; conforming  
19 provisions to changes made by the act; amending  
20 ss. 483.035, 483.051, 483.061, 483.091,  
21 483.101, 483.111, 483.172, 483.201, 483.221,  
22 and 483.23, F.S., and repealing ss. 483.131 and  
23 483.25, F.S., relating to clinical  
24 laboratories; requiring clinical laboratories  
25 to be in compliance with ss. 408.801-408.819,  
26 F.S.; providing for licensure fees; authorizing  
27 the agency to adopt rules; providing for  
28 administrative fines; conforming provisions  
29 with the requirements of ss. 408.801-408.819,  
30 F.S.; amending ss. 483.291, 483.294, 483.30,  
31 483.302, and 483.32, F.S., and repealing ss.

1 483.311, 483.317(1), 483.322(1), and 483.328,  
2 F.S., relating to multiphasic health testing  
3 centers; requiring such centers to be in  
4 compliance with ss. 408.801-408.819, F.S.;  
5 providing for licensure fees; authorizing the  
6 agency to adopt rules; providing for  
7 administrative fines; conforming provisions  
8 with the requirements of ss. 408.801-408.819,  
9 F.S.; providing for ss. 408.801-408.819, F.S.,  
10 to prevail in the case of a conflict with other  
11 laws governing the licensure of health care  
12 providers by the agency; authorizing the agency  
13 to issue a license for less than a specified  
14 period and to charge a prorated fee; providing  
15 an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Sections 408.801 through 408.819, Florida  
20 Statutes, are created to read:

21 408.801 Short title; purpose.--

22 (1) Sections 408.801-408.819 may be cited as the  
23 "Health Care Licensing Procedures Act."

24 (2) The Legislature finds that there is unnecessary  
25 duplication and variation in the requirements for licensure by  
26 the Agency for Health Care Administration, brought about by  
27 the historical pattern of legislative action focused  
28 exclusively on a single type of regulated provider. It is the  
29 intent of the Legislature to provide a streamlined and  
30 consistent set of basic licensing requirements for all such  
31 providers in order to minimize confusion, standardize

1 terminology, and include issues that are otherwise not  
2 adequately addressed in the statutes pertaining to specific  
3 providers.

4 408.802 Applicability.--The provisions of ss.  
5 408.801-408.819 apply to the provision of services that  
6 necessitate licensure as defined in ss. 408.801-408.819 and to  
7 the following entities licensed or registered by the Agency  
8 for Health Care Administration, as further described in  
9 chapters 112, 383, 390, 394, 395, 400, 440, and 483:

10 (1) Laboratories authorized to perform testing under  
11 the Drug-Free Workplace Act, as provided under ss. 112.0455  
12 and 440.102.

13 (2) Birth centers, as provided under chapter 383.

14 (3) Abortion clinics, as provided under chapter 390.

15 (4) Crisis stabilization units, as provided under  
16 parts I and IV of chapter 394.

17 (5) Short-term residential treatment units, as  
18 provided under parts I and IV of chapter 394.

19 (6) Residential treatment facilities, as provided  
20 under part IV of chapter 394.

21 (7) Residential treatment centers for children and  
22 adolescents, as provided under part IV of chapter 394.

23 (8) Hospitals, as provided under part I of chapter  
24 395.

25 (9) Ambulatory surgical centers, as provided under  
26 part I of chapter 395.

27 (10) Mobile surgical facilities, as provided under  
28 part I of chapter 395.

29 (11) Private review agents, as provided under part I  
30 of chapter 395.

31

- 1       (12) Health care risk managers, as provided under part  
2 I of chapter 395.
- 3       (13) Nursing homes, as provided under part II of  
4 chapter 400.
- 5       (14) Assisted living facilities, as provided under  
6 part III of chapter 400.
- 7       (15) Home health agencies, as provided under part IV  
8 of chapter 400.
- 9       (16) Nurse registries, as provided under part IV of  
10 chapter 400.
- 11       (17) Companion services or homemaker services  
12 providers, as provided under part IV of chapter 400.
- 13       (18) Adult day care centers, as provided under part V  
14 of chapter 400.
- 15       (19) Hospices, as provided under part VI of chapter  
16 400.
- 17       (20) Adult family-care homes, as provided under part  
18 VII of chapter 400.
- 19       (21) Homes for special services, as provided under  
20 part VIII of chapter 400.
- 21       (22) Transitional living facilities, as provided under  
22 part VIII of chapter 400.
- 23       (23) Prescribed pediatric extended care centers, as  
24 provided under part IX of chapter 400.
- 25       (24) Home medical equipment providers, as provided  
26 under part X of chapter 400.
- 27       (25) Intermediate care facilities for the  
28 developmentally disabled, as provided under part XI of chapter  
29 400.
- 30       (26) Health care services pools, as provided under  
31 part XII of chapter 400.

1       (27) Health care clinics, as provided under part XIII  
2 of chapter 400.

3       (28) Clinical laboratories, as provided under part I  
4 of chapter 483.

5       (29) Multiphasic health testing centers, as provided  
6 under part II of chapter 483.

7       408.803 Definitions.--As used in ss. 408.801-408.819,  
8 the term:

9       (1) "Agency" means the Agency for Health Care  
10 Administration, which is the licensing agency under ss.  
11 408.801-408.819.

12       (2) "Applicant" means an individual, corporation,  
13 partnership, firm, association, or governmental entity that  
14 submits an application to the agency for a license.

15       (3) "Authorizing statute" means the statute  
16 authorizing the licensed operation of a provider listed in s.  
17 408.802.

18       (4) "Certification" means certification as a Medicare  
19 or Medicaid provider of the services that necessitate  
20 licensure or certification pursuant to the federal Clinical  
21 Laboratory Improvement Amendments (CLIA).

22       (5) "Change of ownership" means an event in which the  
23 licensee changes to a different legal entity or in which 45  
24 percent or more of the ownership, voting shares, or  
25 controlling interest is transferred or assigned, including the  
26 final transfer or assignment of multiple transfers or  
27 assignments over a 2-year period which cumulatively total 45  
28 percent or greater. However, a change solely in the management  
29 company is not a change of ownership.

30       (6) "Client" means any person receiving services from  
31 a provider listed in s. 408.802.

- 1           (7) "Controlling interest" means:  
2           (a) The applicant for licensure or a licensee;  
3           (b) A person or entity that serves as an officer of,  
4 is on the board of directors of, or has a 5 percent or greater  
5 ownership interest in the applicant or licensee; or  
6           (c) A person or entity that serves as an officer of,  
7 is on the board of directors of, or has a 5 percent or greater  
8 ownership interest in the management company or other entity,  
9 related or unrelated, which the applicant or licensee may  
10 contract with to operate the provider.  
11  
12 The term does not include a voluntary board member.  
13           (8) "License" means any permit, registration,  
14 certificate, or license issued by the agency.  
15           (9) "Licensee" means an individual, corporation,  
16 partnership, firm, association, or governmental entity that is  
17 issued a permit, registration, certificate, or license by the  
18 agency. The licensee is legally responsible for all aspects of  
19 the provider operation.  
20           (10) "Moratorium" means a prohibition on the  
21 acceptance of new clients.  
22           (11) "Provider" means any activity, service, agency,  
23 or facility regulated by the agency and listed in s. 408.802.  
24           (12) "Services that necessitate licensure" means those  
25 services, including residential services, which require a  
26 valid license before those services may be provided in  
27 accordance with authorizing statutes and agency rules.  
28           (13) "Voluntary board member" means a director of a  
29 not-for-profit corporation or organization who serves solely  
30 in a voluntary capacity for the licensee, does not receive any  
31 remuneration for his or her services on the board of

1 directors, and has no financial interest in the corporation or  
2 organization. The agency shall recognize a person as a  
3 voluntary board member following submission of a statement to  
4 the agency by the director and the not-for-profit corporation  
5 or organization which affirms that the director conforms to  
6 this definition. The statement affirming the status of the  
7 director must be submitted to the agency on a form provided by  
8 the agency.

9 408.804 License required; display.--

10 (1) It is unlawful to provide services that  
11 necessitate licensure, or operate or maintain a provider  
12 offering or providing services that necessitate licensure,  
13 without first obtaining from the agency a license authorizing  
14 such operation.

15 (2) A license must be displayed in a conspicuous place  
16 readily visible to clients who enter at the address that  
17 appears on the license and is valid only in the hands of the  
18 individual, firm, partnership, association, or corporation to  
19 whom it is issued and may not be sold, assigned, or otherwise  
20 transferred, voluntarily or involuntarily. The license is  
21 valid only for the licensee, provider, and location for which  
22 the license is originally issued.

23 408.805 Fees required; adjustments.--Unless otherwise  
24 limited by authorizing statutes, license fees must be  
25 reasonably calculated by the agency to cover its costs in  
26 carrying out its responsibilities under ss. 408.801-408.819,  
27 authorizing statutes, and applicable rules, including the cost  
28 of licensure, inspection, and regulation of providers, and  
29 must be of such amount that the total fees collected do not  
30 exceed the cost of administering and enforcing compliance with  
31

1 ss. 408.801-408.819, authorizing statutes, and applicable  
2 rules.  
3 (1) Licensure fees shall be adjusted for biennial  
4 licensure in agency rules.  
5 (2) The agency shall annually adjust licensure fees,  
6 including fees paid per bed, by not more than the change in  
7 the consumer price index based on the 12 months immediately  
8 preceding the increase.  
9 (3) The agency may, by rule, adjust licensure fees to  
10 cover the cost of regulation under ss. 408.801-408.819,  
11 authorizing statutes, and applicable rules.  
12 (4) An inspection fee must be paid as required in  
13 authorizing statutes.  
14 (5) Licensure and inspection fees are nonrefundable.  
15 (6) When a change is reported which requires issuance  
16 of a license, a fee must be assessed. The fee must be based on  
17 the actual cost of processing and issuing the license.  
18 (7) A fee may be charged to a licensee requesting a  
19 duplicate license. The fee may not exceed the actual cost of  
20 duplication and postage.  
21 (8) Total fees collected may not exceed the cost of  
22 carrying out the provisions of ss. 408.801-408.819,  
23 authorizing statutes, or applicable rules.  
24 408.806 License application process.--  
25 (1) An application for licensure must be made to the  
26 agency on forms furnished by the agency, submitted under oath,  
27 and accompanied by the appropriate license fee in order to be  
28 accepted and considered timely. The application must contain  
29 information required by authorizing statutes and applicable  
30 rules and must include:  
31

1       (a) The name, address, and social security number of  
2 the applicant and each controlling interest if the applicant  
3 or controlling interest is an individual.

4       (b) The name, address, and federal employer  
5 identification number or taxpayer identification number of the  
6 applicant and each controlling interest if the applicant or  
7 controlling interest is not an individual.

8       (c) The name by which the provider is to be known.

9       (d) The total number of beds or capacity requested, as  
10 applicable.

11       (e) The location of the provider for which application  
12 is made, a report or letter from the zoning authority  
13 indicating the location is zoned appropriately for its use,  
14 and a satisfactory fire safety report from the local authority  
15 having jurisdiction or the state fire marshal. If the provider  
16 is a community residential home under chapter 419, the zoning  
17 requirement must be satisfied by proof of compliance with  
18 chapter 419.

19       (f) The name of the person or persons under whose  
20 management or supervision the provider will be operated and  
21 the name of the administrator if required.

22       (g) Any information that the agency finds is necessary  
23 to determine the ability of the applicant to carry out its  
24 responsibilities under ss. 408.801-408.819 and authorizing  
25 statutes, as specified in rule.

26       (2)(a) The applicant for a renewal license must submit  
27 the application at least 60 days prior to the expiration of  
28 the current license.

29       (b) The applicant for initial licensure due to a  
30 change of ownership must submit the application at least 60  
31 days prior to the date of change of ownership.

1           (c) The applicant for initial licensure must submit a  
2 complete application at least 90 days prior to the date the  
3 provider would be available for inspection.

4           (d) For any other application or request, the  
5 applicant must submit the application or request at least 60  
6 days prior to the requested effective date, unless otherwise  
7 specified in authorizing statutes or rules.

8           (3) Upon receipt of an application for a license, the  
9 agency shall examine the application and, within 30 days after  
10 receipt, notify the applicant of any apparent errors or  
11 omissions and request any additional information required.

12           (4) Requested information omitted from an application  
13 for licensure, license renewal, or change of ownership must be  
14 filed with the agency within 21 days after the agency's  
15 request for omitted information, or the application shall be  
16 deemed incomplete, and shall be withdrawn from further  
17 consideration and the fees forfeited.

18           (5) Licensees subject to the provisions of ss.  
19 408.801-408.819 shall be issued biennial licenses unless  
20 conditions of the license category specify a shorter license  
21 period. The agency may issue an initial license for less than  
22 the full 2-year period by charging a prorated licensure fee  
23 and specifying a different renewal date than would otherwise  
24 be required for biennial licensure. Failure to apply for the  
25 renewal of a license prior to the expiration date renders the  
26 license null and void and the former licensee may not be  
27 issued a license unless the licensee reapplies for an initial  
28 license and meets all current qualifications for licensure,  
29 including construction standards for facilities where  
30 applicable.

31

1           (6) The failure to file a timely application and  
2 license fee shall result in a late fee charged to the licensee  
3 in an amount equal to 50 percent of the licensure fee.

4           (7) Within 60 days after the receipt of a complete  
5 application, the agency shall:

6           (a) Approve or deny the application; or

7           (b) Authorize an inspection be conducted if required  
8 by the authorizing statute.

9           (8) Each license issued shall indicate the name of the  
10 licensee, the provider or service that the licensee is  
11 required or authorized to operate or offer, the date the  
12 license is issued, the expiration date of the license, the  
13 maximum capacity of the licensed premises if applicable, and  
14 any other information required by authorizing statutes or  
15 deemed necessary by the agency.

16           (9)(a) Upon authorization under subsection (7) for an  
17 inspection, the agency shall contact the applicant to schedule  
18 an inspection. An initial survey is not required for companion  
19 services or homemaker services providers, as provided under  
20 part IV of chapter 400 or for health care services pools, as  
21 provided under part XII of chapter 400.

22           (b) If an inspection is required by the authorizing  
23 statute for a license application other than an initial  
24 application, the inspection must be unannounced. This  
25 paragraph does not apply to inspections required pursuant to  
26 s. 483.035.

27           (c) A final decision on the application for licensure  
28 shall be rendered within 90 days after authorization of the  
29 inspection.

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1           (d) If a provider is not available when an inspection  
2 is attempted, the application shall be withdrawn from further  
3 consideration.

4           (10) The agency may establish procedures for the  
5 electronic submission of required information, including, but  
6 not limited to:

7           (a) Licensure applications and required signatures.

8           (b) Payment of fees.

9           (c) Notarization of applications.

10  
11 Requirements for electronic submission of any documents  
12 required by ss. 408.801-408.819 or authorizing statutes may be  
13 established by rule.

14           408.807 Change of ownership.--Whenever a change of  
15 ownership occurs:

16           (1) The transferor shall notify the agency in writing  
17 at least 60 days before the anticipated date of transfer of  
18 ownership.

19           (2) The transferee shall make application to the  
20 agency for a license within the timeframes required in s.  
21 408.806.

22           (3) The transferor shall be responsible and liable  
23 for:

24           (a) The lawful operation of the provider and the  
25 welfare of the clients served until the date the transferee is  
26 licensed by the agency.

27           (b) Any and all penalties imposed against the  
28 transferee for violations occurring before the date of change  
29 of ownership.

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1           (4) Any restriction on licensure, including a  
2 conditional license existing at the time of a change of  
3 ownership, shall remain in effect until removed by the agency.

4           (5) The transferee shall maintain records of the  
5 transferor as required in ss. 408.801-408.819, authorizing  
6 statutes, and applicable rules including:

7           (a) All client records.

8           (b) Inspection reports.

9           (c) All records required to be maintained pursuant to  
10 409.913, if applicable.

11           408.808 License categories.--

12           (1) STANDARD LICENSE.--A standard license may be  
13 issued at the time of initial licensure, license renewal, or  
14 change of ownership. A standard license shall be issued when  
15 the applicant is in compliance with all statutory requirements  
16 and agency rules. Unless sooner revoked, a standard license  
17 expires 2 years following the date of issue.

18           (2) PROVISIONAL LICENSE.--A provisional license may be  
19 issued:

20           (a) Pursuant to s. 408.809(3).

21           (b) When the applicant is in substantial compliance  
22 with statutory requirements and applicable rules. A  
23 provisional license for this purpose shall be issued for a  
24 maximum of 1 year and may not be renewed.

25           (c) When a denial or revocation proceeding is pending,  
26 a provision license for this purpose is effective until final  
27 agency disposition of the proceeding. If judicial relief is  
28 sought from the final agency disposition, the court having  
29 jurisdiction may require the agency to issue a temporary  
30 license for the duration of the judicial proceeding.

31

1           (3) INACTIVE LICENSE.--An inactive license may be  
2 issued to a health care provider subject to the  
3 certificate-of-need provisions in ss. 408.031-408.045 when the  
4 provider will be temporarily unable to provide services but is  
5 reasonably expected to resume services within 12 months. Such  
6 designation may be made for a period not to exceed 12 months  
7 but may be renewed by the agency for up to 6 additional months  
8 upon demonstration by the licensee of the provider's progress  
9 toward reopening. Any request by a licensee for an inactive  
10 license or to extend the previously approved inactive period  
11 must be submitted to the agency, accompanied by written  
12 justification for the inactive license with the beginning and  
13 ending dates of inactivity, including a plan for the transfer  
14 of any clients to other providers, and the appropriate  
15 licensure fees. The agency may not accept a request that is  
16 submitted after initiating closure, after any suspension of  
17 service, or after notifying clients of closure or suspension  
18 of service. Upon agency approval, the provider shall notify  
19 clients of any necessary discharge or transfer as required by  
20 authorizing statutes. The beginning of the inactive license  
21 shall be the date the provider ceases operations. The end of  
22 the inactive period shall become the license expiration date  
23 and all licensure fees must be current, paid in full, and may  
24 be prorated. Reactivation of an inactive license requires the  
25 approval of a renewal application, including payment of  
26 licensure fees and agency inspections indicating compliance  
27 with all requirements of ss. 408.801-408.819, authorizing  
28 statutes, and applicable rules.

29           (4) OTHER LICENSES.--Other licensure types may be  
30 issued pursuant to authorizing statutes.

31           408.809 Background screening; prohibited offenses.--

1           (1) Level 2 background screening pursuant to chapter  
2 435 must be conducted through the agency on each of the  
3 following persons, who shall be considered an employee for the  
4 purposes of conducting screening under chapter 435:

5           (a) The licensee if an individual;

6           (b) The administrator or a similarly titled person who  
7 is responsible for the day-to-day operation of the provider;

8           (c) The financial officer or similarly titled  
9 individual who is responsible for the financial operation of  
10 the licensee or provider; and

11           (d) Any controlling interest if the agency has reason  
12 to believe that such person has been convicted of any offense  
13 prohibited by s. 435.04. For each controlling interest who has  
14 been convicted of any such offense, the licensee shall submit  
15 to the agency a description and explanation of the conviction  
16 at the time of license application.

17           (2) Proof of compliance with level 2 screening  
18 standards submitted within the previous 5 years to meet any  
19 provider or professional licensure requirements of the agency,  
20 the Department of Health, or the Department of Children and  
21 Family Services satisfies the requirements of this section,  
22 provided that such proof is accompanied, under penalty of  
23 perjury, by an affidavit of compliance with the provisions of  
24 chapter 435. Proof of compliance with the background screening  
25 requirements of the Department of Insurance for an applicant  
26 for a certificate of authority to operate a continuing care  
27 retirement community under chapter 651, submitted within the  
28 previous 5 years, satisfies the Department of Law Enforcement  
29 and Federal Bureau of Investigation portions of a level 2  
30 background check.

31

1           (3) A provisional license may be granted to an  
2 applicant when each individual required by this section to  
3 undergo background screening has met the standards for the  
4 Department of Law Enforcement background check, but the agency  
5 has not yet received background screening results from the  
6 Federal Bureau of Investigation. A standard license may be  
7 granted to the licensee upon the agency's receipt of a report  
8 of the results of the Federal Bureau of Investigation  
9 background screening for each individual required by this  
10 section to undergo background screening which confirms that  
11 all standards have been met, or upon the granting of a  
12 disqualification exemption by the agency as set forth in  
13 chapter 435. Any other person who is required to undergo level  
14 2 background screening may serve in his or her capacity  
15 pending the agency's receipt of the report from the Federal  
16 Bureau of Investigation. However, the person may not continue  
17 to serve if the report indicates any violation of background  
18 screening standards and a disqualification exemption has not  
19 been requested of or granted by the agency as set forth in  
20 chapter 435.

21           (4) When a change in the administrator of a provider  
22 occurs, the licensee must notify the agency of the change  
23 within the time period specified in the authorizing statute or  
24 rules and must provide evidence of compliance with background  
25 screening requirements of this section; except that an  
26 administrator who has met the standards for the Department of  
27 Law Enforcement background check, but for whom background  
28 screening results from the Federal Bureau of Investigation  
29 have not yet been received, may be employed pending a receipt  
30 of the Federal Bureau of Investigation background screening  
31 report. An individual may not continue to serve as

1 administrator if the Federal Bureau of Investigation  
2 background screening report indicates any violation of  
3 background screening standards.

4 (5) Background screening is not required to obtain a  
5 certificate of exemption issued under s. 483.106.

6 408.810 Minimum licensure requirements.--In addition  
7 to the licensure requirements specified in chapter 112,  
8 chapter 383, chapter 390, chapter 394, chapter 395, chapter  
9 400, chapter 440, or chapter 483, each applicant for licensure  
10 by the Agency for Health Care Administration must comply with  
11 the requirements of this section in order to obtain and  
12 maintain a license.

13 (1) An applicant for licensure must comply with  
14 background screening requirements of s. 408.809.

15 (2) An applicant for licensure must provide a  
16 description and explanation of any exclusions, suspensions, or  
17 terminations of the applicant from the Medicare, Medicaid, or  
18 federal Clinical Laboratory Improvement Amendments (CLIA)  
19 programs.

20 (3) Unless otherwise specified in ss. 408.801-408.819,  
21 authorizing statutes, or applicable rules, any information  
22 required to be reported to the agency must be submitted within  
23 10 calendar days after the report period or effective date of  
24 the information.

25 (4) Whenever a licensee discontinues operation of a  
26 provider:

27 (a) The licensee must inform the agency not less than  
28 30 days prior to the discontinuance of operation and inform  
29 clients of discharge as required by authorizing statutes.  
30 Immediately upon discontinuance of operation of a provider,  
31

1 the licensee shall surrender the license to the agency and the  
2 license shall be canceled.

3 (b) Upon final discharge of clients, each client shall  
4 be given his or her records. Upon closure of a provider, the  
5 licensee shall remain responsible for retaining and  
6 appropriately distributing all records within the timeframes  
7 prescribed in authorizing statutes and applicable rules. In  
8 addition, the licensee shall make arrangements to forward  
9 records for each client to one of the following, based upon  
10 the client's choice: the client or the client's legal  
11 representative, the client's attending physician, or the  
12 health care provider where the client currently receives  
13 services. Failure to comply is a misdemeanor of the second  
14 degree, punishable as provided in s. 775.083. In the event of  
15 death or dissolution of a licensee, the estate or agent of the  
16 licensee shall cause a notice to be published in the newspaper  
17 of greatest general circulation in the county where the  
18 provider was located which advises clients of the licensee's  
19 death or dissolution. The notice must inform clients that they  
20 may obtain copies of their records and specify the name,  
21 address, and telephone number of the person from whom the  
22 copies of records may be obtained. The notice must appear at  
23 least once a week for four consecutive weeks.

24 (5)(a) On or before the first day services are  
25 provided to a client, a licensee must inform the client and  
26 his or her immediate family or representative, if appropriate,  
27 of the right to report:

28 1. Complaints. The statewide toll-free telephone  
29 number for reporting complaints to the agency must be provided  
30 to clients in a manner that is clearly legible and must  
31

1 include the words: "To report a complaint regarding the  
2 services you receive, please call toll free (phone number)".

3 2. Abusive, neglectful, or exploitative practices. The  
4 statewide toll-free telephone number for the central abuse  
5 hotline must be provided to clients in a manner that is  
6 clearly legible and must include the words: "To report abuse,  
7 neglect, or exploitation, please call toll-free (phone  
8 number)."

9  
10 The agency shall publish a minimum of a 90-day advance notice  
11 of a change in the toll-free telephone numbers.

12 (b) Each licensee shall establish appropriate policies  
13 and procedures for providing such notice to clients.

14 (6) An applicant must provide the agency with proof of  
15 the applicant's legal right to occupy the property before a  
16 license may be issued. Proof may include, but need not be  
17 limited to, copies of warranty deeds, lease or rental  
18 agreements, contracts for deeds, quitclaim deeds, or other  
19 such documentation.

20 (7) An applicant shall provide proof of liability  
21 insurance as defined in chapter 624, unless defined otherwise  
22 in authorizing statute.

23 (8) Upon application for initial licensure or  
24 change-of-ownership licensure, the applicant shall furnish  
25 satisfactory proof of the applicant's financial ability to  
26 operate in accordance with the requirements of ss.  
27 408.801-408.819, authorizing statutes, and applicable rules.  
28 The agency shall establish standards for this purpose,  
29 including information concerning the applicant's controlling  
30 interests. The agency also shall establish documentation  
31 requirements, to be completed by each applicant, that show

1 anticipated provider revenues and expenditures, the basis for  
2 financing the anticipated cash-flow requirements of the  
3 provider, and an applicant's access to contingency financing.  
4 A current certificate of authority, pursuant to chapter 651,  
5 may be provided as proof of financial ability to operate. The  
6 agency may require a licensee to provide proof of financial  
7 ability to operate at any time if there is evidence of  
8 financial instability, including, but not limited to, unpaid  
9 expenses necessary for the basic operations of the provider.

10 (9) A licensee or controlling interest may not  
11 withhold from the agency any evidence of financial  
12 instability, including, but not limited to, checks returned  
13 due to insufficient funds, delinquent accounts, nonpayment of  
14 withholding taxes, unpaid utility expenses, nonpayment for  
15 essential services, or adverse court action concerning the  
16 financial viability of the provider or any other provider  
17 licensed under ss. 408.801-408.819 which is under the control  
18 of the licensee. Any person found guilty of violating this  
19 subsection commits a misdemeanor of the second degree,  
20 punishable as provided in s. 775.083. Each day of continuing  
21 violation is a separate offense.

22 (10) The agency may not issue a license to a health  
23 care provider subject to the certificate of need provisions in  
24 ss. 408.031-408.045 if the licensee has not been issued a  
25 certificate of need or an exemption. Upon initial licensure of  
26 any such provider, the authorization contained in the  
27 certificate of need shall be considered fully implemented and  
28 merged into the license, and shall have no force and effect  
29 upon termination of the license for any reason.

30 408.811 Right of inspection; copies; inspection  
31 reports.--

1           (1) An authorized officer or employee of the agency  
2 may make or cause to be made any inspections and  
3 investigations as the agency deems necessary to determine the  
4 state of compliance with ss. 408.801-408.819, authorizing  
5 statutes, and applicable rules. The right of inspection  
6 extends to any business that the agency has reason to believe  
7 is being operated as a provider without a license, but  
8 inspection of any business suspected of being operated without  
9 the appropriate license may not be made without the permission  
10 of the owner or person in charge unless a warrant is first  
11 obtained from a circuit court. Any application for a license  
12 issued under ss. 408.801-408.819, authorizing statutes, or  
13 applicable rules constitutes permission for an appropriate  
14 inspection to verify the information submitted on or in  
15 connection with the application.

16           (a) All inspections shall be unannounced, except for  
17 inspections required for initial licensure or pursuant to s.  
18 483.035.

19           (b) Inspections for relicensure shall be conducted  
20 biennially unless otherwise specified by authorizing statutes  
21 or applicable rules.

22           (2) Inspections conducted in conjunction with  
23 certification may be accepted in lieu of a complete licensure  
24 inspection. However, a licensure inspection may also be  
25 conducted to review any licensure requirements that are not  
26 also requirements of certification.

27           (3) The agency shall have access to and the licensee  
28 shall provide copies of all provider records required during  
29 an inspection at no cost to the agency.

30           (4)(a) Unless exempt from s. 119.07(1), each licensee  
31 shall maintain as public information, available upon request,

1 records of all inspection reports pertaining to that provider  
2 which have been filed with, or issued by, any governmental  
3 agency. Copies of such reports shall be retained in the  
4 records of the provider for at least 5 years following the  
5 date the reports are filed and issued, regardless of a change  
6 of ownership.

7 (b) A licensee shall, upon the request of any person  
8 who has completed a written application with intent to be  
9 admitted by such provider or any person who is a patient of  
10 such provider, or any relative, spouse, or guardian of any  
11 such person, furnish to the requester a copy of the last  
12 inspection report issued by the agency or an accrediting  
13 organization if applicable, whichever is most recent,  
14 pertaining to the licensed provider.

15 408.812 Unlicensed activity.--

16 (1) A person may not offer or advertise to the public  
17 services as defined by ss. 408.801-408.819, authorizing  
18 statutes, or application rules without obtaining a valid  
19 license from the Agency for Health Care Administration. The  
20 holder of a license may not advertise or hold out to the  
21 public that he or she holds a license for other than that for  
22 which he or she actually holds a license.

23 (2) The operation or maintenance of an unlicensed  
24 provider or the performance of any services that necessitate  
25 licensure is a violation of ss. 408.801-408.819 and  
26 authorizing statutes. Unlicensed activity constitutes harm  
27 that materially affects the health, safety, and welfare of  
28 clients. The agency, or any state attorney, may, in addition  
29 to other remedies provided in ss. 408.801-408.819, bring an  
30 action for an injunction to restrain such violation, or to  
31 enjoin the future operation or maintenance of any such

1 provider or the provision of services that necessitate  
2 licensure in violation of ss. 408.801-408.819 and authorizing  
3 statutes, until compliance with ss. 408.801-408.819,  
4 authorizing statutes, and agency rules, has been demonstrated  
5 to the satisfaction of the agency.

6 (3) Any person who owns, operates, or maintains an  
7 unlicensed provider and who, after receiving notification from  
8 the agency, fails to cease operation and apply for a license  
9 under this part and authorizing statutes commits a felony of  
10 the third degree, punishable as provided in s. 775.082, s.  
11 775.083, or s. 775.084. Each day of continued operation is a  
12 separate offense.

13 (4) Any person found guilty of violating subsection  
14 (3) a second or subsequent time commits a felony of the second  
15 degree, punishable as provided under s. 775.082, s. 775.083,  
16 or s. 775.084. Each day of continued operation is a separate  
17 offense.

18 (5) Any provider that fails to cease operation after  
19 agency notification may be fined \$1,000 for each day of  
20 noncompliance.

21 (6) When a licensee has an interest in more than one  
22 provider and fails to license any provider rendering services  
23 that necessitate licensure, the agency may revoke all  
24 licenses, impose moratoriums, or impose a fine of \$1,000  
25 unless otherwise specified by authorizing statutes against the  
26 licensee until such time as the licensee becomes appropriately  
27 licensed.

28 (7) In addition to injunctive relief pursuant to  
29 subsection (2), if the agency determines that an owner is  
30 operating or maintaining a provider without obtaining a  
31 license and determines that a condition exists that poses a

1 threat to the health, safety, or welfare of a client of the  
2 provider, the owner is subject to the same actions and fines  
3 imposed against a licensed provider as specified in ss.  
4 408.801-408.819, the authorizing statute, and agency rules.

5 (8) Any person aware of the operation of an unlicensed  
6 provider must report that provider and operation to the  
7 agency.

8 408.813 Administrative fines.--As a penalty for any  
9 violation of ss. 408.801-408.819, authorizing statutes, or  
10 applicable rules, the agency may impose an administrative  
11 fine. Unless the amount of the fine is prescribed by  
12 authorizing statutes or applicable rules, the agency may  
13 establish criteria for the amount of administrative fines  
14 applicable to ss. 408.801-408.819, authorizing statutes, and  
15 applicable rules. Each day of violation constitutes a separate  
16 violation and is subject to a separate fine. For fines that  
17 are upheld following administrative or judicial review, the  
18 violator shall pay the fine, plus interest at the rate as  
19 specified in s. 55.03 for each day beyond the date set by the  
20 agency for payment of the fine.

21 408.814 Moratoriums.--

22 (1) The agency may impose an immediate moratorium on  
23 any provider if the agency determines that any condition  
24 related to the provider presents a threat to the health,  
25 safety, or welfare of the clients.

26 (2) A provider, the license of which is denied or  
27 revoked, may be subject to immediate imposition of a  
28 moratorium to run concurrently with licensure denial,  
29 revocation, or injunction.

30 (3) A moratorium remains in effect after a change of  
31 ownership, unless the agency has determined that the

1 conditions that created the moratorium or denial of licensure  
2 have been corrected.

3 (4) When a moratorium is placed on a provider, notice  
4 of the moratorium shall be posted and visible to the public at  
5 the location of the provider until the moratorium is lifted.

6 (5) The agency may by rule establish conditions that  
7 constitute grounds for imposing a moratorium on a provider and  
8 procedures for imposing and lifting a moratorium as necessary  
9 to administer this section.

10 408.815 License denial; revocation.--

11 (1) In addition to grounds in authorizing statutes,  
12 grounds for denying or revoking a license or application  
13 include any of the following actions by a controlling  
14 interest:

15 (a) False representation of a material fact in the  
16 license application or omission of any material fact from the  
17 application.

18 (b) An intentional or negligent act materially  
19 affecting the health or safety of clients of the provider.

20 (c) A violation of ss. 408.801-408.819, authorizing  
21 statutes, or applicable rules.

22 (d) A demonstrated pattern of deficient performance.

23 (e) The applicant, licensee, or controlling interest  
24 has been or is currently excluded, suspended, terminated from,  
25 or has involuntarily withdrawn from participation in the state  
26 Medicaid program, the Medicaid program of any other state, or  
27 the Medicare program or any other governmental or private  
28 health care or health insurance program.

29 (2) If a licensee lawfully continues to operate while  
30 a denial or revocation is pending in litigation, the licensee  
31 must continue to meet all other requirements of ss.

1 408.801-408.819, authorizing statutes, and applicable rules,  
2 and must file subsequent renewal applications for licensure,  
3 including licensure fees. Notwithstanding chapter 120, the  
4 agency may withhold a final decision on any application or  
5 request filed during this period until final agency action.

6 (3) A moratorium or denial of the license of the  
7 transferee license may be grounds for denial of a  
8 change-of-ownership application of the transferor.

9 408.816 Injunctions.--

10 (1) In addition to the other powers provided by ss.  
11 408.801-408.819 and authorizing statutes, the agency may:

12 (a) Institute injunction proceedings in a court of  
13 competent jurisdiction to restrain or prevent the  
14 establishment or operation of a provider that does not have a  
15 license or is in violation of any provision of ss.  
16 408.801-408.819, authorizing statutes, or applicable rules.

17 The agency may also institute injunction proceedings in a  
18 court of competent jurisdiction when a violation of ss.  
19 408.801-408.819, authorizing statutes, or applicable rules  
20 constitutes an emergency affecting the immediate health and  
21 safety of a client.

22 (b) Enforce the provisions of ss. 408.801-408.819,  
23 authorizing statutes, or any minimum standard, rule, or order  
24 issued or entered into pursuant thereto when the attempt by  
25 the agency to correct a violation through administrative  
26 sanctions has failed or when the violation materially affects  
27 the health, safety, or welfare of clients or involves any  
28 operation of an unlicensed provider.

29 (c) Terminate the operation of a provider when a  
30 violation of any provision of ss. 408.801-408.819, authorizing  
31 statutes, or any standard or rule adopted pursuant thereto

1 exist that materially affect the health, safety, or welfare of  
2 clients.

3 (2) Such injunctive relief may be temporary or  
4 permanent.

5 (3) If action is necessary to protect clients of  
6 providers from immediate, life-threatening situations, the  
7 court may allow a temporary injunction without bond upon  
8 proper proof being made. If it appears by competent evidence  
9 or a sworn, substantiated affidavit that a temporary  
10 injunction should be issued, the court, pending the  
11 determination on final hearing, shall enjoin the operation of  
12 the provider.

13 408.817 Administrative proceedings.--Administrative  
14 proceedings challenging agency licensure enforcement action  
15 shall be reviewed on the basis of the facts and conditions  
16 that resulted in the agency action.

17 408.818 Health Care Trust Fund.--Unless otherwise  
18 prescribed by authorizing statutes, all fees and fines  
19 collected pursuant to ss. 408.801-408.819, authorizing  
20 statutes, and applicable rules shall be deposited into the  
21 Health Care Trust Fund, created in s. 408.16, and used to pay  
22 the costs of the agency in administering the provider program  
23 paying the fees or fines.

24 408.819 Rules.--The agency may adopt rules necessary  
25 to administer ss. 408.801-408.819. Any licensed provider that  
26 is in operation at the time of adoption of any applicable rule  
27 under ss. 408.801-408.819 or authorizing statutes shall be  
28 given a reasonable time under the particular circumstances,  
29 not to exceed 6 months after the date of such adoption, within  
30 which to comply with such rule, unless otherwise specified by  
31 rule.

1           Section 2. Subsection (12), paragraph (a) of  
2 subsection (13), and subsection (17) of section 112.0455,  
3 Florida Statutes, are amended to read:

4           112.0455 Drug-Free Workplace Act.--

5           (12) DRUG-TESTING STANDARDS; LABORATORIES.--

6           (a) The requirements of ss. 408.801-408.819 apply to  
7 the provision of services that necessitate licensure pursuant  
8 to this section and ss. 408.801-408.819 and to entities  
9 licensed by or applying for such licensure from the Agency for  
10 Health Care Administration pursuant to this section.

11           ~~(b)(a)~~ A laboratory may analyze initial or  
12 confirmation drug specimens only if:

13           1. The laboratory is licensed and approved by the  
14 Agency for Health Care Administration using criteria  
15 established by the United States Department of Health and  
16 Human Services as general guidelines for modeling the state  
17 drug testing program and in accordance with ss.  
18 408.801-408.819. Each applicant for licensure must comply with  
19 all requirements of ss. 408.801-408.819, with the exception of  
20 s. 408.810(5)-(10).~~the following requirements:~~

21           ~~a. Upon receipt of a completed, signed, and dated~~  
22 ~~application, the agency shall require background screening, in~~  
23 ~~accordance with the level 2 standards for screening set forth~~  
24 ~~in chapter 435, of the managing employee, or other similarly~~  
25 ~~titled individual responsible for the daily operation of the~~  
26 ~~laboratory, and of the financial officer, or other similarly~~  
27 ~~titled individual who is responsible for the financial~~  
28 ~~operation of the laboratory, including billings for services.~~  
29 ~~The applicant must comply with the procedures for level 2~~  
30 ~~background screening as set forth in chapter 435, as well as~~  
31 ~~the requirements of s. 435.03(3).~~

1           ~~b. The agency may require background screening of any~~  
2 ~~other individual who is an applicant if the agency has~~  
3 ~~probable cause to believe that he or she has been convicted of~~  
4 ~~an offense prohibited under the level 2 standards for~~  
5 ~~screening set forth in chapter 435.~~

6           ~~c. Proof of compliance with the level 2 background~~  
7 ~~screening requirements of chapter 435 which has been submitted~~  
8 ~~within the previous 5 years in compliance with any other~~  
9 ~~health care licensure requirements of this state is acceptable~~  
10 ~~in fulfillment of screening requirements.~~

11           ~~d. A provisional license may be granted to an~~  
12 ~~applicant when each individual required by this section to~~  
13 ~~undergo background screening has met the standards for the~~  
14 ~~Department of Law Enforcement background check, but the agency~~  
15 ~~has not yet received background screening results from the~~  
16 ~~Federal Bureau of Investigation, or a request for a~~  
17 ~~disqualification exemption has been submitted to the agency as~~  
18 ~~set forth in chapter 435, but a response has not yet been~~  
19 ~~issued. A license may be granted to the applicant upon the~~  
20 ~~agency's receipt of a report of the results of the Federal~~  
21 ~~Bureau of Investigation background screening for each~~  
22 ~~individual required by this section to undergo background~~  
23 ~~screening which confirms that all standards have been met, or~~  
24 ~~upon the granting of a disqualification exemption by the~~  
25 ~~agency as set forth in chapter 435. Any other person who is~~  
26 ~~required to undergo level 2 background screening may serve in~~  
27 ~~his or her capacity pending the agency's receipt of the report~~  
28 ~~from the Federal Bureau of Investigation. However, the person~~  
29 ~~may not continue to serve if the report indicates any~~  
30 ~~violation of background screening standards and a~~

31

1 ~~disqualification exemption has not been requested of and~~  
2 ~~granted by the agency as set forth in chapter 435.~~

3 ~~e. Each applicant must submit to the agency, with its~~  
4 ~~application, a description and explanation of any exclusions,~~  
5 ~~permanent suspensions, or terminations of the applicant from~~  
6 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
7 ~~the requirements for disclosure of ownership and control~~  
8 ~~interests under the Medicaid or Medicare programs shall be~~  
9 ~~accepted in lieu of this submission.~~

10 ~~f. Each applicant must submit to the agency a~~  
11 ~~description and explanation of any conviction of an offense~~  
12 ~~prohibited under the level 2 standards of chapter 435 by a~~  
13 ~~member of the board of directors of the applicant, its~~  
14 ~~officers, or any individual owning 5 percent or more of the~~  
15 ~~applicant. This requirement does not apply to a director of a~~  
16 ~~not-for-profit corporation or organization if the director~~  
17 ~~serves solely in a voluntary capacity for the corporation or~~  
18 ~~organization, does not regularly take part in the day-to-day~~  
19 ~~operational decisions of the corporation or organization,~~  
20 ~~receives no remuneration for his or her services on the~~  
21 ~~corporation or organization's board of directors, and has no~~  
22 ~~financial interest and has no family members with a financial~~  
23 ~~interest in the corporation or organization, provided that the~~  
24 ~~director and the not-for-profit corporation or organization~~  
25 ~~include in the application a statement affirming that the~~  
26 ~~director's relationship to the corporation satisfies the~~  
27 ~~requirements of this sub-subparagraph.~~

28 ~~g. A license may not be granted to any applicant if~~  
29 ~~the applicant or managing employee has been found guilty of,~~  
30 ~~regardless of adjudication, or has entered a plea of nolo~~  
31 ~~contendere or guilty to, any offense prohibited under the~~

1 ~~level 2 standards for screening set forth in chapter 435,~~  
2 ~~unless an exemption from disqualification has been granted by~~  
3 ~~the agency as set forth in chapter 435.~~

4 ~~h. The agency may deny or revoke licensure if the~~  
5 ~~applicant:~~

6 ~~(I) Has falsely represented a material fact in the~~  
7 ~~application required by sub-subparagraph e. or~~  
8 ~~sub-subparagraph f., or has omitted any material fact from the~~  
9 ~~application required by sub-subparagraph e. or~~  
10 ~~sub-subparagraph f.; or~~

11 ~~(II) Has had prior action taken against the applicant~~  
12 ~~under the Medicaid or Medicare program as set forth in~~  
13 ~~sub-subparagraph e.~~

14 ~~i. An application for license renewal must contain the~~  
15 ~~information required under sub-subparagraphs e. and f.~~

16 2. The laboratory has written procedures to ensure  
17 chain of custody.

18 3. The laboratory follows proper quality control  
19 procedures, including, but not limited to:

20 a. The use of internal quality controls including the  
21 use of samples of known concentrations which are used to check  
22 the performance and calibration of testing equipment, and  
23 periodic use of blind samples for overall accuracy.

24 b. An internal review and certification process for  
25 drug test results, conducted by a person qualified to perform  
26 that function in the testing laboratory.

27 c. Security measures implemented by the testing  
28 laboratory to preclude adulteration of specimens and drug test  
29 results.

30 d. Other necessary and proper actions taken to ensure  
31 reliable and accurate drug test results.

1            (c)~~(b)~~ A laboratory shall disclose to the employer a  
2 written test result report within 7 working days after receipt  
3 of the sample. All laboratory reports of a drug test result  
4 shall, at a minimum, state:

5            1. The name and address of the laboratory which  
6 performed the test and the positive identification of the  
7 person tested.

8            2. Positive results on confirmation tests only, or  
9 negative results, as applicable.

10           3. A list of the drugs for which the drug analyses  
11 were conducted.

12           4. The type of tests conducted for both initial and  
13 confirmation tests and the minimum cutoff levels of the tests.

14           5. Any correlation between medication reported by the  
15 employee or job applicant pursuant to subparagraph (8)(b)2.  
16 and a positive confirmed drug test result.

17  
18 No report shall disclose the presence or absence of any drug  
19 other than a specific drug and its metabolites listed pursuant  
20 to this section.

21           (d)~~(c)~~ The laboratory shall submit to the Agency for  
22 Health Care Administration a monthly report with statistical  
23 information regarding the testing of employees and job  
24 applicants. The reports shall include information on the  
25 methods of analyses conducted, the drugs tested for, the  
26 number of positive and negative results for both initial and  
27 confirmation tests, and any other information deemed  
28 appropriate by the Agency for Health Care Administration. No  
29 monthly report shall identify specific employees or job  
30 applicants.

31

1           (e)~~(d)~~ Laboratories shall provide technical assistance  
2 to the employer, employee, or job applicant for the purpose of  
3 interpreting any positive confirmed test results which could  
4 have been caused by prescription or nonprescription medication  
5 taken by the employee or job applicant.

6           (13) RULES.--

7           (a) The Agency for Health Care Administration may  
8 adopt additional rules to support this law and ss.  
9 408.801-408.819, using criteria established by the United  
10 States Department of Health and Human Services as general  
11 guidelines for modeling drug-free workplace laboratories ~~the~~  
12 ~~state drug-testing program~~, concerning, but not limited to:

13           1. Standards for drug-testing laboratory licensing and  
14 denial, ~~suspension~~, and revocation of a license.

15           2. Urine, hair, blood, and other body specimens and  
16 minimum specimen amounts which are appropriate for drug  
17 testing, not inconsistent with other provisions established by  
18 law.

19           3. Methods of analysis and procedures to ensure  
20 reliable drug-testing results, including standards for initial  
21 tests and confirmation tests, not inconsistent with other  
22 provisions established by law.

23           4. Minimum cutoff detection levels for drugs or their  
24 metabolites for the purposes of determining a positive test  
25 result, not inconsistent with other provisions established by  
26 law.

27           5. Chain-of-custody procedures to ensure proper  
28 identification, labeling, and handling of specimens being  
29 tested, not inconsistent with other provisions established by  
30 law.

31

1           6. Retention, storage, and transportation procedures  
2 to ensure reliable results on confirmation tests and retests.

3           7. A list of the most common medications by brand name  
4 or common name, as applicable, as well as by chemical name,  
5 which may alter or affect a drug test.

6           (17) LICENSE FEE.--Fees from licensure of drug-testing  
7 laboratories shall be sufficient to carry out the  
8 responsibilities of the Agency for Health Care Administration  
9 for the regulation of drug-testing laboratories. In accordance  
10 with s. 408.805, an applicant or licensee shall pay a fee for  
11 each license application submitted under this part and ss.  
12 408.801-408.819. The fee may not be less than \$16,000 or more  
13 than \$20,000 per biennium and shall be established by rule.

14 ~~The Agency for Health Care Administration shall collect fees~~  
15 ~~for all licenses issued under this part. Each nonrefundable~~  
16 ~~fee shall be due at the time of application and shall be~~  
17 ~~payable to the Agency for Health Care Administration to be~~  
18 ~~deposited in a trust fund administered by the Agency for~~  
19 ~~Health Care Administration and used only for the purposes of~~  
20 ~~this section. The fee schedule is as follows: For licensure~~  
21 ~~as a drug-testing laboratory, an annual fee of not less than~~  
22 ~~\$8,000 or more than \$10,000 per fiscal year; for late filing~~  
23 ~~of an application for renewal, an additional fee of \$500 per~~  
24 ~~day shall be charged.~~

25           Section 3. Section 383.301, Florida Statutes, is  
26 amended to read:

27           383.301 Licensure and regulation of birth centers;  
28 legislative intent.--It is the intent of the Legislature to  
29 provide for the protection of public health and safety in the  
30 establishment, maintenance, and operation of birth centers by  
31 providing for licensure of birth centers and for the

1 development, establishment, and enforcement of minimum  
2 standards with respect to birth centers. The requirements of  
3 ss. 408.801-408.819 apply to the provision of services that  
4 necessitate licensure pursuant to ss. 383.30-383.335 and ss.  
5 408.801-408.819 and to entities licensed by or applying for  
6 such licensure from the Agency for Health Care Administration  
7 pursuant to ss. 383.30-383.335.

8 Section 4. Section 383.304, Florida Statutes, is  
9 repealed.

10 Section 5. Section 383.305, Florida Statutes, is  
11 amended to read:

12 383.305 Licensure; ~~issuance, renewal, denial,~~  
13 ~~suspension, revocation; fees; background screening.--~~

14 (1) In accordance with s. 408.805, an applicant or  
15 licensee shall pay a fee for each license application  
16 submitted under this part and ss. 408.801-408.819. The amount  
17 of the fee shall be established by rule.

18 ~~(1)(a) Upon receipt of an application for a license~~  
19 ~~and the license fee, the agency shall issue a license if the~~  
20 ~~applicant and facility have received all approvals required by~~  
21 ~~law and meet the requirements established under ss.~~  
22 ~~383.30-383.335 and by rules promulgated hereunder.~~

23 ~~(b) A provisional license may be issued to any birth~~  
24 ~~center that is in substantial compliance with ss.~~  
25 ~~383.30-383.335 and with the rules of the agency. A~~  
26 ~~provisional license may be granted for a period of no more~~  
27 ~~than 1 year from the effective date of rules adopted by the~~  
28 ~~agency, shall expire automatically at the end of its term, and~~  
29 ~~may not be renewed.~~

30 ~~(c) A license, unless sooner suspended or revoked,~~  
31 ~~automatically expires 1 year from its date of issuance and is~~

1 ~~renewable upon application for renewal and payment of the fee~~  
2 ~~prescribed, provided the applicant and the birth center meet~~  
3 ~~the requirements established under ss. 383.30-383.335 and by~~  
4 ~~rules promulgated hereunder. A complete application for~~  
5 ~~renewal of a license shall be made 90 days prior to expiration~~  
6 ~~of the license on forms provided by the agency.~~

7 ~~(2) An application for a license, or renewal thereof,~~  
8 ~~shall be made to the agency upon forms provided by it and~~  
9 ~~shall contain such information as the agency reasonably~~  
10 ~~requires, which may include affirmative evidence of ability to~~  
11 ~~comply with applicable laws and rules.~~

12 ~~(3)(a) Each application for a birth center license, or~~  
13 ~~renewal thereof, shall be accompanied by a license fee. Fees~~  
14 ~~shall be established by rule of the agency. Such fees are~~  
15 ~~payable to the agency and shall be deposited in a trust fund~~  
16 ~~administered by the agency, to be used for the sole purpose of~~  
17 ~~carrying out the provisions of ss. 383.30-383.335.~~

18 ~~(b) The fees established pursuant to ss.~~  
19 ~~383.30-383.335 shall be based on actual costs incurred by the~~  
20 ~~agency in the administration of its duties under such~~  
21 ~~sections.~~

22 ~~(4) Each license is valid only for the person or~~  
23 ~~governmental unit to whom or which it is issued; is not~~  
24 ~~subject to sale, assignment, or other transfer, voluntary or~~  
25 ~~involuntary; and is not valid for any premises other than~~  
26 ~~those for which it was originally issued.~~

27 ~~(5) Each license shall be posted in a conspicuous~~  
28 ~~place on the licensed premises.~~

29 ~~(6) Whenever the agency finds that there has been a~~  
30 ~~substantial failure to comply with the requirements~~  
31 ~~established under ss. 383.30-383.335 or in rules adopted under~~

1 ~~those sections, it is authorized to deny, suspend, or revoke a~~  
2 ~~license.~~

3 (2)(7) Each applicant for licensure must comply with  
4 the following requirements of ss. 408.801-408.819, with the  
5 exception of s. 408.810(7)-(10).+

6 (a) ~~Upon receipt of a completed, signed, and dated~~  
7 ~~application, the agency shall require background screening, in~~  
8 ~~accordance with the level 2 standards for screening set forth~~  
9 ~~in chapter 435, of the managing employee, or other similarly~~  
10 ~~titled individual who is responsible for the daily operation~~  
11 ~~of the center, and of the financial officer, or other~~  
12 ~~similarly titled individual who is responsible for the~~  
13 ~~financial operation of the center, including billings for~~  
14 ~~patient care and services. The applicant must comply with the~~  
15 ~~procedures for level 2 background screening as set forth in~~  
16 ~~chapter 435 as well as the requirements of s. 435.03(3).~~

17 (b) ~~The agency may require background screening of any~~  
18 ~~other individual who is an applicant if the agency has~~  
19 ~~probable cause to believe that he or she has been convicted of~~  
20 ~~a crime or has committed any other offense prohibited under~~  
21 ~~the level 2 standards for screening set forth in chapter 435.~~

22 (c) ~~Proof of compliance with the level 2 background~~  
23 ~~screening requirements of chapter 435 which has been submitted~~  
24 ~~within the previous 5 years in compliance with any other~~  
25 ~~health care licensure requirements of this state is acceptable~~  
26 ~~in fulfillment of the requirements of paragraph (a).~~

27 (d) ~~A provisional license may be granted to an~~  
28 ~~applicant when each individual required by this section to~~  
29 ~~undergo background screening has met the standards for the~~  
30 ~~Department of Law Enforcement background check, but the agency~~  
31 ~~has not yet received background screening results from the~~

1 ~~Federal Bureau of Investigation, or a request for a~~  
2 ~~disqualification exemption has been submitted to the agency as~~  
3 ~~set forth in chapter 435 but a response has not yet been~~  
4 ~~issued. A standard license may be granted to the applicant~~  
5 ~~upon the agency's receipt of a report of the results of the~~  
6 ~~Federal Bureau of Investigation background screening for each~~  
7 ~~individual required by this section to undergo background~~  
8 ~~screening which confirms that all standards have been met, or~~  
9 ~~upon the granting of a disqualification exemption by the~~  
10 ~~agency as set forth in chapter 435. Any other person who is~~  
11 ~~required to undergo level 2 background screening may serve in~~  
12 ~~his or her capacity pending the agency's receipt of the report~~  
13 ~~from the Federal Bureau of Investigation. However, the person~~  
14 ~~may not continue to serve if the report indicates any~~  
15 ~~violation of background screening standards and a~~  
16 ~~disqualification exemption has not been requested of and~~  
17 ~~granted by the agency as set forth in chapter 435.~~

18 ~~(e) Each applicant must submit to the agency, with its~~  
19 ~~application, a description and explanation of any exclusions,~~  
20 ~~permanent suspensions, or terminations of the applicant from~~  
21 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
22 ~~the requirements for disclosure of ownership and control~~  
23 ~~interests under the Medicaid or Medicare programs shall be~~  
24 ~~accepted in lieu of this submission.~~

25 ~~(f) Each applicant must submit to the agency a~~  
26 ~~description and explanation of any conviction of an offense~~  
27 ~~prohibited under the level 2 standards of chapter 435 by a~~  
28 ~~member of the board of directors of the applicant, its~~  
29 ~~officers, or any individual owning 5 percent or more of the~~  
30 ~~applicant. This requirement does not apply to a director of a~~  
31 ~~not-for-profit corporation or organization if the director~~

1 ~~serves solely in a voluntary capacity for the corporation or~~  
2 ~~organization, does not regularly take part in the day-to-day~~  
3 ~~operational decisions of the corporation or organization,~~  
4 ~~receives no remuneration for his or her services on the~~  
5 ~~corporation or organization's board of directors, and has no~~  
6 ~~financial interest and has no family members with a financial~~  
7 ~~interest in the corporation or organization, provided that the~~  
8 ~~director and the not-for-profit corporation or organization~~  
9 ~~include in the application a statement affirming that the~~  
10 ~~director's relationship to the corporation satisfies the~~  
11 ~~requirements of this paragraph.~~

12 ~~(g) A license may not be granted to an applicant if~~  
13 ~~the applicant or managing employee has been found guilty of,~~  
14 ~~regardless of adjudication, or has entered a plea of nolo~~  
15 ~~contendere or guilty to, any offense prohibited under the~~  
16 ~~level 2 standards for screening set forth in chapter 435,~~  
17 ~~unless an exemption from disqualification has been granted by~~  
18 ~~the agency as set forth in chapter 435.~~

19 ~~(h) The agency may deny or revoke licensure if the~~  
20 ~~applicant:~~

21 ~~1. Has falsely represented a material fact in the~~  
22 ~~application required by paragraph (e) or paragraph (f), or has~~  
23 ~~omitted any material fact from the application required by~~  
24 ~~paragraph (e) or paragraph (f); or~~

25 ~~2. Has had prior action taken against the applicant~~  
26 ~~under the Medicaid or Medicare program as set forth in~~  
27 ~~paragraph (e).~~

28 ~~(i) An application for license renewal must contain~~  
29 ~~the information required under paragraphs (e) and (f).~~

30 Section 6. Section 383.309, Florida Statutes, is  
31 amended to read:

1           383.309 Minimum standards for birth centers; rules and  
2 enforcement.--

3           (1) The agency shall adopt and enforce rules to  
4 administer ss. 383.30-383.335 and ss. 408.801-408.819, which  
5 rules shall include, but are not limited to, reasonable and  
6 fair minimum standards for ensuring that:

7           (a) Sufficient numbers and qualified types of  
8 personnel and occupational disciplines are available at all  
9 times to provide necessary and adequate patient care and  
10 safety.

11           (b) Infection control, housekeeping, sanitary  
12 conditions, disaster plan, and medical record procedures that  
13 will adequately protect patient care and provide safety are  
14 established and implemented.

15           (c) Licensed facilities are established, organized,  
16 and operated consistent with established programmatic  
17 standards.

18           ~~(2) Any licensed facility that is in operation at the~~  
19 ~~time of adoption of any applicable rule under ss.~~  
20 ~~383.30-383.335 shall be given a reasonable time under the~~  
21 ~~particular circumstances, not to exceed 1 year after the date~~  
22 ~~of such adoption, within which to comply with such rule.~~

23           (2)~~(3)~~ The agency may not establish any rule governing  
24 the design, construction, erection, alteration, modification,  
25 repair, or demolition of birth centers. It is the intent of  
26 the Legislature to preempt that function to the Florida  
27 Building Commission and the State Fire Marshal through  
28 adoption and maintenance of the Florida Building Code and the  
29 Florida Fire Prevention Code. However, the agency shall  
30 provide technical assistance to the commission and the State  
31 Fire Marshal in updating the construction standards of the

1 Florida Building Code and the Florida Fire Prevention Code  
2 which govern birth centers. In addition, the agency may  
3 enforce the special-occupancy provisions of the Florida  
4 Building Code and the Florida Fire Prevention Code which apply  
5 to birth centers in conducting any inspection authorized under  
6 this chapter.

7 Section 7. Subsection (1) of section 383.315, Florida  
8 Statutes, is amended to read:

9 383.315 Agreements with consultants for advice or  
10 services; maintenance.--

11 (1) A birth center shall maintain in writing a  
12 consultation agreement, signed within the current license  
13 period year, with each consultant who has agreed to provide  
14 advice and services to the birth center as requested.

15 Section 8. Section 383.324, Florida Statutes, is  
16 amended to read:

17 383.324 ~~Inspections and investigations~~ Inspection  
18 fees.--

19 ~~(1) The agency shall make or cause to be made such~~  
20 ~~inspections and investigations as it deems necessary.~~

21 ~~(2)~~ Each facility licensed under s. 383.305 shall pay  
22 to the agency, at the time of inspection, an inspection fee  
23 established by rule of the agency.

24 ~~(3) The agency shall coordinate all periodic~~  
25 ~~inspections for licensure made by the agency to ensure that~~  
26 ~~the cost to the facility of such inspections and the~~  
27 ~~disruption of services by such inspections is minimized.~~

28 Section 9. Section 383.325, Florida Statutes, is  
29 repealed.

30 Section 10. Section 383.33, Florida Statutes, is  
31 amended to read:

1           383.33 Administrative fines ~~penalties; emergency~~  
2 ~~orders; moratorium on admissions.--~~

3           (1)~~(a)~~ In addition to the requirements of ss.  
4 408.801-408.819, the agency may ~~deny, revoke, or suspend a~~  
5 ~~license, or impose an administrative fine,~~ not to exceed \$500  
6 per violation per day, for the violation of any provision of  
7 ss. 383.30-383.335, ss. 408.801-408.819, or applicable rules  
8 ~~or any rule adopted under ss. 383.30-383.335. Each day of~~  
9 ~~violation constitutes a separate violation and is subject to a~~  
10 ~~separate fine.~~

11           (2)~~(b)~~ In determining the amount of the fine to be  
12 levied for a violation, as provided in paragraph (a), the  
13 following factors shall be considered:

14           (1)~~(a)~~ The severity of the violation, including the  
15 probability that death or serious harm to the health or safety  
16 of any person will result or has resulted; the severity of the  
17 actual or potential harm; and the extent to which the  
18 provisions of ss. 383.30-383.335, ss. 408.801-408.819, or  
19 applicable rules were violated.

20           (2)~~(b)~~ Actions taken by the licensee to correct the  
21 violations or to remedy complaints.

22           (3)~~(c)~~ Any previous violations by the licensee.

23           (4)~~(c)~~ ~~All amounts collected pursuant to this section~~  
24 ~~shall be deposited into a trust fund administered by the~~  
25 ~~agency to be used for the sole purpose of carrying out the~~  
26 ~~provisions of ss. 383.30-383.335.~~

27           (5)~~(2)~~ ~~The agency may issue an emergency order~~  
28 ~~immediately suspending or revoking a license when it~~  
29 ~~determines that any condition in the licensed facility~~  
30 ~~presents a clear and present danger to the public health and~~  
31 ~~safety.~~

1           ~~(3) The agency may impose an immediate moratorium on~~  
2 ~~elective admissions to any licensed facility, building or~~  
3 ~~portion thereof, or service when the agency determines that~~  
4 ~~any condition in the facility presents a threat to the public~~  
5 ~~health or safety.~~

6           Section 11. Sections 383.331 and 383.332, Florida  
7 Statutes, are repealed.

8           Section 12. Subsection (1) of section 383.335, Florida  
9 Statutes, is amended to read:

10           383.335 Partial exemptions.--

11           (1) Any facility that ~~which~~ was providing obstetrical  
12 and gynecological surgical services and was owned and operated  
13 by a board-certified obstetrician on June 15, 1984, and that  
14 ~~which~~ is otherwise subject to licensure under ss.

15 383.30-383.335 as a birth center, is exempt from the  
16 provisions of ss. 383.30-383.335 and ss. 408.801-408.819 which  
17 restrict the provision of surgical services and outlet forceps  
18 delivery and the administration of anesthesia at birth  
19 centers. The agency shall adopt rules specifically related to  
20 the performance of such services and the administration of  
21 anesthesia at such facilities.

22           Section 13. Subsection (5) of section 390.011, Florida  
23 Statutes, is amended to read:

24           390.011 Definitions.--As used in this chapter, the  
25 term:

26           (5) "Hospital" means a facility defined in s. 395.002  
27 and licensed under chapter 395.

28           Section 14. Subsection (1) of section 390.012, Florida  
29 Statutes, is amended to read:

30           390.012 Powers of agency; rules; disposal of fetal  
31 remains.--

1           (1) The agency may ~~shall have the authority to~~ develop  
2 and enforce rules under ss. 390.001-390.021 and ss.  
3 408.801-408.819 for the health, care, and treatment of persons  
4 in abortion clinics and for the safe operation of such  
5 clinics. These rules shall be comparable to rules which apply  
6 to all surgical procedures requiring approximately the same  
7 degree of skill and care as the performance of first trimester  
8 abortions. The rules shall be reasonably related to the  
9 preservation of maternal health of the clients. The rules  
10 shall not impose a legally significant burden on a woman's  
11 freedom to decide whether to terminate her pregnancy. The  
12 rules shall provide for:

13           (a) The performance of pregnancy termination  
14 procedures only by a licensed physician.

15           (b) The making, protection, and preservation of  
16 patient records, which shall be treated as medical records  
17 under chapter 458.

18           Section 15. Section 390.013, Florida Statutes, is  
19 repealed.

20           Section 16. Section 390.014, Florida Statutes, is  
21 amended to read:

22           390.014 Licenses; fees, ~~display, etc.--~~

23           (1) The requirements of ss. 408.801-408.819 apply to  
24 the provision of services that necessitate licensure pursuant  
25 to ss. 390.011-390.021 and ss. 408.801-408.819 and to entities  
26 licensed by or applying for such licensure from the Agency for  
27 Health Care Administration pursuant to ss. 390.011-390.021.

28 However, an applicant for licensure is exempt from s.

29 408.810(7)-(10).No abortion clinic shall operate in this  
30 state without a currently effective license issued by the  
31 agency.

1           (2) A separate license shall be required for each  
2 clinic maintained on separate premises, even though it is  
3 operated by the same management as another clinic; but a  
4 separate license shall not be required for separate buildings  
5 on the same premises.

6           (3) In accordance with s. 408.805, an applicant or  
7 licensee shall pay a fee for each license application  
8 submitted under this part and ss. 408.801-408.819. The fee  
9 shall be established by rule and ~~The annual license fee~~  
10 ~~required for a clinic shall be nonrefundable and shall be~~  
11 ~~reasonably calculated to cover the cost of regulation under~~  
12 ~~this chapter, but may not be less than~~\$70 or \$35 ~~nor more~~  
13 ~~than~~\$500 per biennium~~\$250.~~

14           (4) Counties and municipalities applying for licenses  
15 under this act shall be exempt from the payment of the license  
16 fees.

17           ~~(5) The license shall be displayed in a conspicuous~~  
18 ~~place inside the clinic.~~

19           ~~(6) A license shall be valid only for the clinic to~~  
20 ~~which it is issued, and it shall not be subject to sale,~~  
21 ~~assignment, or other transfer, voluntary or involuntary. No~~  
22 ~~license shall be valid for any premises other than those for~~  
23 ~~which it was originally issued.~~

24           Section 17. Sections 390.015, 390.016, and 390.017,  
25 Florida Statutes, are repealed.

26           Section 18. Section 390.018, Florida Statutes, is  
27 amended to read:

28           390.018 Administrative fine ~~penalty in lieu of~~  
29 ~~revocation or suspension.--~~In addition to the requirements of  
30 ss. 408.801-408.819 ~~If the agency finds that one or more~~  
31 ~~grounds exist for the revocation or suspension of a license~~

1 ~~issued to an abortion clinic, the agency may, in lieu of such~~  
2 ~~suspension or revocation, impose a fine upon the clinic in an~~  
3 ~~amount not to exceed \$1,000 for each violation of any~~  
4 ~~provision of this part, ss. 408.801-408.819, or applicable~~  
5 ~~rules. The fine shall be paid to the agency within 60 days~~  
6 ~~from the date of entry of the administrative order. If the~~  
7 ~~licensee fails to pay the fine in its entirety to the agency~~  
8 ~~within the period allowed, the license of the licensee shall~~  
9 ~~stand suspended, revoked, or renewal or continuation may be~~  
10 ~~refused, as the case may be, upon expiration of such period~~  
11 ~~and without any further administrative or judicial~~  
12 ~~proceedings.~~

13 Section 19. Sections 390.019 and 390.021, Florida  
14 Statutes, are repealed.

15 Section 20. Subsection (13) of section 394.455,  
16 Florida Statutes, is amended to read:

17 394.455 Definitions.--As used in this part, unless the  
18 context clearly requires otherwise, the term:

19 (13) "Hospital" means a facility defined in s. 395.002  
20 and licensed under chapter 395.

21 Section 21. Section 394.67, Florida Statutes, is  
22 amended to read:

23 394.67 Definitions.--As used in this part, the term:

24 (1) "Agency" means the Agency for Health Care  
25 Administration.

26 ~~(2) "Applicant" means an individual applicant, or any~~  
27 ~~officer, director, agent, managing employee, or affiliated~~  
28 ~~person, or any partner or shareholder having an ownership~~  
29 ~~interest equal to a 5-percent or greater interest in the~~  
30 ~~corporation, partnership, or other business entity.~~

31

1           (2)~~(3)~~ "Client" means any individual receiving  
2 services in any substance abuse or mental health facility,  
3 program, or service, which facility, program, or service is  
4 operated, funded, or regulated by the agency and the  
5 department or regulated by the agency.

6           (3)~~(4)~~ "Crisis services" means short-term evaluation,  
7 stabilization, and brief intervention services provided to a  
8 person who is experiencing an acute mental or emotional  
9 crisis, as defined in subsection(17)~~(18)~~, or an acute  
10 substance abuse crisis, as defined in subsection(18)~~(19)~~, to  
11 prevent further deterioration of the person's mental health.  
12 Crisis services are provided in settings such as a crisis  
13 stabilization unit, an inpatient unit, a short-term  
14 residential treatment program, a detoxification facility, or  
15 an addictions receiving facility; at the site of the crisis by  
16 a mobile crisis response team; or at a hospital on an  
17 outpatient basis.

18           (4)~~(5)~~ "Crisis stabilization unit" means a program  
19 that provides an alternative to inpatient hospitalization and  
20 that provides brief, intensive services 24 hours a day, 7 days  
21 a week, for mentally ill individuals who are in an acutely  
22 disturbed state.

23           (5)~~(6)~~ "Department" means the Department of Children  
24 and Family Services.

25           (6)~~(7)~~ "Director" means any member of the official  
26 board of directors reported in the organization's annual  
27 corporate report to the Florida Department of State, or, if no  
28 such report is made, any member of the operating board of  
29 directors. The term excludes members of separate, restricted  
30 boards that serve only in an advisory capacity to the  
31 operating board.

1           (7)~~(8)~~ "District administrator" means the person  
2 appointed by the Secretary of Children and Family Services for  
3 the purpose of administering a department service district as  
4 set forth in s. 20.19.

5           (8)~~(9)~~ "District plan" or "plan" means the combined  
6 district substance abuse and mental health plan approved by  
7 the district administrator and governing bodies in accordance  
8 with this part.

9           (9)~~(10)~~ "Federal funds" means funds from federal  
10 sources for substance abuse or mental health facilities and  
11 programs, exclusive of federal funds that are deemed eligible  
12 by the Federal Government, and are eligible through state  
13 regulation, for matching purposes.

14           (10)~~(11)~~ "Governing body" means the chief legislative  
15 body of a county, a board of county commissioners, or boards  
16 of county commissioners in counties acting jointly, or their  
17 counterparts in a charter government.

18           (11)~~(12)~~ "Health and human services board" or "board"  
19 means the board within a district or subdistrict of the  
20 department which is established in accordance with s. 20.19  
21 and designated in this part for the purpose of assessing the  
22 substance abuse and mental health needs of the community and  
23 developing a plan to address those needs.

24           (12)~~(13)~~ "Licensed facility" means a facility licensed  
25 in accordance with this chapter.

26           (13)~~(14)~~ "Local matching funds" means funds received  
27 from governing bodies of local government, including city  
28 commissions, county commissions, district school boards,  
29 special tax districts, private hospital funds, private gifts,  
30 both individual and corporate, and bequests and funds received  
31 from community drives or any other sources.

1            (14)~~(15)~~ "Managing employee" means the administrator  
2 or other similarly titled individual who is responsible for  
3 the daily operation of the facility.

4            (15)~~(16)~~ "Mental health services" means those  
5 therapeutic interventions and activities that help to  
6 eliminate, reduce, or manage symptoms or distress for persons  
7 who have severe emotional distress or a mental illness and to  
8 effectively manage the disability that often accompanies a  
9 mental illness so that the person can recover from the mental  
10 illness, become appropriately self-sufficient for his or her  
11 age, and live in a stable family or in the community. The term  
12 also includes those preventive interventions and activities  
13 that reduce the risk for or delay the onset of mental  
14 disorders. The term includes the following types of services:

15            (a) Treatment services, such as psychiatric  
16 medications and supportive psychotherapies, which are intended  
17 to reduce or ameliorate the symptoms of severe distress or  
18 mental illness.

19            (b) Rehabilitative services, which are intended to  
20 reduce or eliminate the disability that is associated with  
21 mental illness. Rehabilitative services may include assessment  
22 of personal goals and strengths, readiness preparation,  
23 specific skill training, and assistance in designing  
24 environments that enable individuals to maximize their  
25 functioning and community participation.

26            (c) Support services, which include services that  
27 assist individuals in living successfully in environments of  
28 their choice. Such services may include income supports,  
29 social supports, housing supports, vocational supports, or  
30 accommodations related to the symptoms or disabilities  
31 associated with mental illness.

1           (d) Case management services, which are intended to  
2 assist individuals in obtaining the formal and informal  
3 resources that they need to successfully cope with the  
4 consequences of their illness. Resources may include treatment  
5 or rehabilitative or supportive interventions by both formal  
6 and informal providers. Case management may include an  
7 assessment of client needs; intervention planning with the  
8 client, his or her family, and service providers; linking the  
9 client to needed services; monitoring service delivery;  
10 evaluating the effect of services and supports; and advocating  
11 on behalf of the client.

12  
13 Mental health services may be delivered in a variety of  
14 settings, such as inpatient, residential, partial hospital,  
15 day treatment, outpatient, club house, or a drop-in or  
16 self-help center, as well as in other community settings, such  
17 as the client's residence or workplace. The types and  
18 intensity of services provided shall be based on the client's  
19 clinical status and goals, community resources, and  
20 preferences. Services such as assertive community treatment  
21 involve all four types of services which are delivered by a  
22 multidisciplinary treatment team that is responsible for  
23 identified individuals who have a serious mental illness.

24           (16)~~(17)~~ "Patient fees" means compensation received by  
25 a community substance abuse or mental health facility for  
26 services rendered to a specific client from any source of  
27 funds, including city, county, state, federal, and private  
28 sources.

29           (17)~~(18)~~ "Person who is experiencing an acute mental  
30 or emotional crisis" means a child, adolescent, or adult who  
31 is experiencing a psychotic episode or a high level of mental

1 or emotional distress which may be precipitated by a traumatic  
2 event or a perceived life problem for which the individual's  
3 typical coping strategies are inadequate. The term includes an  
4 individual who meets the criteria for involuntary examination  
5 specified in s. 394.463(1).

6 (18)~~(19)~~ "Person who is experiencing an acute  
7 substance abuse crisis" means a child, adolescent, or adult  
8 who is experiencing a medical or emotional crisis because of  
9 the use of alcoholic beverages or any psychoactive or  
10 mood-altering substance. The term includes an individual who  
11 meets the criteria for involuntary admission specified in s.  
12 397.675.

13 (19)~~(20)~~ "Premises" means those buildings, beds, and  
14 facilities located at the main address of the licensee and all  
15 other buildings, beds, and facilities for the provision of  
16 acute or residential care which are located in such reasonable  
17 proximity to the main address of the licensee as to appear to  
18 the public to be under the dominion and control of the  
19 licensee.

20 (20)~~(21)~~ "Program office" means the Mental Health  
21 Program Office of the Department of Children and Family  
22 Services.

23 (21)~~(22)~~ "Residential treatment center for children  
24 and adolescents" means a 24-hour residential program,  
25 including a therapeutic group home, which provides mental  
26 health services to emotionally disturbed children or  
27 adolescents as defined in s. 394.492(5) or (6) and which is a  
28 private for-profit or not-for-profit corporation under  
29 contract with the department which offers a variety of  
30 treatment modalities in a more restrictive setting.

31

1           ~~(22)~~(23) "Residential treatment facility" means a  
2 facility providing residential care and treatment to  
3 individuals exhibiting symptoms of mental illness who are in  
4 need of a 24-hour-per-day, 7-day-a-week structured living  
5 environment, respite care, or long-term community placement.

6           (23) "Short-term residential treatment facility" means  
7 a program that provides an alternative to inpatient  
8 hospitalization and that provides brief, intensive services 24  
9 hours a day, 7 days a week, for mentally ill individuals who  
10 are temporarily in need of a 24-hour-a-day structured  
11 therapeutic setting in a less restrictive, but longer-stay  
12 alternative to hospitalization.

13           (24) "Sliding fee scale" means a schedule of fees for  
14 identified services delivered by a service provider which are  
15 based on a uniform schedule of discounts deducted from the  
16 service provider's usual and customary charges. These charges  
17 must be consistent with the prevailing market rates in the  
18 community for comparable services.

19           (25) "Substance abuse services" means services  
20 designed to prevent or remediate the consequences of substance  
21 abuse, improve an individual's quality of life and  
22 self-sufficiency, and support long-term recovery. The term  
23 includes the following service categories:

24           (a) Prevention services, which include information  
25 dissemination; education regarding the consequences of  
26 substance abuse; alternative drug-free activities; problem  
27 identification; referral of persons to appropriate prevention  
28 programs; community-based programs that involve members of  
29 local communities in prevention activities; and environmental  
30 strategies to review, change, and enforce laws that control  
31 the availability of controlled and illegal substances.

1 (b) Assessment services, which include the evaluation  
2 of individuals and families in order to identify their  
3 strengths and determine their required level of care,  
4 motivation, and need for treatment and ancillary services.

5 (c) Intervention services, which include early  
6 identification, short-term counseling and referral, and  
7 outreach.

8 (d) Rehabilitation services, which include  
9 residential, outpatient, day or night, case management,  
10 in-home, psychiatric, and medical treatment, and methadone or  
11 medication management.

12 (e) Ancillary services, which include self-help and  
13 other support groups and activities; aftercare provided in a  
14 structured, therapeutic environment; supported housing;  
15 supported employment; vocational services; and educational  
16 services.

17 Section 22. Section 394.875, Florida Statutes, is  
18 amended to read:

19 394.875 Crisis stabilization units, short-term  
20 residential treatment facilities, residential treatment  
21 facilities, and residential treatment centers for children and  
22 adolescents; authorized services; license required;  
23 penalties.--

24 (1)(a) The purpose of a crisis stabilization unit is  
25 to stabilize and redirect a client to the most appropriate and  
26 least restrictive community setting available, consistent with  
27 the client's needs. Crisis stabilization units may screen,  
28 assess, and admit for stabilization persons who present  
29 themselves to the unit and persons who are brought to the unit  
30 under s. 394.463. Clients may be provided 24-hour  
31 observation, medication prescribed by a physician or

1 psychiatrist, and other appropriate services. Crisis  
2 stabilization units shall provide services regardless of the  
3 client's ability to pay and shall be limited in size to a  
4 maximum of 30 beds.

5 (b) The purpose of a short-term residential treatment  
6 unit is to provide intensive services in a 24-hour-a-day  
7 structured therapeutic setting as a less restrictive, but  
8 longer-stay alternative to hospitalization.

9 (c)~~(b)~~ The purpose of a residential treatment facility  
10 is to be a part of a comprehensive treatment program for  
11 mentally ill individuals in a community-based residential  
12 setting.

13 (d)~~(c)~~ The purpose of a residential treatment center  
14 for children and adolescents is to provide mental health  
15 assessment and treatment services pursuant to ss. 394.491,  
16 394.495, and 394.496 to children and adolescents who meet the  
17 target population criteria specified in s. 394.493(1)(a), (b),  
18 or (c).

19 (2) The requirements of ss. 408.801-408.819 apply to  
20 the provision of services that necessitate licensure pursuant  
21 to ss. 394.455-394.904 and ss. 408.801-408.819 and to entities  
22 licensed by or applying for such licensure from the Agency for  
23 Health Care Administration pursuant to ss. 394.455-394.904. ~~It~~  
24 ~~is unlawful for any entity to hold itself out as a crisis~~  
25 ~~stabilization unit, a residential treatment facility, or a~~  
26 ~~residential treatment center for children and adolescents, or~~  
27 ~~to act as a crisis stabilization unit, a residential treatment~~  
28 ~~facility, or a residential treatment center for children and~~  
29 ~~adolescents, unless it is licensed by the agency pursuant to~~  
30 ~~this chapter.~~

31

1           ~~(3) Any person who violates subsection (2) is guilty~~  
2 ~~of a misdemeanor of the first degree, punishable as provided~~  
3 ~~in s. 775.082 or s. 775.083.~~

4           ~~(4) The agency may maintain an action in circuit court~~  
5 ~~to enjoin the unlawful operation of a crisis stabilization~~  
6 ~~unit, a residential treatment facility, or a residential~~  
7 ~~treatment center for children and adolescents if the agency~~  
8 ~~first gives the violator 14 days' notice of its intention to~~  
9 ~~maintain such action and if the violator fails to apply for~~  
10 ~~licensure within such 14-day period.~~

11           (3)(5) The following entities are exempt from  
12 licensure as required in ss. 394.455-394.904 ~~Subsection (2)~~  
13 ~~does not apply to:~~

14           (a) Hospitals licensed under chapter 395 or programs  
15 operated within such hospitals. ~~Homes for special services~~  
16 ~~licensed under chapter 400; or~~

17           (b) Nursing homes licensed under chapter 400.

18           (c) Comprehensive transitional education programs  
19 licensed under s. 393.067.

20           ~~(4)(6) The department, in consultation with the~~  
21 ~~agency, may establish multiple license classifications for~~  
22 ~~residential treatment facilities.~~

23           ~~(5)(7) The agency may not issue a license to a crisis~~  
24 ~~stabilization unit unless the unit receives state mental~~  
25 ~~health funds and is affiliated with a designated public~~  
26 ~~receiving facility.~~

27           ~~(6)(8) The agency may issue a license for a crisis~~  
28 ~~stabilization unit or short-term residential treatment~~  
29 ~~facility, certifying the number of authorized beds for such~~  
30 ~~facility as indicated by existing need and available~~  
31 ~~appropriations. The agency may disapprove an application for~~

1 such a license if it determines that a facility should not be  
2 licensed pursuant to the provisions of this chapter. Any  
3 facility operating beds in excess of those authorized by the  
4 agency shall, upon demand of the agency, reduce the number of  
5 beds to the authorized number, forfeit its license, or provide  
6 evidence of a license issued pursuant to chapter 395 for the  
7 excess beds.

8 (7)~~(9)~~ A children's crisis stabilization unit which  
9 does not exceed 20 licensed beds and which provides separate  
10 facilities or a distinct part of a facility, separate  
11 staffing, and treatment exclusively for minors may be located  
12 on the same premises as a crisis stabilization unit serving  
13 adults. The department, in consultation with the agency, shall  
14 adopt rules governing facility construction, staffing and  
15 licensure requirements, and the operation of such units for  
16 minors.

17 (8)~~(10)~~ The department, in consultation with the  
18 agency, must adopt rules governing a residential treatment  
19 center for children and adolescents which specify licensure  
20 standards for: admission; length of stay; program and  
21 staffing; discharge and discharge planning; treatment  
22 planning; seclusion, restraints, and time-out; rights of  
23 patients under s. 394.459; use of psychotropic medications;  
24 and standards for the operation of such centers.

25 (9)~~(11)~~ Notwithstanding the provisions of subsection  
26 (6)~~(8)~~, crisis stabilization units may not exceed their  
27 licensed capacity by more than 10 percent, nor may they exceed  
28 their licensed capacity for more than 3 consecutive working  
29 days or for more than 7 days in 1 month.

30 (10)~~(12)~~ Notwithstanding the other provisions of this  
31 section, any facility licensed under former chapter 396 and

1 chapter 397 for detoxification, residential level I care, and  
2 outpatient treatment may elect to license concurrently all of  
3 the beds at such facility both for that purpose and as a  
4 long-term residential treatment facility pursuant to this  
5 section, if all of the following conditions are met:

6 (a) The licensure application is received by the  
7 department prior to January 1, 1993.

8 (b) On January 1, 1993, the facility was licensed  
9 under former chapter 396 and chapter 397 as a facility for  
10 detoxification, residential level I care, and outpatient  
11 treatment of substance abuse.

12 (c) The facility restricted its practice to the  
13 treatment of law enforcement personnel for a period of at  
14 least 12 months beginning after January 1, 1992.

15 (d) The number of beds to be licensed under this  
16 chapter is equal to or less than the number of beds licensed  
17 under former chapter 396 and chapter 397 as of January 1,  
18 1993.

19 (e) The licensee agrees in writing to a condition  
20 placed upon the license that the facility will limit its  
21 treatment exclusively to law enforcement personnel and their  
22 immediate families who are seeking admission on a voluntary  
23 basis and who are exhibiting symptoms of posttraumatic stress  
24 disorder or other mental health problems, including drug or  
25 alcohol abuse, which are directly related to law enforcement  
26 work and which are amenable to verbal treatment therapies; the  
27 licensee agrees to coordinate the provision of appropriate  
28 postresidential care for discharged individuals; and the  
29 licensee further agrees in writing that a failure to meet any  
30 condition specified in this paragraph shall constitute grounds  
31

1 for a revocation of the facility's license as a residential  
2 treatment facility.

3 (f) The licensee agrees that the facility will meet  
4 all licensure requirements for a residential treatment  
5 facility, including minimum standards for compliance with  
6 lifesafety requirements, except those licensure requirements  
7 which are in express conflict with the conditions and other  
8 provisions specified in this subsection.

9 (g) The licensee agrees that the conditions stated in  
10 this subsection must be agreed to in writing by any person  
11 acquiring the facility by any means.

12

13 Any facility licensed under this subsection is not required to  
14 provide any services to any persons except those included in  
15 the specified conditions of licensure, and is exempt from any  
16 requirements related to the 60-day or greater average length  
17 of stay imposed on community-based residential treatment  
18 facilities otherwise licensed under this chapter.

19 ~~(13) Each applicant for licensure must comply with the~~  
20 ~~following requirements:~~

21 ~~(a) Upon receipt of a completed, signed, and dated~~  
22 ~~application, the agency shall require background screening, in~~  
23 ~~accordance with the level 2 standards for screening set forth~~  
24 ~~in chapter 435, of the managing employee and financial~~  
25 ~~officer, or other similarly titled individual who is~~  
26 ~~responsible for the financial operation of the facility,~~  
27 ~~including billings for client care and services. The applicant~~  
28 ~~must comply with the procedures for level 2 background~~  
29 ~~screening as set forth in chapter 435, as well as the~~  
30 ~~requirements of s. 435.03(3).~~

31

1           ~~(b) The agency may require background screening of any~~  
2 ~~other individual who is an applicant if the agency has~~  
3 ~~probable cause to believe that he or she has been convicted of~~  
4 ~~a crime or has committed any other offense prohibited under~~  
5 ~~the level 2 standards for screening set forth in chapter 435.~~

6           ~~(c) Proof of compliance with the level 2 background~~  
7 ~~screening requirements of chapter 435 which has been submitted~~  
8 ~~within the previous 5 years in compliance with any other~~  
9 ~~health care licensure requirements of this state is acceptable~~  
10 ~~in fulfillment of the requirements of paragraph (a).~~

11           ~~(d) A provisional license may be granted to an~~  
12 ~~applicant when each individual required by this section to~~  
13 ~~undergo background screening has met the standards for the~~  
14 ~~Department of Law Enforcement background check, but the agency~~  
15 ~~has not yet received background screening results from the~~  
16 ~~Federal Bureau of Investigation, or a request for a~~  
17 ~~disqualification exemption has been submitted to the agency as~~  
18 ~~set forth in chapter 435, but a response has not yet been~~  
19 ~~issued. A standard license may be granted to the applicant~~  
20 ~~upon the agency's receipt of a report of the results of the~~  
21 ~~Federal Bureau of Investigation background screening for each~~  
22 ~~individual required by this section to undergo background~~  
23 ~~screening which confirms that all standards have been met, or~~  
24 ~~upon the granting of a disqualification exemption by the~~  
25 ~~agency as set forth in chapter 435. Any other person who is~~  
26 ~~required to undergo level 2 background screening may serve in~~  
27 ~~his or her capacity pending the agency's receipt of the report~~  
28 ~~from the Federal Bureau of Investigation. However, the person~~  
29 ~~may not continue to serve if the report indicates any~~  
30 ~~violation of background screening standards and a~~

31

1 ~~disqualification exemption has not been requested of and~~  
2 ~~granted by the agency as set forth in chapter 435.~~

3 ~~(e) Each applicant must submit to the agency, with its~~  
4 ~~application, a description and explanation of any exclusions,~~  
5 ~~permanent suspensions, or terminations of the applicant from~~  
6 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
7 ~~the requirements for disclosure of ownership and control~~  
8 ~~interests under the Medicaid or Medicare programs shall be~~  
9 ~~accepted in lieu of this submission.~~

10 ~~(f) Each applicant must submit to the agency a~~  
11 ~~description and explanation of any conviction of an offense~~  
12 ~~prohibited under the level 2 standards of chapter 435 by a~~  
13 ~~member of the board of directors of the applicant, its~~  
14 ~~officers, or any individual owning 5 percent or more of the~~  
15 ~~applicant. This requirement does not apply to a director of a~~  
16 ~~not-for-profit corporation or organization if the director~~  
17 ~~serves solely in a voluntary capacity for the corporation or~~  
18 ~~organization, does not regularly take part in the day-to-day~~  
19 ~~operational decisions of the corporation or organization,~~  
20 ~~receives no remuneration for his or her services on the~~  
21 ~~corporation or organization's board of directors, and has no~~  
22 ~~financial interest and has no family members with a financial~~  
23 ~~interest in the corporation or organization, provided that the~~  
24 ~~director and the not-for-profit corporation or organization~~  
25 ~~include in the application a statement affirming that the~~  
26 ~~director's relationship to the corporation satisfies the~~  
27 ~~requirements of this paragraph.~~

28 ~~(g) A license may not be granted to an applicant if~~  
29 ~~the applicant or managing employee has been found guilty of,~~  
30 ~~regardless of adjudication, or has entered a plea of nolo~~  
31 ~~contendere or guilty to, any offense prohibited under the~~

1 ~~level 2 standards for screening set forth in chapter 435,~~  
2 ~~unless an exemption from disqualification has been granted by~~  
3 ~~the agency as set forth in chapter 435.~~

4 ~~(h) The agency may deny or revoke licensure if the~~  
5 ~~applicant:~~

6 1. ~~Has falsely represented a material fact in the~~  
7 ~~application required by paragraph (e) or paragraph (f), or has~~  
8 ~~omitted any material fact from the application required by~~  
9 ~~paragraph (e) or paragraph (f); or~~

10 2. ~~Has had prior action taken against the applicant~~  
11 ~~under the Medicaid or Medicare program as set forth in~~  
12 ~~paragraph (e).~~

13 ~~(i) An application for license renewal must contain~~  
14 ~~the information required under paragraphs (e) and (f).~~

15 Section 23. Section 394.876, Florida Statutes, is  
16 repealed.

17 Section 24. Section 394.877, Florida Statutes, is  
18 amended to read:

19 394.877 Fees.--

20 ~~(1) In accordance with s. 408.805, an applicant or~~  
21 licensee shall pay a fee for each license application  
22 submitted under this part and ss. 408.801-408.819. The amount  
23 of the fee shall be established by rule.~~Each application for~~  
24 ~~licensure or renewal must be accompanied by a fee set by the~~  
25 ~~department, in consultation with the agency, by rule. Such~~  
26 ~~fees shall be reasonably calculated to cover only the cost of~~  
27 ~~regulation under this chapter.~~

28 ~~(2) All fees collected under this section shall be~~  
29 ~~deposited in the Health Care Trust Fund.~~

30 Section 25. Section 394.878, Florida Statutes, is  
31 amended to read:

1           394.878 Issuance and renewal of licenses.--  
2           ~~(1) Upon review of the application for licensure and~~  
3 ~~receipt of appropriate fees, the agency shall issue an~~  
4 ~~original or renewal license to any applicant that meets the~~  
5 ~~requirements of this chapter.~~  
6           ~~(2) A license is valid for a period of 1 year. An~~  
7 ~~applicant for renewal of a license shall apply to the agency~~  
8 ~~no later than 90 days before expiration of the current~~  
9 ~~license.~~  
10           ~~(3) A license may not be transferred from one entity~~  
11 ~~to another and is valid only for the premises for which it was~~  
12 ~~originally issued. For the purposes of this subsection,~~  
13 ~~"transfer" includes, but is not limited to, transfer of a~~  
14 ~~majority of the ownership interests in a licensee or transfer~~  
15 ~~of responsibilities under the license to another entity by~~  
16 ~~contractual arrangement.~~  
17           ~~(4) Each license shall state the services which the~~  
18 ~~licensee is required or authorized to perform and the maximum~~  
19 ~~residential capacity of the licensed premises.~~  
20           (1)~~(5)~~ The agency may issue a probationary license to  
21 an applicant that has completed the application requirements  
22 of this chapter but has not, at the time of the application,  
23 developed an operational crisis stabilization unit or  
24 residential treatment facility. The probationary license  
25 shall expire 90 days after issuance and may once be renewed  
26 for an additional 90-day period. The agency may cancel a  
27 probationary license at any time.  
28           (2)~~(6)~~ The agency may issue an interim license to an  
29 applicant that has substantially completed all application  
30 requirements and has initiated action to fully meet such  
31 requirements. The interim license shall expire 90 days after

1 issuance and, in cases of extreme hardship, may once be  
2 renewed for an additional 90-day period.

3 ~~(7) Any applicant which fails to file an application~~  
4 ~~for license renewal during the 90-day relicensure period shall~~  
5 ~~be considered unlicensed and subject to penalties pursuant to~~  
6 ~~s. 394.875.~~

7 Section 26. Subsections (1), (3), and (4) of section  
8 394.879, Florida Statutes, are amended to read:

9 394.879 Rules; enforcement.--

10 (1) The agency, in consultation with the department,  
11 may adopt rules to administer ss. 408.801-408.819.The  
12 department, in consultation with the agency, shall adopt rules  
13 pursuant to ss. 120.536(1) and 120.54 to implement the  
14 provisions of this chapter, including, at a minimum, rules  
15 providing standards to ensure that:

16 (a) Sufficient numbers and types of qualified  
17 personnel are on duty and available at all times to provide  
18 necessary and adequate client safety and care.

19 (b) Adequate space is provided each client of a  
20 licensed facility.

21 (c) Licensed facilities are limited to an appropriate  
22 number of beds.

23 (d) Each licensee establishes and implements adequate  
24 infection control, housekeeping, sanitation, disaster  
25 planning, and medical recordkeeping.

26 (e) Licensed facilities are established, organized,  
27 and operated in accordance with programmatic standards of the  
28 department.

29 (f) The operation and purposes of these facilities  
30 assure individuals' health, safety, and welfare.

31

1           (3) The department, in consultation with the agency,  
2 shall allow any licensed facility in operation at the time of  
3 adoption of any rule a reasonable period, not to exceed 1  
4 year, to bring itself into compliance with department rules  
5 ~~such rule~~.

6           (4) In accordance with ss. 408.801-408.819,the agency  
7 may impose an administrative penalty of no more than \$500 per  
8 day against any licensee that violates any rule adopted  
9 pursuant to this section and may ~~suspend or~~ revoke the license  
10 or deny the renewal application of such licensee. In imposing  
11 such penalty, the agency shall consider the severity of the  
12 violation, actions taken by the licensee to correct the  
13 violation, and previous violations by the licensee. Fines  
14 collected under this subsection shall be deposited in the  
15 Mental Health Facility Licensing Trust Fund.

16           Section 27. Paragraph (a) of subsection (1) of section  
17 394.90, Florida Statutes, is amended to read:

18           394.90 Inspection; right of entry; records.--

19           (1)(a) The department and the agency, in accordance  
20 with s. 408.811,may enter and inspect at any time a licensed  
21 facility to determine whether the facility is in compliance  
22 with this chapter and applicable ~~the rules of the department~~.

23           Section 28. Section 394.902, Florida Statutes, is  
24 amended to read:

25           394.902 Denial, ~~suspension,~~and revocation; ~~other~~  
26 ~~remedies~~.--

27           ~~(1) The agency may issue an emergency order suspending~~  
28 ~~or revoking a license if the agency determines that the~~  
29 ~~continued operation of the licensed facility presents a clear~~  
30 ~~and present danger to the public health or safety.~~

31

1           ~~(2) The agency may impose a moratorium on elective~~  
2 ~~admissions to a licensee or any program or portion of a~~  
3 ~~licensed facility if the agency determines that any condition~~  
4 ~~in the facility presents a threat to the public health or~~  
5 ~~safety.~~

6           ~~(3) If the agency determines that an applicant or~~  
7 ~~licensee is not in compliance with this chapter or the rules~~  
8 ~~adopted under this chapter, the agency may deny, suspend, or~~  
9 ~~revoke the license or application or may suspend, revoke, or~~  
10 ~~impose reasonable restrictions on any portion of the license.~~  
11 If a license is revoked, the licensee is barred from  
12 submitting any application for licensure to the agency for a  
13 period of 6 months following revocation.

14           ~~(4) The agency may maintain an action in circuit court~~  
15 ~~to enjoin the operation of any licensed or unlicensed facility~~  
16 ~~in violation of this chapter or the rules adopted under this~~  
17 ~~chapter.~~

18           ~~(5) License denial, suspension, or revocation~~  
19 ~~procedures shall be in accordance with chapter 120.~~

20           Section 29. Subsection (4) of section 395.002, Florida  
21 Statutes, is repealed.

22           Section 30. Section 395.003, Florida Statutes, is  
23 amended to read:

24           395.003 Licensure; ~~issuance, renewal, denial,~~  
25 ~~modification, suspension, and revocation.--~~

26           (1)~~(a)~~ The requirements of ss. 408.801-408.819 apply  
27 to the provision of services that necessitate licensure  
28 pursuant to ss. 395.001-395.1065 and ss.408.801-408.819 and to  
29 entities licensed by or applying for such licensure from the  
30 Agency for Health Care Administration pursuant to ss.  
31 395.001-395.1065.~~No person shall establish, conduct, or~~

1 ~~maintain a hospital, ambulatory surgical center, or mobile~~  
2 ~~surgical facility in this state without first obtaining a~~  
3 ~~license under this part.~~

4       ~~(2)(a)(b)1.~~ A ~~It is unlawful for any person~~ may not to  
5 use or advertise to the public, in any way or by any medium  
6 whatsoever, any facility as a "hospital," "ambulatory surgical  
7 center," or "mobile surgical facility" unless such facility  
8 has first secured a license under the provisions of this part.

9       ~~(b)2.~~ Nothing in This part does not apply ~~applies~~ to  
10 veterinary hospitals or to commercial business establishments  
11 using the word "hospital," "ambulatory surgical center," or  
12 "mobile surgical facility" as a part of a trade name if ~~no~~  
13 treatment of human beings is not performed on the premises of  
14 such establishments.

15       ~~(2)(a)~~ Upon the receipt of an application for a  
16 license and the license fee, the agency shall issue a license  
17 if the applicant and facility have received all approvals  
18 required by law and meet the requirements established under  
19 this part and in rules. Such license shall include all beds  
20 and services located on the premises of the facility.

21       ~~(b)~~ A provisional license may be issued to a new  
22 facility or a facility that is in substantial compliance with  
23 this part and with the rules of the agency. A provisional  
24 license shall be granted for a period of no more than 1 year  
25 and shall expire automatically at the end of its term. A  
26 provisional license may not be renewed.

27       ~~(c)~~ A license, unless sooner suspended or revoked,  
28 shall automatically expire 2 years from the date of issuance  
29 and shall be renewable biennially upon application for renewal  
30 and payment of the fee prescribed by s. 395.004(2), provided  
31 the applicant and licensed facility meet the requirements

1 ~~established under this part and in rules. An application for~~  
2 ~~renewal of a license shall be made 90 days prior to expiration~~  
3 ~~of the license, on forms provided by the agency.~~

4 (3)~~(d)~~ The agency shall, at the request of a licensee,  
5 issue a single license to a licensee for facilities located on  
6 separate premises. Such a license shall specifically state  
7 the location of the facilities, the services, and the licensed  
8 beds available on each separate premises. If a licensee  
9 requests a single license, the licensee shall designate which  
10 facility or office is responsible for receipt of information,  
11 payment of fees, service of process, and all other activities  
12 necessary for the agency to carry out the provisions of this  
13 part.

14 (4)~~(e)~~ The agency shall, at the request of a licensee  
15 that is a teaching hospital as defined in s. 408.07(44), issue  
16 a single license to a licensee for facilities that have been  
17 previously licensed as separate premises, provided such  
18 separately licensed facilities, taken together, constitute the  
19 same premises as defined in s. 395.002(24). Such license for  
20 the single premises shall include all of the beds, services,  
21 and programs that were previously included on the licenses for  
22 the separate premises. The granting of a single license under  
23 this paragraph shall not in any manner reduce the number of  
24 beds, services, or programs operated by the licensee.

25 (5)~~(f)~~ Intensive residential treatment programs for  
26 children and adolescents which have received accreditation  
27 from the Joint Commission on Accreditation of Healthcare  
28 Organizations and which meet the minimum standards developed  
29 by rule of the agency for such programs shall be licensed by  
30 the agency under this part.

31

1           ~~(3)(a) Each license shall be valid only for the person~~  
2 ~~to whom it is issued and shall not be sold, assigned, or~~  
3 ~~otherwise transferred, voluntarily or involuntarily. A~~  
4 ~~license is only valid for the premises for which it was~~  
5 ~~originally issued.~~

6           ~~(b)1. An application for a new license is required if~~  
7 ~~ownership, a majority of the ownership, or controlling~~  
8 ~~interest of a licensed facility is transferred or assigned and~~  
9 ~~when a lessee agrees to undertake or provide services to the~~  
10 ~~extent that legal liability for operation of the facility~~  
11 ~~rests with the lessee. The application for a new license~~  
12 ~~showing such change shall be made at least 60 days prior to~~  
13 ~~the date of the sale, transfer, assignment, or lease.~~

14           ~~(6)2. After a change of ownership has occurred, the~~  
15 ~~transferee shall be liable for any liability to the state,~~  
16 ~~regardless of when identified, resulting from changes to~~  
17 ~~allowable costs affecting provider reimbursement for Medicaid~~  
18 ~~participation or Public Medical Assistance Trust Fund~~  
19 ~~Assessments, and related administrative fines. The~~  
20 ~~transferee, simultaneously with the transfer of ownership,~~  
21 ~~shall pay or make arrangements to pay to the agency or the~~  
22 ~~department any amount owed to the agency or the department;~~  
23 ~~payment assurances may be in the form of an irrevocable credit~~  
24 ~~instrument or payment bond acceptable to the agency or the~~  
25 ~~department provided by or on behalf of the transferor. The~~  
26 ~~issuance of a license to the transferee shall be delayed~~  
27 ~~pending payment or until arrangement for payment acceptable to~~  
28 ~~the agency or the department is made.~~

29           ~~(7)(4)~~ The agency shall issue a license which  
30 specifies the service categories and the number of hospital  
31 beds in each bed category for which a license is received.

1 Such information shall be listed on the face of the license.  
2 All beds which are not covered by any specialty-bed-need  
3 methodology shall be specified as general beds. A licensed  
4 facility shall not operate a number of hospital beds greater  
5 than the number indicated by the agency on the face of the  
6 license without approval from the agency under conditions  
7 established by rule.

8 (8)~~(5)~~(a) Adherence to patient rights, standards of  
9 care, and examination and placement procedures provided under  
10 part I of chapter 394 shall be a condition of licensure for  
11 hospitals providing voluntary or involuntary medical or  
12 psychiatric observation, evaluation, diagnosis, or treatment.

13 (b) Any hospital that provides psychiatric treatment  
14 to persons under 18 years of age who have emotional  
15 disturbances shall comply with the procedures pertaining to  
16 the rights of patients prescribed in part I of chapter 394.

17 (9)~~(6)~~ A ~~No~~ specialty hospital may not ~~shall~~ provide  
18 any service or regularly serve any population group beyond  
19 those services or groups specified in its license.

20 ~~(7) Licenses shall be posted in a conspicuous place on~~  
21 ~~each of the licensed premises.~~

22 (10)~~(8)~~ In addition to the requirements of ss.  
23 408.801-408.819, whenever the agency finds that there has been  
24 a substantial failure to comply with the requirements  
25 established under this part or in rules, the agency is  
26 authorized to deny, modify, suspend, or revoke:

27 (a) A license;

28 (b) That part of a license which is limited to a  
29 separate premises, as designated on the license; or  
30  
31

1 (c) Licensure approval limited to a facility,  
2 building, or portion thereof, or a service, within a given  
3 premises.

4 Section 31. Section 395.004, Florida Statutes, is  
5 amended to read:

6 395.004 ~~Application for license, Fees; expenses.--~~

7 (1) In accordance with s. 408.805, an applicant or  
8 licensee shall pay a fee for each license application  
9 submitted under this part and ss. 408.801-408.819. The amount  
10 of the fee shall be established by rule ~~An application for a~~  
11 ~~license or renewal thereof shall be made under oath to the~~  
12 ~~agency, upon forms provided by it, and shall contain such~~  
13 ~~information as the agency reasonably requires, which may~~  
14 ~~include affirmative evidence of ability to comply with~~  
15 ~~applicable laws and rules.~~

16 ~~(2) Each application for a general hospital license,~~  
17 ~~specialty hospital license, ambulatory surgical center~~  
18 ~~license, or mobile surgical facility license, or renewal~~  
19 ~~thereof, shall be accompanied by a license fee, in accordance~~  
20 ~~with the following schedule:~~

21 ~~(a) The biennial license, provisional license, and~~  
22 ~~license renewal fee required of a facility licensed under this~~  
23 ~~part shall be reasonably calculated to cover the cost of~~  
24 ~~regulation under this part and shall be established by rule at~~  
25 ~~the rate of not less than \$9.50 per hospital bed, nor more~~  
26 ~~than \$30 per hospital bed, except that the minimum license fee~~  
27 ~~shall be \$1,500 and the total fees collected from all licensed~~  
28 ~~facilities may not exceed the cost of properly carrying out~~  
29 ~~the provisions of this part.~~

30 ~~(b) Such fees shall be paid to the agency and shall be~~  
31 ~~deposited in the Planning and Regulation Trust Fund of the~~

1 ~~agency, which is hereby created, for the sole purpose of~~  
2 ~~carrying out the provisions of this part.~~

3 Section 32. Section 395.0055, Florida Statutes, is  
4 repealed.

5 Section 33. Section 395.0161, Florida Statutes, is  
6 amended to read:

7 395.0161 Licensure inspection.--

8 (1) In accordance with s. 408.811,the agency shall  
9 ~~make or cause to be made such inspections and investigations~~  
10 ~~as it deems necessary, including:~~

11 ~~(a) Inspections directed by the Health Care Financing~~  
12 ~~Administration.~~

13 ~~(b) Validation inspections.~~

14 ~~(c) Lifesafety inspections.~~

15 ~~(d) Licensure complaint investigations, including full~~  
16 ~~licensure investigations with a review of all licensure~~  
17 ~~standards as outlined in the administrative rules. Complaints~~  
18 ~~received by the agency from individuals, organizations, or~~  
19 ~~other sources are subject to review and investigation by the~~  
20 ~~agency.~~

21 ~~(e) Emergency access complaint investigations.~~

22 ~~(f) inspections of mobile surgical facilities at each~~  
23 ~~time a facility establishes a new location, prior to the~~  
24 ~~admission of patients. However, such inspections shall not be~~  
25 ~~required when a mobile surgical facility is moved temporarily~~  
26 ~~to a location where medical treatment will not be provided.~~

27 (2) The agency shall accept, in lieu of its own  
28 periodic inspections for licensure, the survey or inspection  
29 of an accrediting organization, provided the accreditation of  
30 the licensed facility is not provisional and provided the  
31 licensed facility authorizes release of, and the agency

1 receives the report of, the accrediting organization. The  
2 agency shall develop, and adopt by rule, criteria for  
3 accepting survey reports of accrediting organizations in lieu  
4 of conducting a state licensure inspection.

5 (3) In accordance with s. 408.805, an applicant or  
6 licensee shall pay a fee for each license application  
7 submitted under this part and ss. 408.801-408.819. The fee  
8 schedule is as follows ~~With the exception of state-operated~~  
9 ~~licensed facilities, each facility licensed under this part~~  
10 ~~shall pay to the agency, at the time of inspection, the~~  
11 ~~following fees:~~

12 (a) Inspection for licensure.--A fee shall be paid  
13 which is not less than \$8 per hospital bed, nor more than \$12  
14 per hospital bed, except that the minimum fee shall be \$400  
15 per facility.

16 (b) Inspection for lifesafety only.--A fee shall be  
17 paid which is not less than 75 cents per hospital bed, nor  
18 more than \$1.50 per hospital bed, except that the minimum fee  
19 shall be \$40 per facility.

20 (4) The agency shall coordinate all periodic  
21 inspections for licensure made by the agency to ensure that  
22 the cost to the facility of such inspections and the  
23 disruption of services by such inspections is minimized.

24 Section 34. Section 395.0162, Florida Statutes, is  
25 repealed.

26 Section 35. Subsections (2) and (3) of section  
27 395.0163, Florida Statutes, are amended to read:

28 395.0163 Construction inspections; plan submission and  
29 approval; fees.--

30 (2)~~(a)~~ The agency is authorized to charge an initial  
31 fee of \$2,000 for review of plans and construction on all

1 projects, no part of which is refundable. The agency may also  
2 collect a fee, not to exceed 1 percent of the estimated  
3 construction cost or the actual cost of review, whichever is  
4 less, for the portion of the review which encompasses initial  
5 review through the initial revised construction document  
6 review. The agency is further authorized to collect its  
7 actual costs on all subsequent portions of the review and  
8 construction inspections. The initial fee payment shall  
9 accompany the initial submission of plans and specifications.  
10 Any subsequent payment that is due is payable upon receipt of  
11 the invoice from the agency.

12 ~~(b) Notwithstanding any other provisions of law to the~~  
13 ~~contrary, all moneys received by the agency pursuant to the~~  
14 ~~provisions of this section shall be deposited in the Planning~~  
15 ~~and Regulation Trust Fund, as created by s. 395.004, to be~~  
16 ~~held and applied solely for the operations required under this~~  
17 ~~section.~~

18 (3) In accordance with s. 408.811,the agency shall  
19 inspect a mobile surgical facility at initial licensure and at  
20 each time the facility establishes a new location, prior to  
21 admission of patients. However, such inspections shall not be  
22 required when a mobile surgical facility is moved temporarily  
23 to a location where medical treatment will not be provided.

24 Section 36. Section 395.0199, Florida Statutes, is  
25 amended to read:

26 395.0199 Private utilization review.--

27 (1) The purpose of this section is to:

28 (a) Promote the delivery of quality health care in a  
29 cost-effective manner.

30 (b) Foster greater coordination between providers and  
31 health insurers performing utilization review.

1 (c) Protect patients and insurance providers by  
2 ensuring that private review agents are qualified to perform  
3 utilization review activities and to make informed decisions  
4 on the appropriateness of medical care.

5 (d) This section does not regulate the activities of  
6 private review agents, health insurers, health maintenance  
7 organizations, or hospitals, except as expressly provided  
8 herein, or authorize regulation or intervention as to the  
9 correctness of utilization review decisions of insurers or  
10 private review agents.

11 (2) The requirements of ss. 408.801-408.819 apply to  
12 the provision of services that necessitate registration or  
13 licensure pursuant to this section and ss. 408.801-408.819 and  
14 to persons registered by or applying for such registration  
15 from the Agency for Health Care Administration pursuant to  
16 this section. ~~A private review agent conducting utilization~~  
17 ~~review as to health care services performed or proposed to be~~  
18 ~~performed in this state shall register with the agency in~~  
19 ~~accordance with this section.~~

20 (3) In accordance with s. 408.805, an applicant or  
21 registrant shall pay a fee for each registration issued under  
22 this part and ss. 408.801-408.819. The amount of the fee shall  
23 be established by rule, ~~Registration shall be made annually~~  
24 ~~with the agency on forms furnished by the agency and shall be~~  
25 ~~accompanied by the appropriate registration fee as set by the~~  
26 ~~agency. The fee shall be sufficient to pay for the~~  
27 ~~administrative costs of registering the agent, but may shall~~  
28 ~~not exceed \$250. The agency may also charge reasonable fees,~~  
29 ~~reflecting actual costs, to persons requesting copies of~~  
30 ~~registration.~~

31

1           ~~(4) Each applicant for registration must comply with~~  
2 ~~the following requirements:~~

3           ~~(a) Upon receipt of a completed, signed, and dated~~  
4 ~~application, the agency shall require background screening, in~~  
5 ~~accordance with the level 2 standards for screening set forth~~  
6 ~~in chapter 435, of the managing employee or other similarly~~  
7 ~~titled individual who is responsible for the operation of the~~  
8 ~~entity. The applicant must comply with the procedures for~~  
9 ~~level 2 background screening as set forth in chapter 435, as~~  
10 ~~well as the requirements of s. 435.03(3).~~

11           ~~(b) The agency may require background screening of any~~  
12 ~~other individual who is an applicant, if the agency has~~  
13 ~~probable cause to believe that he or she has been convicted of~~  
14 ~~a crime or has committed any other offense prohibited under~~  
15 ~~the level 2 standards for screening set forth in chapter 435.~~

16           ~~(c) Proof of compliance with the level 2 background~~  
17 ~~screening requirements of chapter 435 which has been submitted~~  
18 ~~within the previous 5 years in compliance with any other~~  
19 ~~health care licensure requirements of this state is acceptable~~  
20 ~~in fulfillment of the requirements of paragraph (a).~~

21           ~~(d) A provisional registration may be granted to an~~  
22 ~~applicant when each individual required by this section to~~  
23 ~~undergo background screening has met the standards for the~~  
24 ~~Department of Law Enforcement background check, but the agency~~  
25 ~~has not yet received background screening results from the~~  
26 ~~Federal Bureau of Investigation, or a request for a~~  
27 ~~disqualification exemption has been submitted to the agency as~~  
28 ~~set forth in chapter 435 but a response has not yet been~~  
29 ~~issued. A standard registration may be granted to the~~  
30 ~~applicant upon the agency's receipt of a report of the results~~  
31 ~~of the Federal Bureau of Investigation background screening~~

1 ~~for each individual required by this section to undergo~~  
2 ~~background screening which confirms that all standards have~~  
3 ~~been met, or upon the granting of a disqualification exemption~~  
4 ~~by the agency as set forth in chapter 435. Any other person~~  
5 ~~who is required to undergo level 2 background screening may~~  
6 ~~serve in his or her capacity pending the agency's receipt of~~  
7 ~~the report from the Federal Bureau of Investigation. However,~~  
8 ~~the person may not continue to serve if the report indicates~~  
9 ~~any violation of background screening standards and a~~  
10 ~~disqualification exemption has not been requested of and~~  
11 ~~granted by the agency as set forth in chapter 435.~~

12 ~~(e) Each applicant must submit to the agency, with its~~  
13 ~~application, a description and explanation of any exclusions,~~  
14 ~~permanent suspensions, or terminations of the applicant from~~  
15 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
16 ~~the requirements for disclosure of ownership and control~~  
17 ~~interests under the Medicaid or Medicare programs shall be~~  
18 ~~accepted in lieu of this submission.~~

19 ~~(f) Each applicant must submit to the agency a~~  
20 ~~description and explanation of any conviction of an offense~~  
21 ~~prohibited under the level 2 standards of chapter 435 by a~~  
22 ~~member of the board of directors of the applicant, its~~  
23 ~~officers, or any individual owning 5 percent or more of the~~  
24 ~~applicant. This requirement does not apply to a director of a~~  
25 ~~not-for-profit corporation or organization if the director~~  
26 ~~serves solely in a voluntary capacity for the corporation or~~  
27 ~~organization, does not regularly take part in the day-to-day~~  
28 ~~operational decisions of the corporation or organization,~~  
29 ~~receives no remuneration for his or her services on the~~  
30 ~~corporation or organization's board of directors, and has no~~  
31 ~~financial interest and has no family members with a financial~~

1 ~~interest in the corporation or organization, provided that the~~  
2 ~~director and the not-for-profit corporation or organization~~  
3 ~~include in the application a statement affirming that the~~  
4 ~~director's relationship to the corporation satisfies the~~  
5 ~~requirements of this paragraph.~~

6 ~~(g) A registration may not be granted to an applicant~~  
7 ~~if the applicant or managing employee has been found guilty~~  
8 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
9 ~~contendere or guilty to, any offense prohibited under the~~  
10 ~~level 2 standards for screening set forth in chapter 435,~~  
11 ~~unless an exemption from disqualification has been granted by~~  
12 ~~the agency as set forth in chapter 435.~~

13 ~~(h) The agency may deny or revoke the registration if~~  
14 ~~any applicant:~~

15 ~~1. Has falsely represented a material fact in the~~  
16 ~~application required by paragraph (e) or paragraph (f), or has~~  
17 ~~omitted any material fact from the application required by~~  
18 ~~paragraph (e) or paragraph (f); or~~

19 ~~2. Has had prior action taken against the applicant~~  
20 ~~under the Medicaid or Medicare program as set forth in~~  
21 ~~paragraph (e).~~

22 ~~(i) An application for registration renewal must~~  
23 ~~contain the information required under paragraphs (e) and (f).~~

24 (4)(5) Registration shall include the following:

25 (a) A description of the review policies and  
26 procedures to be used in evaluating proposed or delivered  
27 hospital care.

28 (b) The name, address, and telephone number of the  
29 utilization review agent performing utilization review, who  
30 shall be at least:

31

1           1. A licensed practical nurse or licensed registered  
2 nurse, or other similarly qualified medical records or health  
3 care professionals, for performing initial review when  
4 information is necessary from the physician or hospital to  
5 determine the medical necessity or appropriateness of hospital  
6 services; or

7           2. A licensed physician, or a licensed physician  
8 practicing in the field of psychiatry for review of mental  
9 health services, for an initial denial determination prior to  
10 a final denial determination by the health insurer and which  
11 shall include the written evaluation and findings of the  
12 reviewing physician.

13           (c) A description of an appeal procedure for patients  
14 or health care providers whose services are under review, who  
15 may appeal an initial denial determination prior to a final  
16 determination by the health insurer with whom the private  
17 review agent has contracted. The appeal procedure shall  
18 provide for review by a licensed physician, or by a licensed  
19 physician practicing in the field of psychiatry for review of  
20 mental health services, and shall include the written  
21 evaluation and findings of the reviewing physician.

22           (d) A designation of the times when the staff of the  
23 utilization review agent will be available by toll-free  
24 telephone, which shall include at least 40 hours per week  
25 during the normal business hours of the agent.

26           (e) An acknowledgment and agreement that any private  
27 review agent which, as a general business practice, fails to  
28 adhere to the policies, procedures, and representations made  
29 in its application for registration shall have its  
30 registration revoked.

31

1 (f) Disclosure of any incentive payment provision or  
2 quota provision which is contained in the agent's contract  
3 with a health insurer and is based on reduction or denial of  
4 services, reduction of length of stay, or selection of  
5 treatment setting.

6 (g) Updates of any material changes to review policies  
7 or procedures.

8 ~~(6) The agency may impose fines or suspend or revoke~~  
9 ~~the registration of any private review agent in violation of~~  
10 ~~this section. Any private review agent failing to register or~~  
11 ~~update registration as required by this section shall be~~  
12 ~~deemed to be within the jurisdiction of the agency and subject~~  
13 ~~to an administrative penalty not to exceed \$1,000. The agency~~  
14 ~~may bring actions to enjoin activities of private review~~  
15 ~~agents in violation of this section.~~

16 (5)~~(7)~~ An ~~No~~ insurer may not ~~shall~~ knowingly contract  
17 with or utilize a private review agent that ~~which~~ has failed  
18 to register as required by this section or ~~which~~ has had a  
19 registration revoked by the agency.

20 (6)~~(8)~~ A private review agent that ~~which~~ operates  
21 under contract with the federal or state government for  
22 utilization review of patients eligible for hospital or other  
23 services under Title XVIII or Title XIX of the Social Security  
24 Act is exempt from the provisions of this section for services  
25 provided under such contract. A private review agent that  
26 ~~which~~ provides utilization review services to the federal or  
27 state government and a private insurer shall not be exempt for  
28 services provided to nonfederally funded patients. This  
29 section shall not apply to persons who perform utilization  
30 review services for medically necessary hospital services  
31 provided to injured workers pursuant to chapter 440 and shall

1 not apply to self-insurance funds or service companies  
2 authorized pursuant to chapter 440 or part VII of chapter 626.

3 (7)~~(9)~~ Facilities licensed under this chapter shall  
4 promptly comply with the requests of utilization review agents  
5 or insurers which are reasonably necessary to facilitate  
6 prompt accomplishment of utilization review activities.

7 (8)~~(10)~~ The agency shall adopt rules to implement the  
8 provisions of this section.

9 Section 37. Subsection (1) of section 395.1046,  
10 Florida Statutes, is amended to read:

11 395.1046 Complaint investigation procedures.--

12 (1) In accordance with s. 408.811, the agency shall  
13 investigate any complaint against a hospital for any violation  
14 of s. 395.1041 that the agency reasonably believes to be  
15 legally sufficient. A complaint is legally sufficient if it  
16 contains ultimate facts which show that a violation of this  
17 chapter, or any rule adopted under this chapter by the agency,  
18 has occurred. The agency may investigate, or continue to  
19 investigate, and may take appropriate final action on a  
20 complaint, even though the original complainant withdraws his  
21 or her complaint or otherwise indicates his or her desire not  
22 to cause it to be investigated to completion. When an  
23 investigation of any person or facility is undertaken, the  
24 agency shall notify such person in writing of the  
25 investigation and inform the person or facility in writing of  
26 the substance, the facts which show that a violation has  
27 occurred, and the source of any complaint filed against him or  
28 her. The agency may conduct an investigation without  
29 notification to any person if the act under investigation is a  
30 criminal offense. ~~The agency shall have access to all records  
31 necessary for the investigation of the complaint.~~

1           Section 38. Subsections (1), (7), and (8) of section  
2 395.1055, Florida Statutes, are amended to read:

3           395.1055 Rules and enforcement.--

4           (1) The agency shall adopt rules pursuant to ss.  
5 120.536(1) and 120.54 to implement the provisions of this part  
6 and ss. 408.801-408.819, which shall include reasonable and  
7 fair minimum standards for ensuring that:

8           (a) Sufficient numbers and qualified types of  
9 personnel and occupational disciplines are on duty and  
10 available at all times to provide necessary and adequate  
11 patient care and safety.

12           (b) Infection control, housekeeping, sanitary  
13 conditions, and medical record procedures that will adequately  
14 protect patient care and safety are established and  
15 implemented.

16           (c) A comprehensive emergency management plan is  
17 prepared and updated annually. Such standards must be  
18 included in the rules adopted by the agency after consulting  
19 with the Department of Community Affairs. At a minimum, the  
20 rules must provide for plan components that address emergency  
21 evacuation transportation; adequate sheltering arrangements;  
22 postdisaster activities, including emergency power, food, and  
23 water; postdisaster transportation; supplies; staffing;  
24 emergency equipment; individual identification of residents  
25 and transfer of records, and responding to family inquiries.  
26 The comprehensive emergency management plan is subject to  
27 review and approval by the local emergency management agency.  
28 During its review, the local emergency management agency shall  
29 ensure that the following agencies, at a minimum, are given  
30 the opportunity to review the plan: the Department of Elderly  
31 Affairs, the Department of Health, the Agency for Health Care

1 Administration, and the Department of Community Affairs. Also,  
2 appropriate volunteer organizations must be given the  
3 opportunity to review the plan. The local emergency  
4 management agency shall complete its review within 60 days and  
5 either approve the plan or advise the facility of necessary  
6 revisions.

7 (d) Licensed facilities are established, organized,  
8 and operated consistent with established standards and rules.

9 (e) Licensed facility beds conform to minimum space,  
10 equipment, and furnishings standards as specified by the  
11 department.

12 (f) All hospitals submit such data as necessary to  
13 conduct certificate-of-need reviews required under ss.  
14 408.031-408.045. Such data shall include, but shall not be  
15 limited to, patient origin data, hospital utilization data,  
16 type of service reporting, and facility staffing data. The  
17 agency shall not collect data that identifies or could  
18 disclose the identity of individual patients. The agency shall  
19 utilize existing uniform statewide data sources when available  
20 and shall minimize reporting costs to hospitals.

21 (g) Each hospital has a quality improvement program  
22 designed according to standards established by their current  
23 accrediting organization. This program will enhance quality of  
24 care and emphasize quality patient outcomes, corrective action  
25 for problems, governing board review, and reporting to the  
26 agency of standardized data elements necessary to analyze  
27 quality of care outcomes. The agency shall use existing data,  
28 when available, and shall not duplicate the efforts of other  
29 state agencies in order to obtain such data.

30 ~~(7) Any licensed facility which is in operation at the~~  
31 ~~time of promulgation of any applicable rules under this part~~

1 ~~shall be given a reasonable time, under the particular~~  
2 ~~circumstances, but not to exceed 1 year from the date of such~~  
3 ~~promulgation, within which to comply with such rules.~~

4 (7)~~(8)~~ The agency may not adopt any rule governing the  
5 design, construction, erection, alteration, modification,  
6 repair, or demolition of any public or private hospital,  
7 intermediate residential treatment facility, or ambulatory  
8 surgical center. It is the intent of the Legislature to  
9 preempt that function to the Florida Building Commission and  
10 the State Fire Marshal through adoption and maintenance of the  
11 Florida Building Code and the Florida Fire Prevention Code.  
12 However, the agency shall provide technical assistance to the  
13 commission and the State Fire Marshal in updating the  
14 construction standards of the Florida Building Code and the  
15 Florida Fire Prevention Code which govern hospitals,  
16 intermediate residential treatment facilities, and ambulatory  
17 surgical centers.

18 Section 39. Section 395.1065, Florida Statutes, is  
19 amended to read:

20 395.1065 Criminal and administrative penalties;  
21 injunctions; ~~emergency orders; moratorium.~~--

22 ~~(1) Any person establishing, conducting, managing, or~~  
23 ~~operating any facility without a license under this part is~~  
24 ~~guilty of a misdemeanor and, upon conviction, shall be fined~~  
25 ~~not more than \$500 for the first offense and not more than~~  
26 ~~\$1,000 for each subsequent offense, and each day of continuing~~  
27 ~~violation after conviction shall be considered a separate~~  
28 ~~offense.~~

29 (1)~~(2)~~(a) The agency may deny, revoke, or suspend a  
30 license or impose an administrative fine, not to exceed \$1,000  
31 per violation, per day, for the violation of any provision of

1 this part, ss.408.801-408.819, or applicable rules ~~adopted~~  
2 ~~under this part. Each day of violation constitutes a separate~~  
3 ~~violation and is subject to a separate fine.~~

4 (b) In determining the amount of fine to be levied for  
5 a violation, as provided in paragraph (a), the following  
6 factors shall be considered:

7 1. The severity of the violation, including the  
8 probability that death or serious harm to the health or safety  
9 of any person will result or has resulted, the severity of the  
10 actual or potential harm, and the extent to which the  
11 provisions of this part were violated.

12 2. Actions taken by the licensee to correct the  
13 violations or to remedy complaints.

14 3. Any previous violations of the licensee.

15 ~~(c) All amounts collected pursuant to this section~~  
16 ~~shall be deposited into the Planning and Regulation Trust~~  
17 ~~Fund, as created by s. 395.004.~~

18 ~~(c)~~(d) The agency may impose an administrative fine  
19 for the violation of s. 641.3154 or, if sufficient claims due  
20 to a provider from a health maintenance organization do not  
21 exist to enable the take-back of an overpayment, as provided  
22 under s. 641.3155(5), for the violation of s. 641.3155(5). The  
23 administrative fine for a violation cited in this paragraph  
24 shall be in the amounts specified in s. 641.52(5), and the  
25 provisions of paragraph (a) do not apply.

26 ~~(2)~~(3) Notwithstanding the existence or pursuit of any  
27 other remedy, the agency may maintain an action in the name of  
28 the state for injunction or other process to enforce the  
29 provisions of this part, ss. 408.801-408.819, and applicable  
30 rules ~~promulgated hereunder.~~

31

1           ~~(4) The agency may issue an emergency order~~  
2 ~~immediately suspending or revoking a license when it~~  
3 ~~determines that any condition in the licensed facility~~  
4 ~~presents a clear and present danger to public health and~~  
5 ~~safety.~~

6           ~~(5) The agency may impose an immediate moratorium on~~  
7 ~~elective admissions to any licensed facility, building, or~~  
8 ~~portion thereof, or service, when the agency determines that~~  
9 ~~any condition in the facility presents a threat to public~~  
10 ~~health or safety.~~

11           ~~(3)(6)~~ In seeking to impose penalties against a  
12 facility as defined in s. 394.455 for a violation of part I of  
13 chapter 394, the agency is authorized to rely on the  
14 investigation and findings by the Department of Health in lieu  
15 of conducting its own investigation.

16           Section 40. Subsection (1) of section 395.10973,  
17 Florida Statutes, is amended to read:

18           395.10973 Powers and duties of the agency.--It is the  
19 function of the agency to:

20           (1) Adopt rules pursuant to ss. 120.536(1) and 120.54  
21 to implement the provisions of this part and ss.  
22 408.801-408.819 conferring duties upon it.

23           Section 41. Section 395.10974, Florida Statutes, is  
24 amended to read:

25           395.10974 Health care risk managers; qualifications,  
26 licensure, fees.--

27           (1) The requirements of ss. 408.801-408.819 apply to  
28 the provision of services that necessitate licensure pursuant  
29 to ss. 395.10971-395.10976 and ss. 408.801-408.819 and to  
30 entities licensed by or applying for such licensure from the  
31 Agency for Health Care Administration pursuant to ss.

1 ~~395.10971-395.10976.~~Any person desiring to be licensed as a  
2 health care risk manager shall submit an application on a form  
3 provided by the agency. In order to qualify for licensure, the  
4 applicant shall submit evidence satisfactory to the agency  
5 which demonstrates the applicant's competence, by education or  
6 experience, in the following areas:

7 (a) Applicable standards of health care risk  
8 management.

9 (b) Applicable federal, state, and local health and  
10 safety laws and rules.

11 (c) General risk management administration.

12 (d) Patient care.

13 (e) Medical care.

14 (f) Personal and social care.

15 (g) Accident prevention.

16 (h) Departmental organization and management.

17 (i) Community interrelationships.

18 (j) Medical terminology.

19

20 Each applicant for licensure must comply with all provisions  
21 of ss. 408.801-408.819, with the exception of ss.

22 408.810(5)-(10), 408.811, and 408.812.The agency may require  
23 such additional information, from the applicant or any other  
24 person, as may be reasonably required to verify the  
25 information contained in the application.

26 (2) The agency shall not grant or issue a license as a  
27 health care risk manager to any individual unless from the  
28 application it affirmatively appears that the applicant:

29 (a) Is 18 years of age or over;

30 (b) Is a high school graduate or equivalent; and

31

1 (c)1. Has fulfilled the requirements of a 1-year  
2 program or its equivalent in health care risk management  
3 training which may be developed or approved by the agency;

4 2. Has completed 2 years of college-level studies  
5 which would prepare the applicant for health care risk  
6 management, to be further defined by rule; or

7 3. Has obtained 1 year of practical experience in  
8 health care risk management.

9 (3) The agency shall issue a license to practice  
10 health care risk management to any applicant who qualifies  
11 under this section. In accordance with s. 408.805, an  
12 applicant or licensee shall pay a fee for each license  
13 application submitted under this part and ss. 408.801-408.819.

14 The amount of the fees shall be established by rule, as  
15 follows:~~and submits~~ an application fee of not more than \$75,  
16 a background-screening ~~fingerprinting~~ fee of not more than  
17 \$75, and a license fee of not more than \$100. ~~The agency shall~~  
18 ~~by rule establish fees and procedures for the issuance and~~  
19 ~~cancellation of licenses.~~

20 ~~(4) The agency shall renew a health care risk manager~~  
21 ~~license upon receipt of a biennial renewal application and~~  
22 ~~fees. The agency shall by rule establish a procedure for the~~  
23 ~~biennial renewal of licenses.~~

24 Section 42. Section 395.10975, Florida Statutes, is  
25 amended to read:

26 395.10975 Grounds for denial, ~~suspension,~~ or  
27 revocation of a health care risk manager's license;  
28 administrative fine.--

29 (1) The agency may, in its discretion, deny, suspend,  
30 revoke, or refuse to renew or continue the license of any  
31 health care risk manager or applicant, if it finds that as to

1 such applicant or licensee any one or more of the following  
2 grounds exist:

3 ~~(a) Any cause for which issuance of the license could~~  
4 ~~have been refused had it then existed and been known to the~~  
5 ~~agency.~~

6 ~~(b) Giving false or forged evidence to the agency for~~  
7 ~~the purpose of obtaining a license.~~

8 ~~(c) Having been found guilty of, or having pleaded~~  
9 ~~guilty or nolo contendere to, a crime in this state or any~~  
10 ~~other state relating to the practice of risk management or the~~  
11 ~~ability to practice risk management, whether or not a judgment~~  
12 ~~or conviction has been entered.~~

13 ~~(d) Having been found guilty of, or having pleaded~~  
14 ~~guilty or nolo contendere to, a felony, or a crime involving~~  
15 ~~moral turpitude punishable by imprisonment of 1 year or more~~  
16 ~~under the law of the United States, under the law of any~~  
17 ~~state, or under the law of any other country, without regard~~  
18 ~~to whether a judgment of conviction has been entered by the~~  
19 ~~court having jurisdiction of such cases.~~

20 (a)~~(e)~~ Making or filing a report or record which the  
21 licensee knows to be false; or intentionally failing to file a  
22 report or record required by state or federal law; or  
23 willfully impeding or obstructing, or inducing another person  
24 to impede or obstruct, the filing of a report or record  
25 required by state or federal law. Such reports or records  
26 shall include only those which are signed in the capacity of a  
27 licensed health care risk manager.

28 (b)~~(f)~~ Fraud or deceit, negligence, incompetence, or  
29 misconduct in the practice of health care risk management.

30  
31

1            (c)~~(g)~~ Violation of any provision of this part or any  
2 other law applicable to the business of health care risk  
3 management.

4            (d)~~(h)~~ Violation of any lawful order or rule of the  
5 agency or failure to comply with a lawful subpoena issued by  
6 the department.

7            (e)~~(i)~~ Practicing with a revoked or suspended health  
8 care risk manager license.

9            (f)~~(j)~~ Repeatedly acting in a manner inconsistent with  
10 the health and safety of the patients of the licensed facility  
11 in which the licensee is the health care risk manager.

12            (g)~~(k)~~ Being unable to practice health care risk  
13 management with reasonable skill and safety to patients by  
14 reason of illness; drunkenness; or use of drugs, narcotics,  
15 chemicals, or any other material or substance or as a result  
16 of any mental or physical condition. Any person affected  
17 under this paragraph shall have the opportunity, at reasonable  
18 intervals, to demonstrate that he or she can resume the  
19 competent practices of health care risk manager with  
20 reasonable skill and safety to patients.

21            (h)~~(l)~~ Willfully permitting unauthorized disclosure of  
22 information relating to a patient or a patient's records.

23            (i)~~(m)~~ Discriminating in respect to patients,  
24 employees, or staff on account of race, religion, color, sex,  
25 or national origin.

26            (2) If the agency finds that one or more of the  
27 grounds set forth in subsection (1) exist, it may, in lieu of  
28 or in addition to denial ~~suspension~~ or revocation, enter an  
29 order imposing one or more of the following penalties:

30            (a) Imposition of an administrative fine not to exceed  
31 \$2,500 for each count or separate offense.

1 (b) Issuance of a reprimand.

2 (c) Placement of the licensee on probation for a  
3 period of time and subject to such conditions as the agency  
4 may specify, including requiring the licensee to attend  
5 continuing education courses or to work under the supervision  
6 of another licensee.

7 (3) The agency may reissue the license of a  
8 disciplined licensee in accordance with the provisions of this  
9 part.

10 Section 43. Subsections (5) and (20) of section  
11 400.021, Florida Statutes, are repealed.

12 Section 44. Subsection (3) of section 400.022, Florida  
13 Statutes, is amended to read:

14 400.022 Residents' rights.--

15 (3) Any violation of the resident's rights set forth  
16 in this section shall constitute grounds for action by the  
17 agency under the provisions of s. 400.102, s. 400.121, or ss.  
18 408.801-408.819. In order to determine whether the licensee  
19 is adequately protecting residents' rights, the licensure  
20 ~~annual~~ inspection of the facility shall include private  
21 informal conversations with a sample of residents to discuss  
22 residents' experiences within the facility with respect to  
23 rights specified in this section and general compliance with  
24 standards, and consultation with the ombudsman council in the  
25 local planning and service area of the Department of Elderly  
26 Affairs in which the nursing home is located.

27 Section 45. Paragraph (b) of subsection (1) of section  
28 400.051, Florida Statutes, is amended to read:

29 400.051 Homes or institutions exempt from the  
30 provisions of this part.--

31

1           (1) The following shall be exempt from the provisions  
2 of this part:

3           (b) Any hospital, as defined in s. 395.002 ~~s.~~  
4 ~~395.002(11)~~, that is licensed under chapter 395.

5           Section 46. Section 400.062, Florida Statutes, is  
6 amended to read:

7           400.062 License required; fee; disposition; display;  
8 transfer.--

9           (1) The requirements of ss. 408.801-408.819 apply to  
10 the provision of services that necessitate licensure pursuant  
11 to this part and ss. 408.801-408.819 and to entities licensed  
12 by or applying for such licensure from the Agency for Health  
13 Care Administration pursuant to this part. ~~It is unlawful to~~  
14 ~~operate or maintain a facility without first obtaining from~~  
15 ~~the agency a license authorizing such operation.~~

16           (2) Separate licenses shall be required for facilities  
17 maintained in separate premises, even though operated under  
18 the same management. However, a separate license shall not be  
19 required for separate buildings on the same grounds.

20           (3) In accordance with s. 408.805, an applicant or  
21 licensee shall pay a fee for each license application  
22 submitted under this part and ss. 408.801-408.819. ~~The annual~~  
23 ~~license fee required for each license issued under this part~~  
24 shall be comprised of two parts. Part I of the license fee  
25 shall be the basic license fee. The rate per bed for the basic  
26 license fee shall be established biennially ~~annually~~ and shall  
27 be \$100 ~~\$50~~ per bed unless modified by rule. ~~The agency may~~  
28 ~~adjust the per bed licensure fees by the Consumer Price Index~~  
29 ~~based on the 12 months immediately preceding the increase to~~  
30 ~~cover the cost of regulation under this part.~~ Part II of the  
31 license fee shall be the resident protection fee, which shall

1 be at the rate of not less than 50 ~~25~~ cents per bed. The rate  
2 per bed shall be the minimum rate per bed, and such rate shall  
3 remain in effect until the effective date of a rate per bed  
4 adopted by rule by the agency pursuant to this part. At such  
5 time as the amount on deposit in the Resident Protection Trust  
6 Fund is less than \$1 million, the agency may adopt rules to  
7 establish a rate which may not exceed \$20~~\$10~~ per bed. The  
8 rate per bed shall revert back to the minimum rate per bed  
9 when the amount on deposit in the Resident Protection Trust  
10 Fund reaches \$1 million, except that any rate established by  
11 rule shall remain in effect until such time as the rate has  
12 been equally required for each license issued under this part.  
13 Any amount in the fund in excess of \$2 million shall revert to  
14 the Health Care Trust Fund and may not be expended without  
15 prior approval of the Legislature. The agency may prorate the  
16 biennial ~~annual~~ license fee for those licenses which it issues  
17 under this part for less than 2 years ~~1 year~~. ~~Funds generated~~  
18 ~~by license fees collected in accordance with this section~~  
19 ~~shall be deposited in the following manner:~~

20 (a) ~~The basic license fee collected shall be deposited~~  
21 ~~in the Health Care Trust Fund, established for the sole~~  
22 ~~purpose of carrying out this part. When the balance of the~~  
23 ~~account established in the Health Care Trust Fund for the~~  
24 ~~deposit of fees collected as authorized under this section~~  
25 ~~exceeds one-third of the annual cost of regulation under this~~  
26 ~~part, the excess shall be used to reduce the licensure fees in~~  
27 ~~the next year.~~

28 (b) The resident protection fee collected shall be  
29 deposited in the Resident Protection Trust Fund for the sole  
30 purpose of paying, in accordance with the provisions of s.  
31 400.063, for the appropriate alternate placement, care, and

1 treatment of a resident removed from a nursing home facility  
2 on a temporary, emergency basis or for the maintenance and  
3 care of residents in a nursing home facility pending removal  
4 and alternate placement.

5 (4) Counties or municipalities applying for licenses  
6 under this part are exempt from license fees authorized under  
7 this section.

8 ~~(5) The license shall be displayed in a conspicuous  
9 place inside the facility.~~

10 ~~(6) A license shall be valid only in the hands of the  
11 individual, firm, partnership, association, or corporation to  
12 whom it is issued and shall not be subject to sale,  
13 assignment, or other transfer, voluntary or involuntary, nor  
14 shall a license be valid for any premises other than those for  
15 which originally issued.~~

16 Section 47. Subsection (1) of section 400.063, Florida  
17 Statutes, is amended to read:

18 400.063 Resident Protection Trust Fund.--

19 (1) A Resident Protection Trust Fund shall be  
20 established for the purpose of collecting and disbursing funds  
21 generated from the license fees and administrative fines as  
22 provided for in ss. 393.0673(2), 400.062(3) ~~400.062(3)(b)~~,  
23 ~~400.111(1)~~, 400.121(2), and 400.23(8). Such funds shall be  
24 for the sole purpose of paying for the appropriate alternate  
25 placement, care, and treatment of residents who are removed  
26 from a facility licensed under this part or a facility  
27 specified in s. 393.0678(1) in which the agency determines  
28 that existing conditions or practices constitute an immediate  
29 danger to the health, safety, or security of the residents.  
30 If the agency determines that it is in the best interest of  
31 the health, safety, or security of the residents to provide

1 for an orderly removal of the residents from the facility, the  
2 agency may utilize such funds to maintain and care for the  
3 residents in the facility pending removal and alternative  
4 placement. The maintenance and care of the residents shall be  
5 under the direction and control of a receiver appointed  
6 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds  
7 may be expended in an emergency upon a filing of a petition  
8 for a receiver, upon the declaration of a state of local  
9 emergency pursuant to s. 252.38(3)(a)5., or upon a duly  
10 authorized local order of evacuation of a facility by  
11 emergency personnel to protect the health and safety of the  
12 residents.

13 Section 48. Section 400.071, Florida Statutes, is  
14 amended to read:

15 400.071 Application for license.--

16 ~~(1) An application for a license as required by s.~~  
17 ~~400.062 shall be made to the agency on forms furnished by it~~  
18 ~~and shall be accompanied by the appropriate license fee.~~

19 (1)(2) The application shall be under oath and shall  
20 contain the following:

21 ~~(a) The name, address, and social security number of~~  
22 ~~the applicant if an individual; if the applicant is a firm,~~  
23 ~~partnership, or association, its name, address, and employer~~  
24 ~~identification number (EIN), and the name and address of any~~  
25 ~~controlling interest; and the name by which the facility is to~~  
26 ~~be known.~~

27 ~~(b) The name of any person whose name is required on~~  
28 ~~the application under the provisions of paragraph (a) and who~~  
29 ~~owns at least a 10-percent interest in any professional~~  
30 ~~service, firm, association, partnership, or corporation~~  
31 ~~providing goods, leases, or services to the facility for which~~

1 ~~the application is made, and the name and address of the~~  
2 ~~professional service, firm, association, partnership, or~~  
3 ~~corporation in which such interest is held.~~

4 ~~(c) The location of the facility for which a license~~  
5 ~~is sought and an indication, as in the original application,~~  
6 ~~that such location conforms to the local zoning ordinances.~~

7 ~~(d) The name of the person or persons under whose~~  
8 ~~management or supervision the facility will be conducted and~~  
9 ~~the name of the administrator.~~

10 (a)(e) A signed affidavit disclosing any financial or  
11 ownership interest that a controlling interest, as defined in  
12 s. 408.803,~~person or entity described in paragraph (a) or~~  
13 ~~paragraph (d)~~has held in the last 5 years in any entity  
14 licensed by this state or any other state to provide health or  
15 residential care which has closed voluntarily or  
16 involuntarily; has filed for bankruptcy; has had a receiver  
17 appointed; has had a license denied, suspended, or revoked; or  
18 has had an injunction issued against it which was initiated by  
19 a regulatory agency. The affidavit must disclose the reason  
20 any such entity was closed, whether voluntarily or  
21 involuntarily.

22 (b)(f) The total number of beds and the total number  
23 of Medicare and Medicaid certified beds.

24 (c)(g) Information relating to ~~the number, experience,~~  
25 ~~and training of the employees of the facility and of the moral~~  
26 ~~character of the applicant and employees which the agency~~  
27 ~~requires by rule, including the name and address of any~~  
28 ~~nursing home with which the applicant or employees have been~~  
29 ~~affiliated through ownership or employment within 5 years of~~  
30 ~~the date of the application for a license and the record of~~  
31 ~~any criminal convictions involving the applicant and any~~

1 ~~criminal convictions involving an employee if known by the~~  
2 ~~applicant after inquiring of the employee.~~ The applicant must  
3 demonstrate that sufficient numbers of qualified staff, by  
4 training or experience, will be employed to properly care for  
5 the type and number of residents who will reside in the  
6 facility.

7 (d)(h) Copies of any civil verdict or judgment  
8 involving the applicant rendered within the 10 years preceding  
9 the application, relating to medical negligence, violation of  
10 residents' rights, or wrongful death. As a condition of  
11 licensure, the licensee agrees to provide to the agency copies  
12 of any new verdict or judgment involving the applicant,  
13 relating to such matters, within 30 days after filing with the  
14 clerk of the court. The information required in this  
15 paragraph shall be maintained in the facility's licensure file  
16 and in an agency database which is available as a public  
17 record.

18 ~~(3) The applicant shall submit evidence which~~  
19 ~~establishes the good moral character of the applicant,~~  
20 ~~manager, supervisor, and administrator. No applicant, if the~~  
21 ~~applicant is an individual; no member of a board of directors~~  
22 ~~or officer of an applicant, if the applicant is a firm,~~  
23 ~~partnership, association, or corporation; and no licensed~~  
24 ~~nursing home administrator shall have been convicted, or found~~  
25 ~~guilty, regardless of adjudication, of a crime in any~~  
26 ~~jurisdiction which affects or may potentially affect residents~~  
27 ~~in the facility.~~

28 ~~(4) Each applicant for licensure must comply with the~~  
29 ~~following requirements:~~

30 ~~(a) Upon receipt of a completed, signed, and dated~~  
31 ~~application, the agency shall require background screening of~~

1 ~~the applicant, in accordance with the level 2 standards for~~  
2 ~~screening set forth in chapter 435. As used in this~~  
3 ~~subsection, the term "applicant" means the facility~~  
4 ~~administrator, or similarly titled individual who is~~  
5 ~~responsible for the day-to-day operation of the licensed~~  
6 ~~facility, and the facility financial officer, or similarly~~  
7 ~~titled individual who is responsible for the financial~~  
8 ~~operation of the licensed facility.~~

9 ~~(b) The agency may require background screening for a~~  
10 ~~member of the board of directors of the licensee or an officer~~  
11 ~~or an individual owning 5 percent or more of the licensee if~~  
12 ~~the agency has probable cause to believe that such individual~~  
13 ~~has been convicted of an offense prohibited under the level 2~~  
14 ~~standards for screening set forth in chapter 435.~~

15 ~~(c) Proof of compliance with the level 2 background~~  
16 ~~screening requirements of chapter 435 which has been submitted~~  
17 ~~within the previous 5 years in compliance with any other~~  
18 ~~health care or assisted living licensure requirements of this~~  
19 ~~state is acceptable in fulfillment of paragraph (a). Proof of~~  
20 ~~compliance with background screening which has been submitted~~  
21 ~~within the previous 5 years to fulfill the requirements of the~~  
22 ~~Financial Services Commission and the Office of Insurance~~  
23 ~~Regulation pursuant to chapter 651 as part of an application~~  
24 ~~for a certificate of authority to operate a continuing care~~  
25 ~~retirement community is acceptable in fulfillment of the~~  
26 ~~Department of Law Enforcement and Federal Bureau of~~  
27 ~~Investigation background check.~~

28 ~~(d) A provisional license may be granted to an~~  
29 ~~applicant when each individual required by this section to~~  
30 ~~undergo background screening has met the standards for the~~  
31 ~~Department of Law Enforcement background check, but the agency~~

1 ~~has not yet received background screening results from the~~  
2 ~~Federal Bureau of Investigation, or a request for a~~  
3 ~~disqualification exemption has been submitted to the agency as~~  
4 ~~set forth in chapter 435, but a response has not yet been~~  
5 ~~issued. A license may be granted to the applicant upon the~~  
6 ~~agency's receipt of a report of the results of the Federal~~  
7 ~~Bureau of Investigation background screening for each~~  
8 ~~individual required by this section to undergo background~~  
9 ~~screening which confirms that all standards have been met, or~~  
10 ~~upon the granting of a disqualification exemption by the~~  
11 ~~agency as set forth in chapter 435. Any other person who is~~  
12 ~~required to undergo level 2 background screening may serve in~~  
13 ~~his or her capacity pending the agency's receipt of the report~~  
14 ~~from the Federal Bureau of Investigation; however, the person~~  
15 ~~may not continue to serve if the report indicates any~~  
16 ~~violation of background screening standards and a~~  
17 ~~disqualification exemption has not been requested of and~~  
18 ~~granted by the agency as set forth in chapter 435.~~

19 ~~(e) Each applicant must submit to the agency, with its~~  
20 ~~application, a description and explanation of any exclusions,~~  
21 ~~permanent suspensions, or terminations of the applicant from~~  
22 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
23 ~~disclosure of ownership and control interest requirements of~~  
24 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
25 ~~this submission.~~

26 ~~(f) Each applicant must submit to the agency a~~  
27 ~~description and explanation of any conviction of an offense~~  
28 ~~prohibited under the level 2 standards of chapter 435 by a~~  
29 ~~member of the board of directors of the applicant, its~~  
30 ~~officers, or any individual owning 5 percent or more of the~~  
31 ~~applicant. This requirement shall not apply to a director of a~~

1 ~~not-for-profit corporation or organization if the director~~  
2 ~~serves solely in a voluntary capacity for the corporation or~~  
3 ~~organization, does not regularly take part in the day-to-day~~  
4 ~~operational decisions of the corporation or organization,~~  
5 ~~receives no remuneration for his or her services on the~~  
6 ~~corporation or organization's board of directors, and has no~~  
7 ~~financial interest and has no family members with a financial~~  
8 ~~interest in the corporation or organization, provided that the~~  
9 ~~director and the not-for-profit corporation or organization~~  
10 ~~include in the application a statement affirming that the~~  
11 ~~director's relationship to the corporation satisfies the~~  
12 ~~requirements of this paragraph.~~

13 ~~(g) An application for license renewal must contain~~  
14 ~~the information required under paragraphs (e) and (f).~~

15 ~~(5) The applicant shall furnish satisfactory proof of~~  
16 ~~financial ability to operate and conduct the nursing home in~~  
17 ~~accordance with the requirements of this part and all rules~~  
18 ~~adopted under this part, and the agency shall establish~~  
19 ~~standards for this purpose, including information reported~~  
20 ~~under paragraph (2)(e). The agency also shall establish~~  
21 ~~documentation requirements, to be completed by each applicant,~~  
22 ~~that show anticipated facility revenues and expenditures, the~~  
23 ~~basis for financing the anticipated cash-flow requirements of~~  
24 ~~the facility, and an applicant's access to contingency~~  
25 ~~financing.~~

26 ~~(2)(6)~~ (6) If the applicant offers continuing care  
27 agreements as defined in chapter 651, proof shall be furnished  
28 that such applicant has obtained a certificate of authority as  
29 required for operation under that chapter.

30 ~~(3)(7)~~ (7) As a condition of licensure, each licensee,  
31 except one offering continuing care agreements as defined in

1 chapter 651, must agree to accept recipients of Title XIX of  
2 the Social Security Act on a temporary, emergency basis. The  
3 persons whom the agency may require such licensees to accept  
4 are those recipients of Title XIX of the Social Security Act  
5 who are residing in a facility in which existing conditions  
6 constitute an immediate danger to the health, safety, or  
7 security of the residents of the facility.

8 ~~(4)(8) The agency may not issue a license to a nursing~~  
9 ~~home that fails to receive a certificate of need under the~~  
10 ~~provisions of ss. 408.031-408.045.~~ It is the intent of the  
11 Legislature that, in reviewing a certificate-of-need  
12 application to add beds to an existing nursing home facility,  
13 preference be given to the application of a licensee who has  
14 been awarded a Gold Seal as provided for in s. 400.235, if the  
15 applicant otherwise meets the review criteria specified in s.  
16 408.035.

17 ~~(5)(9)~~ The agency may develop an abbreviated survey  
18 for licensure renewal applicable to a licensee that has  
19 continuously operated as a nursing facility since 1991 or  
20 earlier, has operated under the same management for at least  
21 the preceding 30 months, and has had during the preceding 30  
22 months no class I or class II deficiencies.

23 ~~(6)(10)~~ The agency may issue an inactive license to a  
24 nursing home that will be temporarily unable to provide  
25 services but that is reasonably expected to resume services.  
26 Such designation may be made for a period not to exceed 12  
27 months but may be renewed by the agency for up to 6 additional  
28 months upon demonstration by the licensee of the facility's  
29 progress toward reopening. Any request by a licensee that a  
30 nursing home become inactive or extend the inactive period  
31 must be submitted to the agency, accompanied by appropriate

1 licensure fees, and approved by the agency prior to initiating  
2 any suspension of service or notifying residents. The agency  
3 may not accept a request for an inactive license if the  
4 facility has initiated any suspension of services, notified  
5 residents, or initiated closure of the facility. Upon agency  
6 approval, the nursing home shall notify residents of any  
7 necessary discharge or transfer as provided in s. 400.0255.  
8 The end of the inactive period is the licensure expiration  
9 date and all licensure fees must be current, paid in full, and  
10 may be prorated. Reactivation of an inactive license requires  
11 the approval of a renewal application, including payment of  
12 licensure fees and inspections by the agency which indicate  
13 that all requirements of this part, ss. 408.801-408.819, and  
14 applicable rules have been met.

15 ~~(7)(11)~~ As a condition of licensure, each facility  
16 must establish and submit with its application a plan for  
17 quality assurance and for conducting risk management.

18 ~~(12) The applicant must provide the agency with proof~~  
19 ~~of a legal right to occupy the property before a license may~~  
20 ~~be issued. Proof may include, but is not limited to, copies of~~  
21 ~~warranty deeds, lease or rental agreements, contracts for~~  
22 ~~deeds, or quitclaim deeds.~~

23 Section 49. Section 400.102, Florida Statutes, is  
24 amended to read:

25 400.102 Action by agency against licensee; grounds.--

26 ~~(1)~~ Any of the following conditions shall be grounds  
27 for action by the agency against a licensee:

28 ~~(a) An intentional or negligent act materially~~  
29 ~~affecting the health or safety of residents of the facility;~~

30 (1)(b) Misappropriation or conversion of the property  
31 of a resident of the facility;

1           (2)~~(e)~~ Failure to follow the criteria and procedures  
2 provided under part I of chapter 394 relating to the  
3 transportation, voluntary admission, and involuntary  
4 examination of a nursing home resident or;

5           ~~(d) Violation of provisions of this part or rules~~  
6 ~~adopted under this part;~~

7           (3)~~(e)~~ Fraudulent altering, defacing, or falsifying  
8 any medical or nursing home records, or causing or procuring  
9 any of these offenses to be committed. ~~or~~

10           ~~(f) Any act constituting a ground upon which~~  
11 ~~application for a license may be denied.~~

12           ~~(2) If the agency has reasonable belief that any of~~  
13 ~~such conditions exist, it shall take the following action:~~

14           ~~(a) In the case of an applicant for original~~  
15 ~~licensure, denial action as provided in s. 400.121.~~

16           ~~(b) In the case of an applicant for relicensure or a~~  
17 ~~current licensee, administrative action as provided in s.~~  
18 ~~400.121 or injunctive action as authorized by s. 400.125.~~

19           ~~(c) In the case of a facility operating without a~~  
20 ~~license, injunctive action as authorized in s. 400.125.~~

21           Section 50. Section 400.111, Florida Statutes, is  
22 amended to read:

23           400.111 Renewal ~~Expiration~~ of license; ~~renewal~~.--

24           ~~(1) A license issued for the operation of a facility,~~  
25 ~~unless sooner suspended or revoked, shall expire on the date~~  
26 ~~set forth by the agency on the face of the license or 1 year~~  
27 ~~from the date of issuance, whichever occurs first. Ninety~~  
28 ~~days prior to the expiration date, an application for renewal~~  
29 ~~shall be submitted to the agency. A license shall be renewed~~  
30 ~~upon the filing of an application on forms furnished by the~~  
31 ~~agency if the applicant has first met the requirements~~

1 ~~established under this part and all rules adopted under this~~  
2 ~~part. The failure to file an application within the period~~  
3 ~~established in this subsection shall result in a late fee~~  
4 ~~charged to the licensee by the agency in an amount equal to 50~~  
5 ~~percent of the fee in effect on the last preceding regular~~  
6 ~~renewal date. A late fee shall be levied for each and every~~  
7 ~~day the filing of the license application is delayed, but in~~  
8 ~~no event shall such fine aggregate more than \$5,000. If an~~  
9 ~~application is received after the required filing date and~~  
10 ~~exhibits a hand-canceled postmark obtained from a United~~  
11 ~~States Post Office dated on or before the required filing~~  
12 ~~date, no fine will be levied.~~

13       ~~(2) A licensee against whom a revocation or suspension~~  
14 ~~proceeding, or any judicial proceeding instituted by the~~  
15 ~~agency under this part, is pending at the time of license~~  
16 ~~renewal may be issued a temporary license effective until~~  
17 ~~final disposition by the agency of such proceeding. If~~  
18 ~~judicial relief is sought from the aforesaid administrative~~  
19 ~~order, the court having jurisdiction may issue such orders~~  
20 ~~regarding the issuance of a temporary permit during the~~  
21 ~~pendency of the judicial proceeding.~~

22       ~~(3) The agency may not renew a license if the~~  
23 ~~applicant has failed to pay any fines assessed by final order~~  
24 ~~of the agency or final order of the Health Care Financing~~  
25 ~~Administration under requirements for federal certification.~~  
26 ~~The agency may renew the license of an applicant following the~~  
27 ~~assessment of a fine by final order if such fine has been paid~~  
28 ~~into an escrow account pending an appeal of a final order.~~

29       ~~(4) In addition to the requirements of ss.~~  
30 ~~408.801-408.819, the licensee shall submit a signed affidavit~~  
31 ~~disclosing any financial or ownership interest that a~~

1 controlling interest licensee has held within the last 5 years  
2 in any entity licensed by the state or any other state to  
3 provide health or residential care which entity has closed  
4 voluntarily or involuntarily; has filed for bankruptcy; has  
5 had a receiver appointed; has had a license denied, suspended,  
6 or revoked; or has had an injunction issued against it which  
7 was initiated by a regulatory agency. The affidavit must  
8 disclose the reason such entity was closed, whether  
9 voluntarily or involuntarily.

10 Section 51. Subsections (2) and (5) of section  
11 400.1183, Florida Statutes, are amended to read:

12 400.1183 Resident grievance procedures.--

13 (2) Each facility shall maintain records of all  
14 grievances and shall report ~~annually~~ to the agency at the time  
15 of relicensure the total number of grievances handled, a  
16 categorization of the cases underlying the grievances, and the  
17 final disposition of the grievances.

18 ~~(5) The agency may impose an administrative fine, in~~  
19 ~~accordance with s. 400.121, against a nursing home facility~~  
20 ~~for noncompliance with this section.~~

21 Section 52. Section 400.121, Florida Statutes, is  
22 amended to read:

23 400.121 ~~Denial, suspension, revocation of license;~~  
24 ~~moratorium on admissions; Administrative fines; procedure;~~  
25 ~~order to increase staffing.--~~

26 (1) The agency may ~~deny an application, revoke or~~  
27 ~~suspend a license, or~~ impose an administrative fine, not to  
28 exceed \$500 per violation per day, against any applicant or  
29 licensee for the following violations by the applicant,  
30 licensee, or other controlling interest:

31 (a) A violation of any provision of s. 400.102(1);

1           (b) A violation of any provision of this part, ss.  
2 408.801-408.819, or applicable rule; or A demonstrated pattern  
3 of deficient practice;

4           ~~(c) Failure to pay any outstanding fines assessed by~~  
5 ~~final order of the agency or final order of the Health Care~~  
6 ~~Financing Administration pursuant to requirements for federal~~  
7 ~~certification. The agency may renew or approve the license of~~  
8 ~~an applicant following the assessment of a fine by final order~~  
9 ~~if such fine has been paid into an escrow account pending an~~  
10 ~~appeal of a final order;~~

11           ~~(d) Exclusion from the Medicare or Medicaid program;~~  
12 ~~or~~

13           (b)(e) An adverse action by a regulatory agency  
14 against any other licensed facility that has a common  
15 controlling interest with the licensee or applicant against  
16 whom the action under this section is being brought. If the  
17 adverse action involves solely the management company, the  
18 applicant or licensee shall be given 30 days to remedy before  
19 final action is taken. If the adverse action is based solely  
20 upon actions by a controlling interest, the applicant or  
21 licensee may present factors in mitigation of any proposed  
22 penalty based upon a showing that such penalty is  
23 inappropriate under the circumstances.

24  
25 All hearings shall be held within the county in which the  
26 licensee or applicant operates or applies for a license to  
27 operate a facility as defined herein.

28           (2) Except as provided in s. 400.23(8), a \$500 fine  
29 shall be imposed for each violation. Each day a violation of  
30 this part occurs constitutes a separate violation and is  
31 subject to a separate fine, but in no event may any fine

1 aggregate more than \$5,000. A fine may be levied pursuant to  
2 this section in lieu of and notwithstanding the provisions of  
3 s. 400.23. Fines paid shall be deposited in the Resident  
4 Protection Trust Fund and expended as provided in s. 400.063.

5 (3) The agency shall revoke or deny a nursing home  
6 license if the licensee or controlling interest operates a  
7 facility in this state that:

8 (a) Has had two moratoria imposed by final order for  
9 substandard quality of care, as defined by 42 C.F.R. part 483,  
10 within any 30-month period;

11 (b) Is conditionally licensed for 180 or more  
12 continuous days;

13 (c) Is cited for two class I deficiencies arising from  
14 unrelated circumstances during the same survey or  
15 investigation; or

16 (d) Is cited for two class I deficiencies arising from  
17 separate surveys or investigations within a 30-month period.

18  
19 The licensee may present factors in mitigation of revocation,  
20 and the agency may make a determination not to revoke a  
21 license based upon a showing that revocation is inappropriate  
22 under the circumstances.

23 ~~(4) The agency may issue an order immediately~~  
24 ~~suspending or revoking a license when it determines that any~~  
25 ~~condition in the facility presents a danger to the health,~~  
26 ~~safety, or welfare of the residents in the facility.~~

27 ~~(5)(a) The agency may impose an immediate moratorium~~  
28 ~~on admissions to any facility when the agency determines that~~  
29 ~~any condition in the facility presents a threat to the health,~~  
30 ~~safety, or welfare of the residents in the facility.~~

31

1           (4)~~(b)~~ Where the agency has placed a moratorium ~~on~~  
2 ~~admissions~~ on any facility two times within a 7-year period,  
3 the agency may revoke ~~suspend~~ the license of the nursing home  
4 ~~and the facility's management company, if any. During the~~  
5 ~~suspension, the agency shall take the facility into~~  
6 ~~receivership and shall operate the facility.~~

7           (5)~~(6)~~ An action taken by the agency to deny, ~~suspend,~~  
8 or revoke a facility's license under this part shall be heard  
9 by the Division of Administrative Hearings of the Department  
10 of Management Services within 60 days after the assignment of  
11 an administrative law judge, unless the time limitation is  
12 waived by both parties. The administrative law judge must  
13 render a decision within 30 days after receipt of a proposed  
14 recommended order.

15           (6)~~(7)~~ The agency is authorized to require a facility  
16 to increase staffing beyond the minimum required by law, if  
17 the agency has taken administrative action against the  
18 facility for care-related deficiencies directly attributable  
19 to insufficient staff. Under such circumstances, the facility  
20 may request an expedited interim rate increase. The agency  
21 shall process the request within 10 days after receipt of all  
22 required documentation from the facility. A facility that  
23 fails to maintain the required increased staffing is subject  
24 to a fine of \$500 per day for each day the staffing is below  
25 the level required by the agency.

26           ~~(8) An administrative proceeding challenging an action~~  
27 ~~taken by the agency pursuant to this section shall be reviewed~~  
28 ~~on the basis of the facts and conditions that resulted in such~~  
29 ~~agency action.~~

30           (7)~~(9)~~ Notwithstanding any other provision of law to  
31 the contrary, agency action in an administrative proceeding

1 under this section may be overcome by the licensee upon a  
2 showing by a preponderance of the evidence to the contrary.

3 (8)~~(10)~~ In addition to any other sanction imposed  
4 under this part, in any final order that imposes sanctions,  
5 the agency may assess costs related to the investigation and  
6 prosecution of the case. Payment of agency costs shall be  
7 deposited into the Health Care Trust Fund.

8 Section 53. Section 400.125, Florida Statutes, is  
9 repealed.

10 Section 54. Subsections (14), (15), (16), and (20) of  
11 section 400.141, Florida Statutes, are amended to read:

12 400.141 Administration and management of nursing home  
13 facilities.--Every licensed facility shall comply with all  
14 applicable standards and rules of the agency and shall:

15 (14) Submit to the agency the information specified in  
16 s. 400.071(1)(a)~~s. 400.071(2)(e)~~ for a management company  
17 within 30 days after the effective date of the management  
18 agreement.

19 (15)(a) At the end of each calendar quarter, submit  
20 ~~semiannually to the agency, or more frequently if requested by~~  
21 ~~the agency,~~ information regarding facility staff-to-resident  
22 ratios, staff turnover, and staff stability, including  
23 information regarding certified nursing assistants, licensed  
24 nurses, the director of nursing, and the facility  
25 administrator. For purposes of this reporting:

26 1.(a) Staff-to-resident ratios must be reported in the  
27 categories specified in s. 400.23(3)(a) and applicable rules.  
28 The ratio must be reported as an average for the most recent  
29 calendar quarter.

30 2.(b) Staff turnover must be reported for the most  
31 recent 12-month period ending on the last workday of the most

1 recent calendar quarter prior to the date the information is  
2 submitted. The turnover rate must be computed quarterly, with  
3 the annual rate being the cumulative sum of the quarterly  
4 rates. The turnover rate is the total number of terminations  
5 or separations experienced during the quarter, excluding any  
6 employee terminated during a probationary period of 3 months  
7 or less, divided by the total number of staff employed at the  
8 end of the period for which the rate is computed, and  
9 expressed as a percentage.

10 3.~~(c)~~ The formula for determining staff stability is  
11 the total number of employees that have been employed for more  
12 than 12 months, divided by the total number of employees  
13 employed at the end of the most recent calendar quarter, and  
14 expressed as a percentage.

15 (b)~~(d)~~ A nursing facility that has failed to comply  
16 with state minimum-staffing requirements for 2 consecutive  
17 days is prohibited from accepting new admissions until the  
18 facility has achieved the minimum-staffing requirements for a  
19 period of 6 consecutive days. For the purposes of this  
20 paragraph, any person who was a resident of the facility and  
21 was absent from the facility for the purpose of receiving  
22 medical care at a separate location or was on a leave of  
23 absence is not considered a new admission. Failure to impose  
24 such an admissions moratorium constitutes a class II  
25 deficiency.

26 (c)~~(e)~~ A nursing facility that ~~which~~ does not have a  
27 conditional license may be cited for failure to comply with  
28 the standards in s. 400.23(3)(a) only if it has failed to meet  
29 those standards on 2 consecutive days or if it has failed to  
30 meet at least 97 percent of those standards on any one day.

31

1           (d)~~(f)~~ A facility that ~~which~~ has a conditional license  
2 must be in compliance with the standards in s. 400.23(3)(a) at  
3 all times from the effective date of the conditional license  
4 until the effective date of a subsequent standard license.

5  
6 Nothing in this section shall limit the agency's ability to  
7 impose a deficiency or take other actions if a facility does  
8 not have enough staff to meet the residents' needs.

9           (16) Report monthly the number of vacant beds in the  
10 facility which are available for resident occupancy on the  
11 last day of the month ~~information is reported.~~

12           (20) Maintain general and professional liability  
13 insurance coverage in accordance with ss. 408.801-408.819  
14 which ~~that~~ is in force at all times. In lieu of general and  
15 professional liability insurance coverage, a state-designated  
16 teaching nursing home and its affiliated assisted living  
17 facilities created under s. 430.80 may demonstrate proof of  
18 financial responsibility as provided in s. 430.80(3)(h); the  
19 exception provided in this paragraph shall expire July 1,  
20 2005.

21  
22 Facilities that have been awarded a Gold Seal under the  
23 program established in s. 400.235 may develop a plan to  
24 provide certified nursing assistant training as prescribed by  
25 federal regulations and state rules and may apply to the  
26 agency for approval of their program.

27           Section 55. Subsections (4) and (5) of section 400.17,  
28 Florida Statutes, are amended to read:

29           400.17 Bribes, kickbacks, certain solicitations  
30 prohibited.--

31

1           (4) Solicitation of contributions of any kind in a  
2 threatening, coercive, or unduly forceful manner by or on  
3 behalf of a nursing home by any agent, employee, owner, or  
4 representative of a nursing home shall be grounds for denial,  
5 ~~suspension~~, or revocation of the license for any nursing home  
6 on behalf of which such contributions were solicited.

7           (5) The admission, maintenance, or treatment of a  
8 nursing home resident whose care is supported in whole or in  
9 part by state funds may not be made conditional upon the  
10 receipt of any manner of contribution or donation from any  
11 person. However, this may not be construed to prohibit the  
12 offer or receipt of contributions or donations to a nursing  
13 home which are not related to the care of a specific resident.  
14 Contributions solicited or received in violation of this  
15 subsection shall be grounds for denial, ~~suspension~~, or  
16 revocation of a license for any nursing home on behalf of  
17 which such contributions were solicited.

18           Section 56. Section 400.179, Florida Statutes, is  
19 amended to read:

20           400.179 ~~Sale or transfer of ownership of a nursing~~  
21 ~~facility~~; Liability for Medicaid underpayments and  
22 overpayments.--

23           (1) It is the intent of the Legislature to protect the  
24 rights of nursing home residents and the security of public  
25 funds when a nursing facility is sold or the ownership is  
26 transferred.

27           ~~(2) Whenever a nursing facility is sold or the~~  
28 ~~ownership is transferred, including leasing, the transferee~~  
29 ~~shall make application to the agency for a new license at~~  
30 ~~least 90 days prior to the date of transfer of ownership.~~

31

1           ~~(3) The transferor shall notify the agency in writing~~  
2 ~~at least 90 days prior to the date of transfer of ownership.~~  
3 ~~The transferor shall be responsible and liable for the lawful~~  
4 ~~operation of the nursing facility and the welfare of the~~  
5 ~~residents domiciled in the facility until the date the~~  
6 ~~transferee is licensed by the agency. The transferor shall be~~  
7 ~~liable for any and all penalties imposed against the facility~~  
8 ~~for violations occurring prior to the date of transfer of~~  
9 ~~ownership.~~

10           ~~(4) The transferor shall, prior to transfer of~~  
11 ~~ownership, repay or make arrangements to repay to the agency~~  
12 ~~or the Department of Children and Family Services any amounts~~  
13 ~~owed to the agency or the department. Should the transferor~~  
14 ~~fail to repay or make arrangements to repay the amounts owed~~  
15 ~~to the agency or the department prior to the transfer of~~  
16 ~~ownership, the issuance of a license to the transferee shall~~  
17 ~~be delayed until repayment or until arrangements for repayment~~  
18 ~~are made.~~

19           (2)~~(5)~~ Because any transfer of a nursing facility may  
20 expose the fact that Medicaid may have underpaid or overpaid  
21 the transferor, and because in most instances, any such  
22 underpayment or overpayment can only be determined following a  
23 formal field audit, the liabilities for any such underpayments  
24 or overpayments shall be as follows:

25           (a) The Medicaid program shall be liable to the  
26 transferor for any underpayments owed during the transferor's  
27 period of operation of the facility.

28           (b) Without regard to whether the transferor had  
29 leased or owned the nursing facility, the transferor shall  
30 remain liable to the Medicaid program for all Medicaid  
31

1 overpayments received during the transferor's period of  
2 operation of the facility, regardless of when determined.

3 (c) Where the facility transfer takes any form of a  
4 sale of assets, in addition to the transferor's continuing  
5 liability for any such overpayments, if the transferor fails  
6 to meet these obligations, the transferee shall be liable for  
7 all liabilities that can be readily identifiable 90 days in  
8 advance of the transfer. Such liability shall continue in  
9 succession until the debt is ultimately paid or otherwise  
10 resolved. It shall be the burden of the transferee to  
11 determine the amount of all such readily identifiable  
12 overpayments from the Agency for Health Care Administration,  
13 and the agency shall cooperate in every way with the  
14 identification of such amounts. Readily identifiable  
15 overpayments shall include overpayments that will result from,  
16 but not be limited to:

- 17 1. Medicaid rate changes or adjustments;  
18 2. Any depreciation recapture;  
19 3. Any recapture of fair rental value system indexing;  
20 or  
21 4. Audits completed by the agency.

22  
23 The transferor shall remain liable for any such Medicaid  
24 overpayments that were not readily identifiable 90 days in  
25 advance of the nursing facility transfer.

26 (d) Where the transfer involves a facility that has  
27 been leased by the transferor:

- 28 1. The transferee shall, as a condition to being  
29 issued a license by the agency, acquire, maintain, and provide  
30 proof to the agency of a bond with a term of 30 months,  
31 renewable annually, in an amount not less than the total of 3

1 months Medicaid payments to the facility computed on the basis  
2 of the preceding 12-month average Medicaid payments to the  
3 facility.  
4         2. A leasehold licensee may meet the requirements of  
5 subparagraph 1. by payment of a nonrefundable fee, paid at  
6 initial licensure, paid at the time of any subsequent change  
7 of ownership, and paid at the time of any subsequent change of  
8 ownership, and paid annually thereafter ~~at the time of any~~  
9 ~~subsequent annual license renewal~~, in the amount of 2 percent  
10 of the total of 3 months' Medicaid payments to the facility  
11 computed on the basis of the preceding 12-month average  
12 Medicaid payments to the facility. If a preceding 12-month  
13 average is not available, projected Medicaid payments may be  
14 used. The fee shall be deposited into the Health Care Trust  
15 Fund and shall be accounted for separately as a Medicaid  
16 nursing home overpayment account. These fees shall be used at  
17 the sole discretion of the agency to repay nursing home  
18 Medicaid overpayments. Payment of this fee shall not release  
19 the licensee from any liability for any Medicaid overpayments,  
20 nor shall payment bar the agency from seeking to recoup  
21 overpayments from the licensee and any other liable party. As  
22 a condition of exercising this lease bond alternative,  
23 licensees paying this fee must maintain an existing lease bond  
24 through the end of the 30-month term period of that bond. The  
25 agency is herein granted specific authority to promulgate all  
26 rules pertaining to the administration and management of this  
27 account, including withdrawals from the account, subject to  
28 federal review and approval. This provision shall take effect  
29 upon becoming law and shall apply to any leasehold license  
30 application.  
31

1           a. The financial viability of the Medicaid nursing  
2 home overpayment account shall be determined by the agency  
3 through annual review of the account balance and the amount of  
4 total outstanding, unpaid Medicaid overpayments owing from  
5 leasehold licensees to the agency as determined by final  
6 agency audits.

7           b. The agency, in consultation with the Florida Health  
8 Care Association and the Florida Association of Homes for the  
9 Aging, shall study and make recommendations on the minimum  
10 amount to be held in reserve to protect against Medicaid  
11 overpayments to leasehold licensees and on the issue of  
12 successor liability for Medicaid overpayments upon sale or  
13 transfer of ownership of a nursing facility. The agency shall  
14 submit the findings and recommendations of the study to the  
15 Governor, the President of the Senate, and the Speaker of the  
16 House of Representatives by January 1, 2003.

17           3. The leasehold licensee may meet the bond  
18 requirement through other arrangements acceptable to the  
19 agency. The agency is herein granted specific authority to  
20 promulgate rules pertaining to lease bond arrangements.

21           4. All existing nursing facility licensees, operating  
22 the facility as a leasehold, shall acquire, maintain, and  
23 provide proof to the agency of the 30-month bond required in  
24 subparagraph 1., above, on and after July 1, 1993, for each  
25 license renewal.

26           5. It shall be the responsibility of all nursing  
27 facility operators, operating the facility as a leasehold, to  
28 renew the 30-month bond and to provide proof of such renewal  
29 to the agency annually ~~at the time of application for license~~  
30 ~~renewal.~~

31

1           6. Any failure of the nursing facility licensee  
2 ~~operator~~ to acquire, maintain, renew annually, or provide  
3 proof to the agency shall be grounds for the agency to deny  
4 ~~or, cancel, revoke, or suspend~~ the facility license to operate  
5 such facility and to take any further action, including, but  
6 not limited to, enjoining the facility, asserting a moratorium  
7 pursuant to ss. 408.801-408.819, or applying for a receiver,  
8 deemed necessary to ensure compliance with this section and to  
9 safeguard and protect the health, safety, and welfare of the  
10 facility's residents. A lease agreement required as a  
11 condition of bond financing or refinancing under s. 154.213 by  
12 a health facilities authority or required under s. 159.30 by a  
13 county or municipality is not a leasehold for purposes of this  
14 paragraph and is not subject to the bond requirement of this  
15 paragraph.

16           Section 57. Subsections (1) and (4) of section 400.18,  
17 Florida Statutes, are amended to read:

18           400.18 Closing of nursing facility.--

19           (1) ~~Whenever a licensee voluntarily discontinues~~  
20 ~~operation, and during the period when it is preparing for such~~  
21 ~~discontinuance, it shall inform the agency not less than 90~~  
22 ~~days prior to the discontinuance of operation.~~The licensee  
23 ~~also~~ shall inform the resident or the next of kin, legal  
24 representative, or agency acting on behalf of the resident of  
25 the fact, and the proposed time, of ~~such~~ such discontinuance of  
26 operation and give at least 90 days' notice so that suitable  
27 arrangements may be made for the transfer and care of the  
28 resident. In the event any resident has no such person to  
29 represent him or her, the licensee shall be responsible for  
30 securing a suitable transfer of the resident before the  
31 discontinuance of operation. The agency shall be responsible

1 for arranging for the transfer of those residents requiring  
2 transfer who are receiving assistance under the Medicaid  
3 program.

4 ~~(4) Immediately upon discontinuance of operation of a~~  
5 ~~facility, the licensee shall surrender the license therefor to~~  
6 ~~the agency, and the license shall be canceled.~~

7 Section 58. Subsections (1), (2), and (3) of section  
8 400.19, Florida Statutes, are amended to read:

9 400.19 Right of entry and inspection.--

10 (1) In accordance with ss. 408.801-408.819,the agency  
11 and any duly designated officer or employee thereof or a  
12 member of the State Long-Term Care Ombudsman Council or the  
13 local long-term care ombudsman council shall have the right to  
14 enter upon and into the premises of any facility licensed  
15 pursuant to this part, or any distinct nursing home unit of a  
16 hospital licensed under chapter 395 or any freestanding  
17 facility licensed under chapter 395 that provides extended  
18 care or other long-term care services, at any reasonable time  
19 in order to determine the state of compliance with the  
20 provisions of this part and rules in force pursuant thereto.  
21 ~~The right of entry and inspection shall also extend to any~~  
22 ~~premises which the agency has reason to believe is being~~  
23 ~~operated or maintained as a facility without a license, but no~~  
24 ~~such entry or inspection of any premises shall be made without~~  
25 ~~the permission of the owner or person in charge thereof,~~  
26 ~~unless a warrant is first obtained from the circuit court~~  
27 ~~authorizing same. Any application for a facility license or~~  
28 ~~renewal thereof, made pursuant to this part, shall constitute~~  
29 ~~permission for and complete acquiescence in any entry or~~  
30 ~~inspection of the premises for which the license is sought, in~~  
31 ~~order to facilitate verification of the information submitted~~

1 ~~on or in connection with the application; to discover,~~  
2 ~~investigate, and determine the existence of abuse or neglect;~~  
3 ~~or to elicit, receive, respond to, and resolve complaints.~~ The  
4 agency shall, within 60 days after receipt of a complaint made  
5 by a resident or resident's representative, complete its  
6 investigation and provide to the complainant its findings and  
7 resolution.

8 (2) The agency shall coordinate nursing home facility  
9 licensing activities and responsibilities of any duly  
10 designated officer or employee involved in nursing home  
11 facility inspection to assure necessary, equitable, and  
12 consistent supervision of inspection personnel without  
13 unnecessary duplication of inspections, consultation services,  
14 or complaint investigations. ~~To facilitate such coordination,~~  
15 ~~all rules promulgated by the agency pursuant to this part~~  
16 ~~shall be distributed to nursing homes licensed under s.~~  
17 ~~400.062 30 days prior to implementation. This requirement~~  
18 ~~does not apply to emergency rules.~~

19 (3) The agency shall every 15 months conduct at least  
20 one unannounced inspection to determine compliance by the  
21 licensee with statutes, and with rules promulgated under the  
22 provisions of those statutes, governing minimum standards of  
23 construction, quality and adequacy of care, and rights of  
24 residents. The survey shall be conducted every 6 months for  
25 the next 2-year period if the facility has been cited for a  
26 class I deficiency, has been cited for two or more class II  
27 deficiencies arising from separate surveys or investigations  
28 within a 60-day period, or has had three or more substantiated  
29 complaints within a 6-month period, each resulting in at least  
30 one class I or class II deficiency. In addition to any other  
31 fees or fines in this part, the agency shall assess a fine for

1 each facility that is subject to the 6-month survey cycle. The  
2 fine for the 2-year period shall be \$6,000, ~~one-half to be~~  
3 ~~paid at the completion of each survey.~~ The agency may adjust  
4 this fine by the change in the Consumer Price Index, based on  
5 the 12 months immediately preceding the increase, to cover the  
6 cost of the additional surveys. The agency shall verify  
7 through subsequent inspection that any deficiency identified  
8 during ~~the annual~~ inspection is corrected. However, the  
9 agency may verify the correction of a ~~class III or~~ class IV  
10 deficiency unrelated to resident rights or resident care  
11 without reinspecting the facility if adequate written  
12 documentation has been received from the facility, which  
13 provides assurance that the deficiency has been corrected. The  
14 giving or causing to be given of advance notice of such  
15 unannounced inspections by an employee of the agency to any  
16 unauthorized person shall constitute cause for suspension of  
17 not fewer than 5 working days according to the provisions of  
18 chapter 110.

19 Section 59. Section 400.191, Florida Statutes, is  
20 amended to read:

21 400.191 Availability, distribution, and posting of  
22 reports and records.--

23 (1) The agency shall provide information to the public  
24 about all of the licensed nursing home facilities operating in  
25 the state. The agency shall, within 60 days after an ~~annual~~  
26 inspection visit or within 30 days after any interim visit to  
27 a facility, send copies of the inspection reports to the local  
28 long-term care ombudsman council, the agency's local office,  
29 and a public library or the county seat for the county in  
30 which the facility is located. The agency may provide

31

1 electronic access to inspection reports as a substitute for  
2 sending copies.

3 (2) The agency shall publish the Guide to Nursing  
4 Homes in Florida ~~provide additional information~~ in  
5 consumer-friendly printed and electronic formats to assist  
6 consumers and their families in comparing and evaluating  
7 nursing home facilities.

8 (a) The agency shall provide an Internet site which  
9 shall include at least the following information either  
10 directly or indirectly through a link to another established  
11 site or sites of the agency's choosing:

12 1. A list by name and address of all nursing home  
13 facilities in this state, including any prior name a facility  
14 was known by during the previous 12-month period.

15 2. Whether such nursing home facilities are  
16 proprietary or nonproprietary.

17 3. The current owner of the facility's license and the  
18 year that that entity became the owner of the license.

19 4. The name of the owner or owners of each facility  
20 and whether the facility is affiliated with a company or other  
21 organization owning or managing more than one nursing facility  
22 in this state.

23 5. The total number of beds in each facility and the  
24 most recently available occupancy levels.

25 6. The number of private and semiprivate rooms in each  
26 facility.

27 7. The religious affiliation, if any, of each  
28 facility.

29 8. The languages spoken by the administrator and staff  
30 of each facility.

31

1           9. Whether or not each facility accepts Medicare or  
2 Medicaid recipients or insurance, health maintenance  
3 organization, Veterans Administration, CHAMPUS program, or  
4 workers' compensation coverage.

5           10. Recreational and other programs available at each  
6 facility.

7           11. Special care units or programs offered at each  
8 facility.

9           12. Whether the facility is a part of a retirement  
10 community that offers other services pursuant to part III,  
11 part IV, or part V.

12           13. Survey and deficiency information contained on the  
13 Online Survey Certification and Reporting (OSCAR) system of  
14 the federal Centers for Medicare and Medicaid Services ~~Health~~  
15 ~~Care Financing Administration~~, including recertification  
16 ~~annual~~ survey, revisit, and complaint survey information, for  
17 each facility for the past 30 ~~45~~ months. For noncertified  
18 nursing homes, state survey and deficiency information,  
19 including licensure ~~annual~~ survey, revisit, and complaint  
20 survey information for the past 30 ~~45~~ months shall be  
21 provided.

22           14. A summary of the Online Survey Certification and  
23 Reporting (OSCAR) data for each facility over the past 30 ~~45~~  
24 months. Such summary may include a score, rating, or  
25 comparison ranking with respect to other facilities based on  
26 the number of citations received by the facility of  
27 recertification ~~annual~~, revisit, and complaint surveys; the  
28 severity and scope of the citations; and the number of ~~annual~~  
29 recertification surveys the facility has had during the past  
30 30 ~~45~~ months. The score, rating, or comparison ranking may be  
31

1 presented in either numeric or symbolic form for the intended  
2 consumer audience.

3 (b) The agency shall provide the following information  
4 in printed form:

5 1. A list by name and address of all nursing home  
6 facilities in this state.

7 2. Whether such nursing home facilities are  
8 proprietary or nonproprietary.

9 3. The current owner or owners of the facility's  
10 license and the year that entity became the owner of the  
11 license.

12 4. The total number of beds, and of private and  
13 semiprivate rooms, in each facility.

14 5. The religious affiliation, if any, of each  
15 facility.

16 6. The name of the owner of each facility and whether  
17 the facility is affiliated with a company or other  
18 organization owning or managing more than one nursing facility  
19 in this state.

20 7. The languages spoken by the administrator and staff  
21 of each facility.

22 8. Whether or not each facility accepts Medicare or  
23 Medicaid recipients or insurance, health maintenance  
24 organization, Veterans Administration, CHAMPUS program, or  
25 workers' compensation coverage.

26 9. Recreational programs, special care units, and  
27 other programs available at each facility.

28 10. The Internet address for the site where more  
29 detailed information can be seen.

30  
31

1           11. A statement advising consumers that each facility  
2 will have its own policies and procedures related to  
3 protecting resident property.

4           12. A summary of the Online Survey Certification and  
5 Reporting (OSCAR) data for each facility over the past 30 ~~45~~  
6 months. Such summary may include a score, rating, or  
7 comparison ranking with respect to other facilities based on  
8 the number of citations received by the facility on  
9 recertification ~~annual~~, revisit, and complaint surveys; the  
10 severity and scope of the citations; the number of citations;  
11 and the number of ~~annual~~ recertification surveys the facility  
12 has had during the past 30 ~~45~~ months. The score, rating, or  
13 comparison ranking may be presented in either numeric or  
14 symbolic form for the intended consumer audience.

15           (c) For purposes of this subsection, references to the  
16 Online Survey Certification and Reporting (OSCAR) system shall  
17 refer to any future system that the Centers for Medicare and  
18 Medicaid Services ~~Health Care Financing Administration~~  
19 develops to replace the current OSCAR system.

20           (d) The agency may provide the following additional  
21 information on an Internet site or in printed form as the  
22 information becomes available:

23           1. The licensure status history of each facility.

24           2. The rating history of each facility.

25           3. The regulatory history of each facility, which may  
26 include federal sanctions, state sanctions, federal fines,  
27 state fines, and other actions.

28           4. Whether the facility currently possesses the Gold  
29 Seal designation awarded pursuant to s. 400.235.

30           5. Internet links to the Internet sites of the  
31 facilities or their affiliates.

1           (3) Each nursing home facility licensee shall maintain  
2 as public information, available upon request, records of all  
3 cost and inspection reports pertaining to that facility that  
4 have been filed with, or issued by, any governmental agency.  
5 Copies of such reports shall be retained in such records for  
6 not less than 5 years from the date the reports are filed or  
7 issued.

8           (a) The agency shall quarterly publish in the Guide to  
9 Nursing Homes in Florida a "Nursing Home Guide Watch List" to  
10 assist consumers in evaluating the quality of nursing home  
11 care in Florida. The watch list must identify each facility  
12 that met the criteria for a conditional licensure status on  
13 any day within the quarter covered by the list and each  
14 facility that was operating under bankruptcy protection on any  
15 day within the quarter. The watch list must include, but is  
16 not limited to, the facility's name, address, and ownership;  
17 the county in which the facility operates; the license  
18 expiration date; the number of licensed beds; a description of  
19 the deficiency causing the facility to be placed on the list;  
20 any corrective action taken; and the cumulative number of days  
21 ~~times~~ the facility had a conditional license since the initial  
22 publication of the ~~has been on a~~ watch list. The watch list  
23 must include a brief description regarding how to choose a  
24 nursing home, the categories of licensure, the agency's  
25 inspection process, an explanation of terms used in the watch  
26 list, and the addresses and phone numbers of the agency's  
27 ~~managed care and~~ health quality assurance field ~~area~~ offices.

28           (b) Upon publication of each quarterly Guide to  
29 Nursing Homes in Florida ~~watch list~~, the agency must transmit  
30 a copy of all pages listing the facility ~~the watch list~~ to  
31

1 each nursing home facility ~~by mail and must make the watch~~  
2 ~~list available on the agency's Internet website.~~

3 (4) Any records of a nursing home facility determined  
4 by the agency to be necessary and essential to establish  
5 lawful compliance with any rules or standards shall be made  
6 available to the agency on the premises of the facility and  
7 submitted to the agency. Each facility must submit this  
8 information electronically when electronic transmission to the  
9 agency is available.

10 (5) Every nursing home facility licensee shall:

11 (a) Post, in a sufficient number of prominent  
12 positions in the nursing home so as to be accessible to all  
13 residents and to the general public:

14 1. A concise summary of the last inspection report  
15 pertaining to the nursing home and issued by the agency, with  
16 references to the page numbers of the full reports, noting any  
17 deficiencies found by the agency and the actions taken by the  
18 licensee to rectify such deficiencies and indicating in such  
19 summaries where the full reports may be inspected in the  
20 nursing home.

21 2. A copy of the most recent version of all pages  
22 listing the facility in the Guide to Nursing Homes in Florida  
23 ~~the Florida Nursing Home Guide Watch List.~~

24 (b) Upon request, provide to any person who has  
25 completed a written application with an intent to be admitted  
26 to, or to any resident of, such nursing home, or to any  
27 relative, spouse, or guardian of such person, a copy of the  
28 last inspection report pertaining to the nursing home and  
29 issued by the agency, provided the person requesting the  
30 report agrees to pay a reasonable charge to cover copying  
31 costs.

1           (6) The agency may adopt rules as necessary to  
2 administer this section.

3           Section 60. Section 400.20, Florida Statutes, is  
4 amended to read:

5           400.20 Licensed nursing home administrator  
6 required.--A ~~No~~ nursing home may not ~~shall~~ operate except  
7 under the supervision of a licensed nursing home  
8 administrator, and a ~~no~~ person may not ~~shall~~ be a nursing home  
9 administrator unless he or she holds ~~is the holder of~~ a  
10 current license as provided in chapter 468. A change of the  
11 nursing home administrator must be reported to the agency  
12 within 30 days.

13           Section 61. Subsection (4) of section 400.211, Florida  
14 Statutes, is amended to read:

15           400.211 Persons employed as nursing assistants;  
16 certification requirement.--

17           (4) When employed by a nursing home facility for a  
18 12-month period or longer, a nursing assistant, to maintain  
19 certification, shall submit to a performance review every 12  
20 months and must receive regular inservice education based on  
21 the outcome of such reviews. The inservice training must:

22           (a) Be sufficient to ensure the continuing competence  
23 of nursing assistants and be in accordance with s. 464.203(7),  
24 ~~must be at least 18 hours per year, and may include hours~~  
25 ~~accrued under s. 464.203(8);~~

26           (b) Include, at a minimum:

27           1. Techniques for assisting with eating and proper  
28 feeding;

29           2. Principles of adequate nutrition and hydration;  
30  
31

1           3. Techniques for assisting and responding to the  
2 cognitively impaired resident or the resident with difficult  
3 behaviors;

4           4. Techniques for caring for the resident at the  
5 end-of-life; and

6           5. Recognizing changes that place a resident at risk  
7 for pressure ulcers and falls; and

8           (c) Address areas of weakness as determined in nursing  
9 assistant performance reviews and may address the special  
10 needs of residents as determined by the nursing home facility  
11 staff.

12  
13 Costs associated with this training may not be reimbursed from  
14 additional Medicaid funding through interim rate adjustments.

15           Section 62. Subsections (2), (7), and (8) of section  
16 400.23, Florida Statutes, are amended to read:

17           400.23 Rules; evaluation and deficiencies; licensure  
18 status.--

19           (2) Pursuant to the intention of the Legislature, the  
20 agency, in consultation with the Department of Health and the  
21 Department of Elderly Affairs, shall adopt and enforce rules  
22 to implement this part and ss. 408.801-408.819, which shall  
23 include reasonable and fair criteria in relation to:

24           (a) The location of the facility and housing  
25 conditions that will ensure the health, safety, and comfort of  
26 residents, including an adequate call system. In making such  
27 rules, the agency shall be guided by criteria recommended by  
28 nationally recognized reputable professional groups and  
29 associations with knowledge of such subject matters. The  
30 agency shall update or revise such criteria as the need  
31 arises. The agency may require alterations to a building if it

1 determines that an existing condition constitutes a distinct  
2 hazard to life, health, or safety. In performing any  
3 inspections of facilities authorized by this part, the agency  
4 may enforce the special-occupancy provisions of the Florida  
5 Building Code and the Florida Fire Prevention Code which apply  
6 to nursing homes. The agency is directed to provide assistance  
7 to the Florida Building Commission in updating the  
8 construction standards of the code relative to nursing homes.

9 (b) The number and qualifications of all personnel,  
10 including management, medical, nursing, and other professional  
11 personnel, and nursing assistants, orderlies, and support  
12 personnel, having responsibility for any part of the care  
13 given residents.

14 (c) All sanitary conditions within the facility and  
15 its surroundings, including water supply, sewage disposal,  
16 food handling, and general hygiene which will ensure the  
17 health and comfort of residents.

18 (d) The equipment essential to the health and welfare  
19 of the residents.

20 (e) A uniform accounting system.

21 (f) The care, treatment, and maintenance of residents  
22 and measurement of the quality and adequacy thereof, based on  
23 rules developed under this chapter and the Omnibus Budget  
24 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
25 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
26 Programs), Subtitle C (Nursing Home Reform), as amended.

27 (g) The preparation and annual update of a  
28 comprehensive emergency management plan. The agency shall  
29 adopt rules establishing minimum criteria for the plan after  
30 consultation with the Department of Community Affairs. At a  
31 minimum, the rules must provide for plan components that

1 address emergency evacuation transportation; adequate  
2 sheltering arrangements; postdisaster activities, including  
3 emergency power, food, and water; postdisaster transportation;  
4 supplies; staffing; emergency equipment; individual  
5 identification of residents and transfer of records; and  
6 responding to family inquiries. The comprehensive emergency  
7 management plan is subject to review and approval by the local  
8 emergency management agency. During its review, the local  
9 emergency management agency shall ensure that the following  
10 agencies, at a minimum, are given the opportunity to review  
11 the plan: the Department of Elderly Affairs, the Department  
12 of Health, the Agency for Health Care Administration, and the  
13 Department of Community Affairs. Also, appropriate volunteer  
14 organizations must be given the opportunity to review the  
15 plan. The local emergency management agency shall complete  
16 its review within 60 days and either approve the plan or  
17 advise the facility of necessary revisions.

18 (h) The availability, distribution, and posting of  
19 reports and records pursuant to s. 400.191 and the Gold Seal  
20 Program pursuant to s. 400.235.

21 (7) The agency shall, at least every 15 months,  
22 evaluate all nursing home facilities and make a determination  
23 as to the degree of compliance by each licensee with the  
24 established rules adopted under this part as a basis for  
25 assigning a licensure status to that facility. The agency  
26 shall base its evaluation on the most recent inspection  
27 report, taking into consideration findings from other official  
28 reports, surveys, interviews, investigations, and inspections.  
29 The agency shall assign a licensure status of standard or  
30 conditional to each nursing home.

31

1           (a) A standard licensure status means that a facility  
2 has no class I or class II deficiencies and has corrected all  
3 class III deficiencies within the time established by the  
4 agency.

5           (b) A conditional licensure status means that a  
6 facility, due to the presence of one or more class I or class  
7 II deficiencies, or class III deficiencies not corrected  
8 within the time established by the agency, is not in  
9 substantial compliance at the time of the survey with criteria  
10 established under this part or with rules adopted by the  
11 agency. If the facility has no class I, class II, or class  
12 III deficiencies at the time of the followup survey, a  
13 standard licensure status may be assigned.

14           (c) In evaluating the overall quality of care and  
15 services and determining whether the facility will receive a  
16 conditional or standard license, the agency shall consider the  
17 needs and limitations of residents in the facility and the  
18 results of interviews and surveys of a representative sampling  
19 of residents, families of residents, ombudsman council members  
20 in the planning and service area in which the facility is  
21 located, guardians of residents, and staff of the nursing home  
22 facility.

23           (d) The current licensure status of each facility must  
24 be indicated in bold print on the face of the license. A list  
25 of the deficiencies of the facility shall be posted in a  
26 prominent place that is in clear and unobstructed public view  
27 at or near the place where residents are being admitted to  
28 that facility. Licensees receiving a conditional licensure  
29 status for a facility shall prepare, within 10 working days  
30 after receiving notice of deficiencies, a plan for correction  
31

1 of all deficiencies and shall submit the plan to the agency  
2 for approval.

3 ~~(e) Each licensee shall post its license in a~~  
4 ~~prominent place that is in clear and unobstructed public view~~  
5 ~~at or near the place where residents are being admitted to the~~  
6 ~~facility.~~

7 (e)(f) The agency shall adopt rules that:

8 1. Establish uniform procedures for the evaluation of  
9 facilities.

10 2. Provide criteria in the areas referenced in  
11 paragraph (c).

12 3. Address other areas necessary for carrying out the  
13 intent of this section.

14 (8) The agency shall adopt rules pursuant to this part  
15 and ss. 408.801-408.819 to provide that, when the criteria  
16 established under subsection (2) are not met, such  
17 deficiencies shall be classified according to the nature and  
18 the scope of the deficiency. The scope shall be cited as  
19 isolated, patterned, or widespread. An isolated deficiency is  
20 a deficiency affecting one or a very limited number of  
21 residents, or involving one or a very limited number of staff,  
22 or a situation that occurred only occasionally or in a very  
23 limited number of locations. A patterned deficiency is a  
24 deficiency where more than a very limited number of residents  
25 are affected, or more than a very limited number of staff are  
26 involved, or the situation has occurred in several locations,  
27 or the same resident or residents have been affected by  
28 repeated occurrences of the same deficient practice but the  
29 effect of the deficient practice is not found to be pervasive  
30 throughout the facility. A widespread deficiency is a  
31 deficiency in which the problems causing the deficiency are

1 pervasive in the facility or represent systemic failure that  
2 has affected or has the potential to affect a large portion of  
3 the facility's residents. The agency shall indicate the  
4 classification on the face of the notice of deficiencies as  
5 follows:

6 (a) A class I deficiency is a deficiency that the  
7 agency determines presents a situation in which immediate  
8 corrective action is necessary because the facility's  
9 noncompliance has caused, or is likely to cause, serious  
10 injury, harm, impairment, or death to a resident receiving  
11 care in a facility. The condition or practice constituting a  
12 class I violation shall be abated or eliminated immediately,  
13 unless a fixed period of time, as determined by the agency, is  
14 required for correction. A class I deficiency is subject to a  
15 civil penalty of \$10,000 for an isolated deficiency, \$12,500  
16 for a patterned deficiency, and \$15,000 for a widespread  
17 deficiency. The fine amount shall be doubled for each  
18 deficiency if the facility was previously cited for one or  
19 more class I or class II deficiencies during the last  
20 licensure ~~annual~~ inspection or any inspection or complaint  
21 investigation since the last licensure ~~annual~~ inspection. A  
22 fine must be levied notwithstanding the correction of the  
23 deficiency.

24 (b) A class II deficiency is a deficiency that the  
25 agency determines has compromised the resident's ability to  
26 maintain or reach his or her highest practicable physical,  
27 mental, and psychosocial well-being, as defined by an accurate  
28 and comprehensive resident assessment, plan of care, and  
29 provision of services. A class II deficiency is subject to a  
30 civil penalty of \$2,500 for an isolated deficiency, \$5,000 for  
31 a patterned deficiency, and \$7,500 for a widespread

1 deficiency. The fine amount shall be doubled for each  
2 deficiency if the facility was previously cited for one or  
3 more class I or class II deficiencies during the last  
4 licensure ~~annual~~ inspection or any inspection or complaint  
5 investigation since the last licensure ~~annual~~ inspection. A  
6 fine shall be levied notwithstanding the correction of the  
7 deficiency.

8 (c) A class III deficiency is a deficiency that the  
9 agency determines will result in no more than minimal  
10 physical, mental, or psychosocial discomfort to the resident  
11 or has the potential to compromise the resident's ability to  
12 maintain or reach his or her highest practical physical,  
13 mental, or psychosocial well-being, as defined by an accurate  
14 and comprehensive resident assessment, plan of care, and  
15 provision of services. A class III deficiency is subject to a  
16 civil penalty of \$1,000 for an isolated deficiency, \$2,000 for  
17 a patterned deficiency, and \$3,000 for a widespread  
18 deficiency. The fine amount shall be doubled for each  
19 deficiency if the facility was previously cited for one or  
20 more class I or class II deficiencies during the last  
21 licensure ~~annual~~ inspection or any inspection or complaint  
22 investigation since the last licensure ~~annual~~ inspection. A  
23 citation for a class III deficiency must specify the time  
24 within which the deficiency is required to be corrected. If a  
25 class III deficiency is corrected within the time specified,  
26 no civil penalty shall be imposed.

27 (d) A class IV deficiency is a deficiency that the  
28 agency determines has the potential for causing no more than a  
29 minor negative impact on the resident. If the class IV  
30 deficiency is isolated, no plan of correction is required.

31

1           Section 63. Subsections (1) and (2) of section  
2 400.241, Florida Statutes, are repealed.

3           Section 64. Subsection (5) of section 400.402, Florida  
4 Statutes, is repealed and present subsections (12), (14), and  
5 (17) of that section are redesignated as subsections (11),  
6 (13), and (16), respectively, and amended to read:

7           400.402 Definitions.--When used in this part, the  
8 term:

9           ~~(5) "Applicant" means an individual owner,~~  
10 ~~corporation, partnership, firm, association, or governmental~~  
11 ~~entity that applies for a license.~~

12           (11)~~(12)~~ "Extended congregate care" means acts beyond  
13 those authorized in subsection(16)~~(17)~~that may be performed  
14 pursuant to part I of chapter 464 by persons licensed  
15 thereunder while carrying out their professional duties, and  
16 other supportive services which may be specified by rule. The  
17 purpose of such services is to enable residents to age in  
18 place in a residential environment despite mental or physical  
19 limitations that might otherwise disqualify them from  
20 residency in a facility licensed under this part.

21           (13)~~(14)~~ "Limited nursing services" means acts that  
22 may be performed pursuant to part I of chapter 464 by persons  
23 licensed thereunder while carrying out their professional  
24 duties but limited to those acts which the agency ~~department~~  
25 specifies by rule. Acts which may be specified by rule as  
26 allowable limited nursing services shall be for persons who  
27 meet the admission criteria established by the agency  
28 ~~department~~ for assisted living facilities and shall not be  
29 complex enough to require 24-hour nursing supervision and may  
30 include such services as the application and care of routine  
31 dressings, and care of casts, braces, and splints.

1            ~~(16)(17)~~ "Personal services" means direct physical  
2 assistance with or supervision of the activities of daily  
3 living and the self-administration of medication and other  
4 similar services which the agency ~~department~~ may define by  
5 rule. "Personal services" shall not be construed to mean the  
6 provision of medical, nursing, dental, or mental health  
7 services.

8            Section 65. Section 400.407, Florida Statutes, is  
9 amended to read:

10            400.407 License required; fee, display.--

11            (1) The requirements of ss. 408.801-408.819 apply to  
12 the provision of services that necessitate licensure pursuant  
13 this part and ss. 408.801-408.819 and to entities licensed by  
14 or applying for such licensure from the Agency for Health Care  
15 Administration pursuant to this part. ~~A license issued by the~~  
16 ~~agency is required for an assisted living facility operating~~  
17 ~~in this state.~~

18            (2) Separate licenses shall be required for facilities  
19 maintained in separate premises, even though operated under  
20 the same management. A separate license shall not be required  
21 for separate buildings on the same grounds.

22            (3) In addition to the requirements of s. 408.806,  
23 each ~~any~~ license granted by the agency must state ~~the maximum~~  
24 ~~resident capacity of the facility,~~ the type of care for which  
25 the license is granted, ~~the date the license is issued, the~~  
26 ~~expiration date of the license, and any other information~~  
27 ~~deemed necessary by the agency.~~ Licenses shall be issued for  
28 one or more of the following categories of care: standard,  
29 extended congregate care, limited nursing services, or limited  
30 mental health.

31

1 (a) A standard license shall be issued to facilities  
2 providing one or more of the personal services identified in  
3 s. 400.402. Such facilities may also employ or contract with a  
4 person licensed under part I of chapter 464 to administer  
5 medications and perform other tasks as specified in s.  
6 400.4255.

7 (b) An extended congregate care license shall be  
8 issued to facilities providing, directly or through contract,  
9 services beyond those authorized in paragraph (a), including  
10 acts performed pursuant to part I of chapter 464 by persons  
11 licensed thereunder, and supportive services defined by rule  
12 to persons who otherwise would be disqualified from continued  
13 residence in a facility licensed under this part.

14 1. In order for extended congregate care services to  
15 be provided in a facility licensed under this part, the agency  
16 must first determine that all requirements established in law  
17 and rule are met and must specifically designate, on the  
18 facility's license, that such services may be provided and  
19 whether the designation applies to all or part of a facility.  
20 Such designation may be made at the time of initial licensure  
21 or relicensure, or upon request in writing by a licensee under  
22 this part pursuant to s. 408.806. Notification of approval or  
23 denial of such request shall be made in accordance with ss.  
24 408.801-408.819 ~~within 90 days after receipt of such request~~  
25 ~~and all necessary documentation~~. Existing facilities  
26 qualifying to provide extended congregate care services must  
27 have maintained a standard license and may not have been  
28 subject to administrative sanctions during the previous 2  
29 years, or since initial licensure if the facility has been  
30 licensed for less than 2 years, for any of the following  
31 reasons:

1           a. A class I or class II violation;

2           b. Three or more repeat or recurring class III

3 violations of identical or similar resident care standards as

4 specified in rule from which a pattern of noncompliance is

5 found by the agency;

6           c. Three or more class III violations that were not

7 corrected in accordance with the corrective action plan

8 approved by the agency;

9           d. Violation of resident care standards resulting in a

10 requirement to employ the services of a consultant pharmacist

11 or consultant dietitian;

12           e. Denial, ~~suspension~~, or revocation of a license for

13 another facility under this part in which the applicant for an

14 extended congregate care license has at least 25 percent

15 ownership interest; or

16           f. Imposition of a moratorium ~~on admissions~~ or

17 initiation of injunctive proceedings.

18           2. Facilities that are licensed to provide extended

19 congregate care services shall maintain a written progress

20 report on each person who receives such services, which report

21 describes the type, amount, duration, scope, and outcome of

22 services that are rendered and the general status of the

23 resident's health. A registered nurse, or appropriate

24 designee, representing the agency shall visit such facilities

25 at least quarterly to monitor residents who are receiving

26 extended congregate care services and to determine if the

27 facility is in compliance with this part, ss. 408.801-408.819,

28 and ~~with~~ rules that relate to extended congregate care. One of

29 these visits may be in conjunction with the regular survey.

30 The monitoring visits may be provided through contractual

31 arrangements with appropriate community agencies. A

1 registered nurse shall serve as part of the team that inspects  
2 such facility. The agency may waive one of the required yearly  
3 monitoring visits for a facility that has been licensed for at  
4 least 24 months to provide extended congregate care services,  
5 if, during the inspection, the registered nurse determines  
6 that extended congregate care services are being provided  
7 appropriately, and if the facility has no class I or class II  
8 violations and no uncorrected class III violations. Before  
9 such decision is made, the agency shall consult with the  
10 long-term care ombudsman council for the area in which the  
11 facility is located to determine if any complaints have been  
12 made and substantiated about the quality of services or care.  
13 The agency may not waive one of the required yearly monitoring  
14 visits if complaints have been made and substantiated.

15 3. Facilities that are licensed to provide extended  
16 congregate care services shall:

17 a. Demonstrate the capability to meet unanticipated  
18 resident service needs.

19 b. Offer a physical environment that promotes a  
20 homelike setting, provides for resident privacy, promotes  
21 resident independence, and allows sufficient congregate space  
22 as defined by rule.

23 c. Have sufficient staff available, taking into  
24 account the physical plant and firesafety features of the  
25 building, to assist with the evacuation of residents in an  
26 emergency, as necessary.

27 d. Adopt and follow policies and procedures that  
28 maximize resident independence, dignity, choice, and  
29 decisionmaking to permit residents to age in place to the  
30 extent possible, so that moves due to changes in functional  
31 status are minimized or avoided.

1 e. Allow residents or, if applicable, a resident's  
2 representative, designee, surrogate, guardian, or attorney in  
3 fact to make a variety of personal choices, participate in  
4 developing service plans, and share responsibility in  
5 decisionmaking.

6 f. Implement the concept of managed risk.

7 g. Provide, either directly or through contract, the  
8 services of a person licensed pursuant to part I of chapter  
9 464.

10 h. In addition to the training mandated in s. 400.452,  
11 provide specialized training as defined by rule for facility  
12 staff.

13 4. Facilities licensed to provide extended congregate  
14 care services are exempt from the criteria for continued  
15 residency as set forth in rules adopted under s. 400.441.  
16 Facilities so licensed shall adopt their own requirements  
17 within guidelines for continued residency set forth ~~by the~~  
18 ~~department~~ in rule. However, such facilities may not serve  
19 residents who require 24-hour nursing supervision. Facilities  
20 licensed to provide extended congregate care services shall  
21 provide each resident with a written copy of facility policies  
22 governing admission and retention.

23 5. The primary purpose of extended congregate care  
24 services is to allow residents, as they become more impaired,  
25 the option of remaining in a familiar setting from which they  
26 would otherwise be disqualified for continued residency. A  
27 facility licensed to provide extended congregate care services  
28 may also admit an individual who exceeds the admission  
29 criteria for a facility with a standard license, if the  
30 individual is determined appropriate for admission to the  
31 extended congregate care facility.

1           6. Before admission of an individual to a facility  
2 licensed to provide extended congregate care services, the  
3 individual must undergo a medical examination as provided in  
4 s. 400.426(4) and the facility must develop a preliminary  
5 service plan for the individual.

6           7. When a facility can no longer provide or arrange  
7 for services in accordance with the resident's service plan  
8 and needs and the facility's policy, the facility shall make  
9 arrangements for relocating the person in accordance with s.  
10 400.428(1)(k).

11           8. Failure to provide extended congregate care  
12 services may result in denial of extended congregate care  
13 license renewal.

14           9. No later than January 1 of each year, ~~the~~  
15 ~~department, in consultation with~~ the agency, shall prepare and  
16 submit to the Governor, the President of the Senate, the  
17 Speaker of the House of Representatives, and the chairs of  
18 appropriate legislative committees, a report on the status of,  
19 and recommendations related to, extended congregate care  
20 services. The status report must include, but need not be  
21 limited to, the following information:

22           a. A description of the facilities licensed to provide  
23 such services, including total number of beds licensed under  
24 this part.

25           b. The number and characteristics of residents  
26 receiving such services.

27           c. The types of services rendered that could not be  
28 provided through a standard license.

29           d. An analysis of deficiencies cited during licensure  
30 inspections.

31

1 e. The number of residents who required extended  
2 congregate care services at admission and the source of  
3 admission.

4 f. Recommendations for statutory or regulatory  
5 changes.

6 g. The availability of extended congregate care to  
7 state clients residing in facilities licensed under this part  
8 and in need of additional services, and recommendations for  
9 appropriations to subsidize extended congregate care services  
10 for such persons.

11 h. Such other information as the department considers  
12 appropriate.

13 (c) A limited nursing services license shall be issued  
14 to a facility that provides services beyond those authorized  
15 in paragraph (a) and as specified in this paragraph.

16 1. In order for limited nursing services to be  
17 provided in a facility licensed under this part, the agency  
18 must first determine that all requirements established in law  
19 and rule are met and must specifically designate, on the  
20 facility's license, that such services may be provided. Such  
21 designation may be made at the time of initial licensure or  
22 relicensure, or upon request in writing by a licensee under  
23 this part pursuant to s. 408.806. Notification of approval or  
24 denial of such request shall be made in accordance with ss.  
25 408.801-408.819 ~~within 90 days after receipt of such request~~  
26 ~~and all necessary documentation~~. Existing facilities  
27 qualifying to provide limited nursing services shall have  
28 maintained a standard license and may not have been subject to  
29 administrative sanctions that affect the health, safety, and  
30 welfare of residents for the previous 2 years or since initial  
31

1 licensure if the facility has been licensed for less than 2  
2 years.

3           2. Facilities that are licensed to provide limited  
4 nursing services shall maintain a written progress report on  
5 each person who receives such nursing services, which report  
6 describes the type, amount, duration, scope, and outcome of  
7 services that are rendered and the general status of the  
8 resident's health. A registered nurse representing the agency  
9 shall visit such facilities at least twice a year to monitor  
10 residents who are receiving limited nursing services and to  
11 determine if the facility is in compliance with applicable  
12 provisions of this part and with related rules. The monitoring  
13 visits may be provided through contractual arrangements with  
14 appropriate community agencies. A registered nurse shall also  
15 serve as part of the team that inspects such facility.

16           3. A person who receives limited nursing services  
17 under this part must meet the admission criteria established  
18 by the agency for assisted living facilities. When a resident  
19 no longer meets the admission criteria for a facility licensed  
20 under this part, arrangements for relocating the person shall  
21 be made in accordance with s. 400.428(1)(k), unless the  
22 facility is licensed to provide extended congregate care  
23 services.

24           (4) In accordance with s. 408.805, an applicant or  
25 licensee shall pay a fee for each license application  
26 submitted under this part and ss. 408.801-408.819. The amount  
27 of the fee shall be established by rule.

28           (a) The biennial license fee required of a facility is  
29 \$300 per license, with an additional fee of \$50 per resident  
30 based on the total licensed resident capacity of the facility,  
31 except that no additional fee will be assessed for beds

1 designated for recipients of optional state supplementation  
2 payments provided for in s. 409.212. The total fee may not  
3 exceed \$10,000, no part of which shall be returned to the  
4 facility. ~~The agency shall adjust the per bed license fee and~~  
5 ~~the total licensure fee annually by not more than the change~~  
6 ~~in the consumer price index based on the 12 months immediately~~  
7 ~~preceding the increase.~~

8 (b) In addition to the total fee assessed under  
9 paragraph (a), the agency shall require facilities that are  
10 licensed to provide extended congregate care services under  
11 this part to pay an additional fee per licensed facility. The  
12 amount of the biennial fee shall be \$400 per license, with an  
13 additional fee of \$10 per resident based on the total licensed  
14 resident capacity of the facility. No part of this fee shall  
15 be returned to the facility. ~~The agency may adjust the per bed~~  
16 ~~license fee and the annual license fee once each year by not~~  
17 ~~more than the average rate of inflation for the 12 months~~  
18 ~~immediately preceding the increase.~~

19 (c) In addition to the total fee assessed under  
20 paragraph (a), the agency shall require facilities that are  
21 licensed to provide limited nursing services under this part  
22 to pay an additional fee per licensed facility. The amount of  
23 the biennial fee shall be \$250 per license, with an additional  
24 fee of \$10 per resident based on the total licensed resident  
25 capacity of the facility. No part of this fee shall be  
26 returned to the facility. ~~The agency may adjust the per bed~~  
27 ~~license fee and the biennial license fee once each year by not~~  
28 ~~more than the average rate of inflation for the 12 months~~  
29 ~~immediately preceding the increase.~~

30 (5) Counties or municipalities applying for licenses  
31 under this part are exempt from the payment of license fees.

1           ~~(6) The license shall be displayed in a conspicuous~~  
2 ~~place inside the facility.~~

3           ~~(7) A license shall be valid only in the possession of~~  
4 ~~the individual, firm, partnership, association, or corporation~~  
5 ~~to which it is issued and shall not be subject to sale,~~  
6 ~~assignment, or other transfer, voluntary or involuntary; nor~~  
7 ~~shall a license be valid for any premises other than that for~~  
8 ~~which originally issued.~~

9           ~~(8) A fee may be charged to a facility requesting a~~  
10 ~~duplicate license. The fee shall not exceed the actual cost~~  
11 ~~of duplication and postage.~~

12           Section 66. Subsection (1) of section 400.4075,  
13 Florida Statutes, is amended to read:

14           400.4075 Limited mental health license.--An assisted  
15 living facility that serves three or more mental health  
16 residents must obtain a limited mental health license.

17           (1) To obtain a limited mental health license, a  
18 facility must hold a standard license as an assisted living  
19 facility, must not have any current uncorrected deficiencies  
20 or violations, and must ensure that, within 6 months after  
21 receiving a limited mental health license, the facility  
22 administrator and the staff of the facility who are in direct  
23 contact with mental health residents must complete training of  
24 no less than 6 hours related to their duties. Such designation  
25 may be made at the time of initial licensure or relicensure,  
26 or upon request in writing by a licensee under this part  
27 pursuant to s. 408.806. Notification of approval or denial of  
28 such request shall be made in accordance with ss.  
29 408.801-408.819. The ~~This~~ training required by this subsection  
30 shall ~~will~~ be provided by or approved by the Department of  
31 Children and Family Services.

1           Section 67. Section 400.408, Florida Statutes, is  
2 amended to read:

3           400.408 Unlicensed facilities; referral of person for  
4 residency to unlicensed facility; penalties; verification of  
5 licensure status.--

6           ~~(1)(a) It is unlawful to own, operate, or maintain an  
7 assisted living facility without obtaining a license under  
8 this part.~~

9           ~~(b) Except as provided under paragraph (d), any person  
10 who owns, operates, or maintains an unlicensed assisted living  
11 facility commits a felony of the third degree, punishable as  
12 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
13 continued operation is a separate offense.~~

14           ~~(c) Any person found guilty of violating paragraph (a)  
15 a second or subsequent time commits a felony of the second  
16 degree, punishable as provided under s. 775.082, s. 775.083,  
17 or s. 775.084. Each day of continued operation is a separate  
18 offense.~~

19           (1)(d) Any person who owns, operates, or maintains an  
20 unlicensed assisted living facility due to a change in this  
21 part or a modification in ~~department~~ rule within 6 months  
22 after the effective date of such change and who, within 10  
23 working days after receiving notification from the agency,  
24 fails to cease operation or apply for a license under this  
25 part commits a felony of the third degree, punishable as  
26 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
27 continued operation is a separate offense.

28           ~~(e) Any facility that fails to cease operation after  
29 agency notification may be fined for each day of noncompliance  
30 pursuant to s. 400.419.~~

31

1           ~~(f) When a licensee has an interest in more than one~~  
2 ~~assisted living facility, and fails to license any one of~~  
3 ~~these facilities, the agency may revoke the license, impose a~~  
4 ~~moratorium, or impose a fine pursuant to s. 400.419, on any or~~  
5 ~~all of the licensed facilities until such time as the~~  
6 ~~unlicensed facility is licensed or ceases operation.~~

7           ~~(g) If the agency determines that an owner is~~  
8 ~~operating or maintaining an assisted living facility without~~  
9 ~~obtaining a license and determines that a condition exists in~~  
10 ~~the facility that poses a threat to the health, safety, or~~  
11 ~~welfare of a resident of the facility, the owner is subject to~~  
12 ~~the same actions and fines imposed against a licensed facility~~  
13 ~~as specified in ss. 400.414 and 400.419.~~

14           ~~(h) Any person aware of the operation of an unlicensed~~  
15 ~~assisted living facility must report that facility to the~~  
16 ~~agency. The agency shall provide to the department's elder~~  
17 ~~information and referral providers a list, by county, of~~  
18 ~~licensed assisted living facilities, to assist persons who are~~  
19 ~~considering an assisted living facility placement in locating~~  
20 ~~a licensed facility.~~

21           (2)(i) Each field office of the Agency for Health Care  
22 Administration shall establish a local coordinating workgroup  
23 which includes representatives of local law enforcement  
24 agencies, state attorneys, local fire authorities, the  
25 Department of Children and Family Services, the district  
26 long-term care ombudsman council, and the district human  
27 rights advocacy committee to assist in identifying the  
28 operation of unlicensed facilities and to develop and  
29 implement a plan to ensure effective enforcement of state laws  
30 relating to such facilities. The workgroup shall report its  
31

1 findings, actions, and recommendations semiannually to the  
2 Director of Health Facility Regulation of the agency.

3 (3)~~(2)~~ It is unlawful to knowingly refer a person for  
4 residency to an unlicensed assisted living facility; to an  
5 assisted living facility the license of which is under denial  
6 or has been suspended or revoked; or to an assisted living  
7 facility that has a moratorium pursuant to s. 408.814 ~~on~~  
8 ~~admissions~~. Any person who violates this subsection commits a  
9 noncriminal violation, punishable by a fine not exceeding \$500  
10 as provided in s. 775.083.

11 (a) Any health care practitioner, as defined in s.  
12 456.001, who is aware of the operation of an unlicensed  
13 facility shall report that facility to the agency. Failure to  
14 report a facility that the practitioner knows or has  
15 reasonable cause to suspect is unlicensed shall be reported to  
16 the practitioner's licensing board.

17 (b) Any hospital or community mental health center  
18 licensed under chapter 395 or chapter 394 which knowingly  
19 discharges a patient or client to an unlicensed facility is  
20 subject to sanction by the agency.

21 (c) Any employee of the agency or department, or the  
22 Department of Children and Family Services, who knowingly  
23 refers a person for residency to an unlicensed facility; to a  
24 facility the license of which is under denial or has been  
25 suspended or revoked; or to a facility that has a moratorium  
26 pursuant to s. 408.814 ~~on admissions~~ is subject to  
27 disciplinary action by the agency or department, or the  
28 Department of Children and Family Services.

29 (d) The employer of any person who is under contract  
30 with the agency or department, or the Department of Children  
31 and Family Services, and who knowingly refers a person for

1 residency to an unlicensed facility; to a facility the license  
2 of which is under denial or has been suspended or revoked; or  
3 to a facility that has a moratorium pursuant to s. 408.814 ~~on~~  
4 ~~admissions~~ shall be fined and required to prepare a corrective  
5 action plan designed to prevent such referrals.

6 (e) The agency shall provide the department and the  
7 Department of Children and Family Services with a list of  
8 licensed facilities within each county and shall update the  
9 list at least quarterly.

10 (f) At least annually, the agency shall notify, in  
11 appropriate trade publications, physicians licensed under  
12 chapter 458 or chapter 459, hospitals licensed under chapter  
13 395, nursing home facilities licensed under part II of this  
14 chapter, and employees of the agency or the department, or the  
15 Department of Children and Family Services, who are  
16 responsible for referring persons for residency, that it is  
17 unlawful to knowingly refer a person for residency to an  
18 unlicensed assisted living facility and shall notify them of  
19 the penalty for violating such prohibition. The department and  
20 the Department of Children and Family Services shall, in turn,  
21 notify service providers under contract to the respective  
22 departments who have responsibility for resident referrals to  
23 facilities. Further, the notice must direct each noticed  
24 facility and individual to contact the appropriate agency  
25 office in order to verify the licensure status of any facility  
26 prior to referring any person for residency. Each notice must  
27 include the name, telephone number, and mailing address of the  
28 appropriate office to contact.

29 Section 68. Section 400.411, Florida Statutes, is  
30 amended to read:

31

1           400.411 Initial application for license; provisional  
2 license.--

3           (1) Each applicant for licensure must comply with all  
4 provisions of ss. 408.801-408.819 and the following:

5 ~~Application for a license shall be made to the agency on forms~~  
6 ~~furnished by it and shall be accompanied by the appropriate~~  
7 ~~license fee.~~

8           ~~(2) The applicant may be an individual owner, a~~  
9 ~~corporation, a partnership, a firm, an association, or a~~  
10 ~~governmental entity.~~

11           ~~(3) The application must be signed by the applicant~~  
12 ~~under oath and must contain the following:~~

13           ~~(a) The name, address, date of birth, and social~~  
14 ~~security number of the applicant and the name by which the~~  
15 ~~facility is to be known. If the applicant is a firm,~~  
16 ~~partnership, or association, the application shall contain the~~  
17 ~~name, address, date of birth, and social security number of~~  
18 ~~every member thereof. If the applicant is a corporation, the~~  
19 ~~application shall contain the corporation's name and address;~~  
20 ~~the name, address, date of birth, and social security number~~  
21 ~~of each of its directors and officers; and the name and~~  
22 ~~address of each person having at least a 5-percent ownership~~  
23 ~~interest in the corporation.~~

24           ~~(b) The name and address of any professional service,~~  
25 ~~firm, association, partnership, or corporation that is to~~  
26 ~~provide goods, leases, or services to the facility if a~~  
27 ~~5-percent or greater ownership interest in the service, firm,~~  
28 ~~association, partnership, or corporation is owned by a person~~  
29 ~~whose name must be listed on the application under paragraph~~  
30 ~~(a).~~

31

1           ~~(c) The name and address of any long-term care~~  
2 ~~facility with which the applicant, administrator, or financial~~  
3 ~~officer has been affiliated through ownership or employment~~  
4 ~~within 5 years of the date of this license application; and a~~  
5 ~~signed affidavit disclosing any financial or ownership~~  
6 ~~interest that the applicant, or any person listed in paragraph~~  
7 ~~(a), holds or has held within the last 5 years in any facility~~  
8 ~~licensed under this part, or in any other entity licensed by~~  
9 ~~this state or another state to provide health or residential~~  
10 ~~care, which facility or entity closed or ceased to operate as~~  
11 ~~a result of financial problems, or has had a receiver~~  
12 ~~appointed or a license denied, suspended or revoked, or was~~  
13 ~~subject to a moratorium on admissions, or has had an~~  
14 ~~injunctive proceeding initiated against it.~~

15           ~~(d) A description and explanation of any exclusions,~~  
16 ~~permanent suspensions, or terminations of the applicant from~~  
17 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
18 ~~disclosure of ownership and control interest requirements of~~  
19 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
20 ~~this submission.~~

21           ~~(e) The names and addresses of persons of whom the~~  
22 ~~agency may inquire as to the character, reputation, and~~  
23 ~~financial responsibility of the owner and, if different from~~  
24 ~~the applicant, the administrator and financial officer.~~

25           ~~(a)(f)~~ Identify ~~Identification~~ of all other homes or  
26 facilities, including the addresses and the license or  
27 licenses under which they operate, if applicable, which are  
28 currently operated by the applicant or administrator and which  
29 provide housing, meals, and personal services to residents.

30           ~~(b)(g)~~ Provide the location of the facility for which  
31 a license is sought and documentation, signed by the

1 appropriate local government official, which states that the  
2 applicant has met local zoning requirements.

3 (c)(h) Provide the name, address, date of birth,  
4 social security number, education, and experience of the  
5 administrator, if different from the applicant.

6 ~~(4) The applicant shall furnish satisfactory proof of~~  
7 ~~financial ability to operate and conduct the facility in~~  
8 ~~accordance with the requirements of this part. A certificate~~  
9 ~~of authority, pursuant to chapter 651, may be provided as~~  
10 ~~proof of financial ability.~~

11 ~~(5) If the applicant is a continuing care facility~~  
12 ~~certified under chapter 651, a copy of the facility's~~  
13 ~~certificate of authority must be provided.~~

14 ~~(6) The applicant shall provide proof of liability~~  
15 ~~insurance as defined in s. 624.605.~~

16 ~~(7) If the applicant is a community residential home,~~  
17 ~~the applicant must provide proof that it has met the~~  
18 ~~requirements specified in chapter 419.~~

19 ~~(8) The applicant must provide the agency with proof~~  
20 ~~of legal right to occupy the property.~~

21 (2)(9) ~~The applicant must furnish proof that the~~  
22 ~~facility has received a satisfactory firesafety inspection.~~  
23 The local authority having jurisdiction or the State Fire  
24 Marshal must conduct the inspection within 30 days after  
25 written request by the applicant.

26 (3)(10) ~~The applicant must furnish documentation of a~~  
27 ~~satisfactory sanitation inspection of the facility by the~~  
28 ~~county health department.~~

29 ~~(11) The applicant must furnish proof of compliance~~  
30 ~~with level 2 background screening as required under s.~~  
31 ~~400.4174.~~

1           ~~(4)(12)~~ A provisional license may be issued to an  
2 applicant making initial application for licensure or making  
3 application for a change of ownership. A provisional license  
4 shall be limited in duration to a specific period of time not  
5 to exceed 6 months, as determined by the agency.

6           ~~(5)(13)~~ A county or municipality may not issue an  
7 occupational license that is being obtained for the purpose of  
8 operating a facility regulated under this part without first  
9 ascertaining that the applicant has been licensed to operate  
10 such facility at the specified location or locations by the  
11 agency. The agency shall furnish to local agencies  
12 responsible for issuing occupational licenses sufficient  
13 instruction for making such determinations.

14           Section 69. Section 400.412, Florida Statutes, is  
15 amended to read:

16           400.412 Sale or transfer of ownership of a  
17 facility.--It is the intent of the Legislature to protect the  
18 rights of the residents of an assisted living facility when  
19 the facility is sold or the ownership thereof is transferred.  
20 Therefore, in addition to the requirements of ss.

21 408.801-408.819, whenever a facility is sold or the ownership  
22 thereof is transferred, including leasing:

23           ~~(1) The transferee shall make application to the~~  
24 ~~agency for a new license at least 60 days before the date of~~  
25 ~~transfer of ownership. The application must comply with the~~  
26 ~~provisions of s. 400.411.~~

27           ~~(2)(a) The transferor shall notify the agency in~~  
28 ~~writing at least 60 days before the date of transfer of~~  
29 ~~ownership.~~

30  
31

1           (1)(b) The transferee ~~new owner~~ shall notify the  
2 residents, in writing, of the change ~~transfer~~ of ownership  
3 within 7 days after ~~of his or her~~ receipt of the new license.

4           ~~(3) The transferor shall be responsible and liable~~  
5 ~~for:~~

6           ~~(a) The lawful operation of the facility and the~~  
7 ~~welfare of the residents domiciled in the facility until the~~  
8 ~~date the transferee is licensed by the agency.~~

9           ~~(b) Any and all penalties imposed against the facility~~  
10 ~~for violations occurring before the date of transfer of~~  
11 ~~ownership unless the penalty imposed is a moratorium on~~  
12 ~~admissions or denial of licensure. The moratorium on~~  
13 ~~admissions or denial of licensure remains in effect after the~~  
14 ~~transfer of ownership, unless the agency has approved the~~  
15 ~~transferee's corrective action plan or the conditions which~~  
16 ~~created the moratorium or denial have been corrected, and may~~  
17 ~~be grounds for denial of license to the transferee in~~  
18 ~~accordance with chapter 120.~~

19           ~~(c) Any outstanding liability to the state, unless the~~  
20 ~~transferee has agreed, as a condition of sale or transfer, to~~  
21 ~~accept the outstanding liabilities and to guarantee payment~~  
22 ~~therefor; except that, if the transferee fails to meet these~~  
23 ~~obligations, the transferor shall remain liable for the~~  
24 ~~outstanding liability.~~

25           (2)(4) The transferor of a facility the license of  
26 which is denied pending an administrative hearing shall, as a  
27 part of the written change-of-ownership ~~transfer-of-ownership~~  
28 contract, advise the transferee that a plan of correction must  
29 be submitted by the transferee and approved by the agency at  
30 least 7 days before the change ~~transfer~~ of ownership and that  
31 failure to correct the condition which resulted in the

1 moratorium pursuant to s. 408.814 ~~on admissions~~ or denial of  
2 licensure is grounds for denial of the transferee's license.

3 ~~(5) The transferee must provide the agency with proof~~  
4 ~~of legal right to occupy the property before a license may be~~  
5 ~~issued. Proof may include, but is not limited to, copies of~~  
6 ~~warranty deeds, or copies of lease or rental agreements,~~  
7 ~~contracts for deeds, quitclaim deeds, or other such~~  
8 ~~documentation.~~

9 Section 70. Section 400.414, Florida Statutes, is  
10 amended to read:

11 400.414 Denial or, ~~revocation, or suspension~~ of  
12 license; moratorium; ~~imposition of administrative fine;~~  
13 grounds.--

14 (1) The agency may deny or, ~~revoke, or suspend~~ any  
15 license issued under this part, impose a moratorium, or impose  
16 an administrative fine in the manner provided in chapter 120,  
17 for any of the following actions by an assisted living  
18 facility, for the actions of any person subject to level 2  
19 background screening under s. 400.4174, or for the actions of  
20 any facility employee in violation of any provision of this  
21 part, ss. 408.801-408.819, or applicable rule:

22 (a) An intentional or negligent act seriously  
23 affecting the health, safety, or welfare of a resident of the  
24 facility.

25 (b) The determination by the agency that the owner  
26 lacks the financial ability to provide continuing adequate  
27 care to residents.

28 (c) Misappropriation or conversion of the property of  
29 a resident of the facility.

30 (d) Failure to follow the criteria and procedures  
31 provided under part I of chapter 394 relating to the

1 transportation, voluntary admission, and involuntary  
2 examination of a facility resident.

3 (e) A citation of any of the following deficiencies as  
4 defined in s. 400.419:

5 1. One or more cited class I deficiencies.

6 2. Three or more cited class II deficiencies.

7 3. Five or more cited class III deficiencies that have  
8 been cited on a single survey and have not been corrected  
9 within the times specified.

10 (f) A determination that a person subject to level 2  
11 background screening under s. 400.4174(1) does not meet the  
12 screening standards of s. 435.04 or that the facility is  
13 retaining an employee subject to level 1 background screening  
14 standards under s. 400.4174(2) who does not meet the screening  
15 standards of s. 435.03 and for whom exemptions from  
16 disqualification have not been provided by the agency.

17 (g) A determination that an employee, volunteer,  
18 administrator, or owner, or person who otherwise has access to  
19 the residents of a facility does not meet the criteria  
20 specified in s. 435.03(2), and the owner or administrator has  
21 not taken action to remove the person. Exemptions from  
22 disqualification may be granted as set forth in s. 435.07. No  
23 administrative action may be taken against the facility if the  
24 person is granted an exemption.

25 ~~(h) Violation of a moratorium.~~

26 ~~(i) Failure of the license applicant, the licensee~~  
27 ~~during relicensure, or a licensee that holds a provisional~~  
28 ~~license to meet the minimum license requirements of this part,~~  
29 ~~or related rules, at the time of license application or~~  
30 ~~renewal.~~

31

1           ~~(j) A fraudulent statement or omission of any material~~  
2 ~~fact on an application for a license or any other document~~  
3 ~~required by the agency, including the submission of a license~~  
4 ~~application that conceals the fact that any board member,~~  
5 ~~officer, or person owning 5 percent or more of the facility~~  
6 ~~may not meet the background screening requirements of s.~~  
7 ~~400.4174, or that the applicant has been excluded, permanently~~  
8 ~~suspended, or terminated from the Medicaid or Medicare~~  
9 ~~programs.~~

10           (h)~~(k)~~ An intentional or negligent life-threatening  
11 act in violation of the uniform firesafety standards for  
12 assisted living facilities or other firesafety standards that  
13 threatens the health, safety, or welfare of a resident of a  
14 facility, as communicated to the agency by the local authority  
15 having jurisdiction or the State Fire Marshal.

16           ~~(l) Exclusion, permanent suspension, or termination~~  
17 ~~from the Medicare or Medicaid programs.~~

18           (i)~~(m)~~ Knowingly operating any unlicensed facility or  
19 providing without a license any service that must be licensed  
20 under this chapter.

21           (j)~~(n)~~ Any act constituting a ground upon which  
22 application for a license may be denied.

23  
24 ~~Administrative proceedings challenging agency action under~~  
25 ~~this subsection shall be reviewed on the basis of the facts~~  
26 ~~and conditions that resulted in the agency action.~~

27           (2) Upon notification by the local authority having  
28 jurisdiction or by the State Fire Marshal, the agency may deny  
29 or revoke the license of an assisted living facility that  
30 fails to correct cited fire code violations that affect or  
31

1 threaten the health, safety, or welfare of a resident of a  
2 facility.

3 (3) The agency may deny a license to any applicant  
4 controlling interest as defined in s. 408.803 that ~~or to any~~  
5 ~~officer or board member of an applicant who is a firm,~~  
6 ~~corporation, partnership, or association or who owns 5 percent~~  
7 ~~or more of the facility, if the applicant, officer, or board~~  
8 ~~member~~ has or had a 25-percent or greater financial or  
9 ownership interest in any other facility licensed under this  
10 part, or in any entity licensed by this state or another state  
11 to provide health or residential care, which facility or  
12 entity during the 5 years prior to the application for a  
13 license closed due to financial inability to operate; had a  
14 receiver appointed or a license denied, suspended, or revoked;  
15 was subject to a moratorium pursuant to s. 408.814 on  
16 ~~admissions~~; had an injunctive proceeding initiated against it;  
17 or has an outstanding fine assessed under this chapter.

18 (4) The agency shall deny or revoke the license of an  
19 assisted living facility that has two or more class I  
20 violations that are similar or identical to violations  
21 identified by the agency during a survey, inspection,  
22 monitoring visit, or complaint investigation occurring within  
23 the previous 2 years.

24 (5) An action taken by the agency to suspend, deny, or  
25 revoke a facility's license under this part, in which the  
26 agency claims that the facility owner or an employee of the  
27 facility has threatened the health, safety, or welfare of a  
28 resident of the facility be heard by the Division of  
29 Administrative Hearings of the Department of Management  
30 Services within 120 days after receipt of the facility's  
31 request for a hearing, unless that time limitation is waived

1 by both parties. The administrative law judge must render a  
2 decision within 30 days after receipt of a proposed  
3 recommended order.

4 (6) The agency shall provide to the Division of Hotels  
5 and Restaurants of the Department of Business and Professional  
6 Regulation, on a monthly basis, a list of those assisted  
7 living facilities that have had their licenses denied,  
8 ~~suspended~~, or revoked or that are involved in an appellate  
9 proceeding pursuant to s. 120.60 related to the denial,  
10 ~~suspension~~, or revocation of a license.

11 (7) Agency notification of a license ~~suspension~~ or  
12 revocation, or denial of a license renewal, shall be posted  
13 and visible to the public at the facility.

14 ~~(8) The agency may issue a temporary license pending~~  
15 ~~final disposition of a proceeding involving the suspension or~~  
16 ~~revocation of an assisted living facility license.~~

17 Section 71. Section 400.417, Florida Statutes, is  
18 amended to read:

19 400.417 Expiration of license; renewal; conditional  
20 license.--

21 ~~(1) Biennial licenses, unless sooner suspended or~~  
22 ~~revoked, shall expire 2 years from the date of issuance.~~  
23 Limited nursing, extended congregate care, and limited mental  
24 health licenses shall expire at the same time as the  
25 facility's standard license, regardless of when issued. ~~The~~  
26 ~~agency shall notify the facility at least 120 days prior to~~  
27 ~~expiration that a renewal license is necessary to continue~~  
28 ~~operation. The notification must be provided electronically or~~  
29 ~~by mail delivery. Ninety days prior to the expiration date, an~~  
30 ~~application for renewal shall be submitted to the agency. Fees~~  
31 ~~must be prorated. The failure to file a timely renewal~~

1 ~~application shall result in a late fee charged to the facility~~  
2 ~~in an amount equal to 50 percent of the current fee.~~

3       (2) A license shall be renewed in accordance with ss.  
4 408.801-408.819 ~~within 90 days upon the timely filing of an~~  
5 ~~application on forms furnished by the agency and the provision~~  
6 ~~of satisfactory proof of ability to operate and conduct the~~  
7 ~~facility in accordance with the requirements of this part and~~  
8 ~~adopted rules, including proof that the facility has received~~  
9 ~~a satisfactory firesafety inspection, conducted by the local~~  
10 ~~authority having jurisdiction or the State Fire Marshal,~~  
11 ~~within the preceding 12 months and an affidavit of compliance~~  
12 ~~with the background screening requirements of ss.s-400.4174~~  
13 ~~and 408.809.~~

14       (3) In addition to the requirements of ss.  
15 408.801-408.819, ~~An applicant for renewal of a license who has~~  
16 ~~complied with the provisions of s. 400.411 with respect to~~  
17 ~~proof of financial ability to operate shall not be required to~~  
18 ~~provide further proof unless the facility or any other~~  
19 ~~facility owned or operated in whole or in part by the same~~  
20 ~~person has demonstrated financial instability as provided~~  
21 ~~under s. 400.447(2) or unless the agency suspects that the~~  
22 ~~facility is not financially stable as a result of the annual~~  
23 ~~survey or complaints from the public or a report from the~~  
24 ~~State Long-Term Care Ombudsman Council.~~ each facility must  
25 report to the agency any adverse court action concerning the  
26 facility's financial viability, within 7 days after its  
27 occurrence. The agency shall have access to books, records,  
28 and any other financial documents maintained by the facility  
29 to the extent necessary to determine the facility's financial  
30 stability. ~~A license for the operation of a facility shall not~~

31

1 ~~be renewed if the licensee has any outstanding fines assessed~~  
2 ~~pursuant to this part which are in final order status.~~

3 ~~(4) A licensee against whom a revocation or suspension~~  
4 ~~proceeding is pending at the time of license renewal may be~~  
5 ~~issued a conditional license effective until final disposition~~  
6 ~~by the agency. If judicial relief is sought from the final~~  
7 ~~disposition, the court having jurisdiction may issue a~~  
8 ~~conditional license for the duration of the judicial~~  
9 ~~proceeding.~~

10 (4)~~(5)~~ A conditional license may be issued to an  
11 applicant for license renewal if the applicant fails to meet  
12 all standards and requirements for licensure. A conditional  
13 license issued under this subsection shall be limited in  
14 duration to a specific period of time not to exceed 6 months,  
15 as determined by the agency, and shall be accompanied by an  
16 agency-approved plan of correction.

17 (5)~~(6)~~ When an extended care or limited nursing  
18 license is requested during a facility's biennial license  
19 period, the fee shall be prorated in order to permit the  
20 additional license to expire at the end of the biennial  
21 license period. The fee shall be calculated as of the date the  
22 additional license application is received by the agency.

23 (6)~~(7)~~ The agency ~~department~~ may by rule establish  
24 renewal procedures, identify forms, and specify documentation  
25 necessary to administer this section and ss. 408.801-408.819.

26 Section 72. Section 400.415, Florida Statutes, is  
27 repealed.

28 Section 73. Section 400.4174, Florida Statutes, is  
29 amended to read:

30 400.4174 Background screening; exemptions.--  
31

1           ~~(1)(a) Level 2 background screening must be conducted~~  
2 ~~on each of the following persons, who shall be considered~~  
3 ~~employees for the purposes of conducting screening under~~  
4 ~~chapter 435:~~

5           ~~1. The facility owner if an individual, the~~  
6 ~~administrator, and the financial officer.~~

7           ~~2. An officer or board member if the facility owner is~~  
8 ~~a firm, corporation, partnership, or association, or any~~  
9 ~~person owning 5 percent or more of the facility if the agency~~  
10 ~~has probable cause to believe that such person has been~~  
11 ~~convicted of any offense prohibited by s. 435.04. For each~~  
12 ~~officer, board member, or person owning 5 percent or more who~~  
13 ~~has been convicted of any such offense, the facility shall~~  
14 ~~submit to the agency a description and explanation of the~~  
15 ~~conviction at the time of license application. This~~  
16 ~~subparagraph does not apply to a board member of a~~  
17 ~~not-for-profit corporation or organization if the board member~~  
18 ~~serves solely in a voluntary capacity, does not regularly take~~  
19 ~~part in the day-to-day operational decisions of the~~  
20 ~~corporation or organization, receives no remuneration for his~~  
21 ~~or her services, and has no financial interest and has no~~  
22 ~~family members with a financial interest in the corporation or~~  
23 ~~organization, provided that the board member and facility~~  
24 ~~submit a statement affirming that the board member's~~  
25 ~~relationship to the facility satisfies the requirements of~~  
26 ~~this subparagraph.~~

27           ~~(b) Proof of compliance with level 2 screening~~  
28 ~~standards which has been submitted within the previous 5 years~~  
29 ~~to meet any facility or professional licensure requirements of~~  
30 ~~the agency or the Department of Health satisfies the~~  
31 ~~requirements of this subsection, provided that such proof is~~

1 ~~accompanied, under penalty of perjury, by an affidavit of~~  
2 ~~compliance with the provisions of chapter 435. Proof of~~  
3 ~~compliance with the background screening requirements of the~~  
4 ~~Financial Services Commission and the Office of Insurance~~  
5 ~~Regulation for applicants for a certificate of authority to~~  
6 ~~operate a continuing care retirement community under chapter~~  
7 ~~651, submitted within the last 5 years, satisfies the~~  
8 ~~Department of Law Enforcement and Federal Bureau of~~  
9 ~~Investigation portions of a level 2 background check.~~

10 ~~(c) The agency may grant a provisional license to a~~  
11 ~~facility applying for an initial license when each individual~~  
12 ~~required by this subsection to undergo screening has completed~~  
13 ~~the Department of Law Enforcement background checks, but has~~  
14 ~~not yet received results from the Federal Bureau of~~  
15 ~~Investigation, or when a request for an exemption from~~  
16 ~~disqualification has been submitted to the agency pursuant to~~  
17 ~~s. 435.07, but a response has not been issued.~~

18 ~~(2) The owner or administrator of an assisted living~~  
19 ~~facility must conduct level 1 background screening, as set~~  
20 ~~forth in chapter 435, on all employees hired on or after~~  
21 ~~October 1, 1998, who perform personal services as defined in~~  
22 ~~s. 400.402(17). The agency may exempt an individual from~~  
23 ~~employment disqualification as set forth in chapter 435. Such~~  
24 ~~persons shall be considered as having met this requirement if:~~

25 ~~(1)(a) Proof of compliance with level 1 screening~~  
26 ~~requirements obtained to meet any professional license~~  
27 ~~requirements in this state is provided and accompanied, under~~  
28 ~~penalty of perjury, by a copy of the person's current~~  
29 ~~professional license and an affidavit of current compliance~~  
30 ~~with the background screening requirements.~~

31

1           (2)~~(b)~~ The person required to be screened has been  
2 continuously employed in the same type of occupation for which  
3 the person is seeking employment without a breach in service  
4 which exceeds 180 days, and proof of compliance with the level  
5 1 screening requirement which is no more than 2 years old is  
6 provided. Proof of compliance shall be provided directly from  
7 one employer or contractor to another, and not from the person  
8 screened. Upon request, a copy of screening results shall be  
9 provided by the employer retaining documentation of the  
10 screening to the person screened.

11           (3)~~(c)~~ The person required to be screened is employed  
12 by a corporation or business entity or related corporation or  
13 business entity that owns, operates, or manages more than one  
14 facility or agency licensed under this chapter, and for whom a  
15 level 1 screening was conducted by the corporation or business  
16 entity as a condition of initial or continued employment.

17           Section 74. Section 400.4176, Florida Statutes, is  
18 amended to read:

19           400.4176 Notice of change of administrator.--If,  
20 during the period for which a license is issued, the owner  
21 changes administrators, the owner must notify the agency of  
22 the change within 10 days and provide documentation within 90  
23 days that the new administrator has completed the applicable  
24 core educational requirements under s. 400.452. ~~Background~~  
25 ~~screening shall be completed on any new administrator as~~  
26 ~~specified in s. 400.4174.~~

27           Section 75. Subsection (7) of section 400.4178,  
28 Florida Statutes, is repealed.

29           Section 76. Section 400.418, Florida Statutes, is  
30 amended to read:

31

1           400.418 Disposition of fees and administrative  
2 fines.--

3           ~~(1) Income from license fees, inspection fees, late~~  
4 ~~fees, and administrative fines collected under this part~~  
5 ~~generated pursuant to ss. 400.407, 400.408, 400.417, 400.419,~~  
6 ~~and 400.431 shall be deposited in the Health Care Trust Fund~~  
7 ~~administered by the agency. Such funds shall be directed to~~  
8 ~~and used by the agency for the following purposes:~~

9           (1)(a) Up to 50 percent of the trust funds accrued  
10 each fiscal year under this part may be used to offset the  
11 expenses of receivership, pursuant to s. 400.422, if the court  
12 determines that the income and assets of the facility are  
13 insufficient to provide for adequate management and operation.

14           (2)(b) An amount of \$5,000 of the trust funds accrued  
15 each year under this part shall be allocated to pay for  
16 inspection-related physical and mental health examinations  
17 requested by the agency pursuant to s. 400.426 for residents  
18 who are either recipients of supplemental security income or  
19 have monthly incomes not in excess of the maximum combined  
20 federal and state cash subsidies available to supplemental  
21 security income recipients, as provided for in s. 409.212.  
22 Such funds shall only be used where the resident is ineligible  
23 for Medicaid.

24           (3)(c) Any trust funds accrued each year under this  
25 part and not used for the purposes specified in paragraphs (a)  
26 and (b) shall be used to offset the costs of the licensure  
27 program, ~~including the costs of conducting background~~  
28 ~~investigations, verifying information submitted, defraying the~~  
29 ~~costs of processing the names of applicants, and conducting~~  
30 ~~inspections and monitoring visits pursuant to this part and~~  
31 ss. 408.801-408.819.

1           ~~(2) Income from fees generated pursuant to s.~~  
2 ~~400.441(5) shall be deposited in the Health Care Trust Fund~~  
3 ~~and used to offset the costs of printing and postage.~~

4           Section 77. Section 400.419, Florida Statutes, is  
5 amended to read:

6           400.419 Violations; imposition of administrative  
7 fines; grounds.--

8           (1) The agency shall impose an administrative fine in  
9 the manner provided in chapter 120 for a violation of any  
10 provision of this part, ss. 408.801-408.819, or applicable  
11 rule ~~any of the actions or violations as set forth within this~~  
12 ~~section~~ by an assisted living facility, for the actions of any  
13 person subject to level 2 background screening under s.  
14 400.4174, for the actions of any facility employee, or for an  
15 intentional or negligent act seriously affecting the health,  
16 safety, or welfare of a resident of the facility.

17           (2) Each violation of this part and adopted rules  
18 shall be classified according to the nature of the violation  
19 and the gravity of its probable effect on facility residents.  
20 The agency shall indicate the classification on the written  
21 notice of the violation as follows:

22           (a) Class "I" violations are those conditions or  
23 occurrences related to the operation and maintenance of a  
24 facility or to the personal care of residents which the agency  
25 determines present an imminent danger to the residents or  
26 guests of the facility or a substantial probability that death  
27 or serious physical or emotional harm would result therefrom.  
28 The condition or practice constituting a class I violation  
29 shall be abated or eliminated within 24 hours, unless a fixed  
30 period, as determined by the agency, is required for  
31 correction. The agency shall impose an administrative fine for

1 a cited class I violation in an amount not less than \$5,000  
2 and not exceeding \$10,000 for each violation. A fine may be  
3 levied notwithstanding the correction of the violation.

4 (b) Class "II" violations are those conditions or  
5 occurrences related to the operation and maintenance of a  
6 facility or to the personal care of residents which the agency  
7 determines directly threaten the physical or emotional health,  
8 safety, or security of the facility residents, other than  
9 class I violations. The agency shall impose an administrative  
10 fine for a cited class II violation in an amount not less than  
11 \$1,000 and not exceeding \$5,000 for each violation. A fine  
12 shall be levied notwithstanding the correction of the  
13 violation.

14 (c) Class "III" violations are those conditions or  
15 occurrences related to the operation and maintenance of a  
16 facility or to the personal care of residents which the agency  
17 determines indirectly or potentially threaten the physical or  
18 emotional health, safety, or security of facility residents,  
19 other than class I or class II violations. The agency shall  
20 impose an administrative fine for a cited class III violation  
21 in an amount not less than \$500 and not exceeding \$1,000 for  
22 each violation. A citation for a class III violation must  
23 specify the time within which the violation is required to be  
24 corrected. If a class III violation is corrected within the  
25 time specified, no fine may be imposed, unless it is a  
26 repeated offense.

27 (d) Class "IV" violations are those conditions or  
28 occurrences related to the operation and maintenance of a  
29 building or to required reports, forms, or documents that do  
30 not have the potential of negatively affecting residents.  
31 These violations are of a type that the agency determines do

1 not threaten the health, safety, or security of residents of  
2 the facility. The agency shall impose an administrative fine  
3 for a cited class IV violation in an amount not less than \$100  
4 and not exceeding \$200 for each violation. A citation for a  
5 class IV violation must specify the time within which the  
6 violation is required to be corrected. If a class IV violation  
7 is corrected within the time specified, no fine shall be  
8 imposed. Any class IV violation that is corrected during the  
9 time an agency survey is being conducted will be identified as  
10 an agency finding and not as a violation.

11 (3) In determining if a penalty is to be imposed and  
12 in fixing the amount of the fine, the agency shall consider  
13 the following factors:

14 (a) The gravity of the violation, including the  
15 probability that death or serious physical or emotional harm  
16 to a resident will result or has resulted, the severity of the  
17 action or potential harm, and the extent to which the  
18 provisions of the applicable laws or rules were violated.

19 (b) Actions taken by the owner or administrator to  
20 correct violations.

21 (c) Any previous violations.

22 (d) The financial benefit to the facility of  
23 committing or continuing the violation.

24 (e) The licensed capacity of the facility.

25 (4) Each day of continuing violation after the date  
26 fixed for termination of the violation, as ordered by the  
27 agency, constitutes an additional, separate, and distinct  
28 violation.

29 (5) Any action taken to correct a violation shall be  
30 documented in writing by the owner or administrator of the  
31 facility and verified through followup visits by agency

1 personnel. The agency may impose a fine and, in the case of an  
2 owner-operated facility, revoke or deny a facility's license  
3 when a facility administrator fraudulently misrepresents  
4 action taken to correct a violation.

5 ~~(6) For fines that are upheld following administrative~~  
6 ~~or judicial review, the violator shall pay the fine, plus~~  
7 ~~interest at the rate as specified in s. 55.03, for each day~~  
8 ~~beyond the date set by the agency for payment of the fine.~~

9 ~~(7) Any unlicensed facility that continues to operate~~  
10 ~~after agency notification is subject to a \$1,000 fine per day.~~

11 ~~(8) Any licensed facility whose owner or administrator~~  
12 ~~concurrently operates an unlicensed facility shall be subject~~  
13 ~~to an administrative fine of \$5,000 per day.~~

14 ~~(9) Any facility whose owner fails to apply for a~~  
15 ~~change-of-ownership license in accordance with s. 400.412 and~~  
16 ~~operates the facility under the new ownership is subject to a~~  
17 ~~fine of \$5,000.~~

18 (6)~~(10)~~ In addition to any administrative fines  
19 imposed, the agency may assess a survey fee, equal to the  
20 lesser of one half of the facility's biennial license and bed  
21 fee or \$500, to cover the cost of conducting initial complaint  
22 investigations that result in the finding of a violation that  
23 was the subject of the complaint or monitoring visits  
24 conducted under s. 400.428(3)(c) to verify the correction of  
25 the violations.

26 (7)~~(11)~~ The agency, as an alternative to or in  
27 conjunction with an administrative action against a facility  
28 for violations of this part and adopted rules, shall make a  
29 reasonable attempt to discuss each violation and recommended  
30 corrective action with the owner or administrator of the  
31 facility, prior to written notification. The agency, instead

1 of fixing a period within which the facility shall enter into  
2 compliance with standards, may request a plan of corrective  
3 action from the facility which demonstrates a good faith  
4 effort to remedy each violation by a specific date, subject to  
5 the approval of the agency.

6 ~~(12) Administrative fines paid by any facility under~~  
7 ~~this section shall be deposited into the Health Care Trust~~  
8 ~~Fund and expended as provided in s. 400.418.~~

9 (8)~~(13)~~ The agency shall develop and disseminate an  
10 annual list of all facilities sanctioned or fined \$5,000 or  
11 more for violations of state standards, the number and class  
12 of violations involved, the penalties imposed, and the current  
13 status of cases. The list shall be disseminated, at no charge,  
14 to the Department of Elderly Affairs, the Department of  
15 Health, the Department of Children and Family Services, the  
16 area agencies on aging, the Florida Statewide Advocacy  
17 Council, and the state and local ombudsman councils. The  
18 Department of Children and Family Services shall disseminate  
19 the list to service providers under contract to the department  
20 who are responsible for referring persons to a facility for  
21 residency. The agency may charge a fee commensurate with the  
22 cost of printing and postage to other interested parties  
23 requesting a copy of this list.

24 Section 78. Subsections (2) and (3) of section 400.42,  
25 Florida Statutes, are amended to read:

26 400.42 Certain solicitation prohibited; third-party  
27 supplementation.--

28 (2) Solicitation of contributions of any kind in a  
29 threatening, coercive, or unduly forceful manner by or on  
30 behalf of an assisted living facility or facilities by any  
31 agent, employee, owner, or representative of any assisted

1 living facility or facilities is grounds for denial,  
2 ~~suspension~~, or revocation of the license of the assisted  
3 living facility or facilities by or on behalf of which such  
4 contributions were solicited.

5 (3) The admission or maintenance of assisted living  
6 facility residents whose care is supported, in whole or in  
7 part, by state funds may not be conditioned upon the receipt  
8 of any manner of contribution or donation from any person. The  
9 solicitation or receipt of contributions in violation of this  
10 subsection is grounds for denial, ~~suspension~~, or revocation of  
11 license, as provided in s. 400.414, for any assisted living  
12 facility by or on behalf of which such contributions were  
13 solicited.

14 Section 79. Section 400.421, Florida Statutes, is  
15 repealed.

16 Section 80. Subsection (10) of section 400.423,  
17 Florida Statutes, is amended to read:

18 400.423 Internal risk management and quality assurance  
19 program; adverse incidents and reporting requirements.--

20 (10) The agency ~~Department of Elderly Affairs~~ may  
21 adopt rules necessary to administer this section.

22 Section 81. Subsection (8) of section 400.424, Florida  
23 Statutes, is amended to read:

24 400.424 Contracts.--

25 (8) The agency ~~department~~ may by rule clarify terms,  
26 establish procedures, clarify refund policies and contract  
27 provisions, and specify documentation as necessary to  
28 administer this section.

29 Section 82. Subsection (3) of section 400.4255,  
30 Florida Statutes, is amended to read:

31 400.4255 Use of personnel; emergency care.--

1           (3) Facility staff may withhold or withdraw  
2 cardiopulmonary resuscitation if presented with an order not  
3 to resuscitate executed pursuant to s. 401.45. The agency  
4 ~~department~~ shall adopt rules providing for the implementation  
5 of such orders. Facility staff and facilities shall not be  
6 subject to criminal prosecution or civil liability, nor be  
7 considered to have engaged in negligent or unprofessional  
8 conduct, for withholding or withdrawing cardiopulmonary  
9 resuscitation pursuant to such an order and applicable rules  
10 ~~adopted by the department~~. The absence of an order to  
11 resuscitate executed pursuant to s. 401.45 does not preclude a  
12 physician from withholding or withdrawing cardiopulmonary  
13 resuscitation as otherwise permitted by law.

14           Section 83. Subsection (6) of section 400.4256,  
15 Florida Statutes, is amended to read:

16           400.4256 Assistance with self-administration of  
17 medication.--

18           (6) The agency ~~department~~ may by rule establish  
19 facility procedures and interpret terms as necessary to  
20 implement this section.

21           Section 84. Subsection (8) of section 400.427, Florida  
22 Statutes, is amended to read:

23           400.427 Property and personal affairs of residents.--

24           (8) The agency ~~department~~ may by rule clarify terms  
25 and specify procedures and documentation necessary to  
26 administer the provisions of this section relating to the  
27 proper management of residents' funds and personal property  
28 and the execution of surety bonds.

29           Section 85. Subsection (4) of section 400.4275,  
30 Florida Statutes, is amended to read:

31

1           400.4275 Business practice; personnel records;  
2 liability insurance.--The assisted living facility shall be  
3 administered on a sound financial basis that is consistent  
4 with good business practices.

5           (4) The agency ~~department~~ may by rule clarify terms,  
6 establish requirements for financial records, accounting  
7 procedures, personnel procedures, insurance coverage, and  
8 reporting procedures, and specify documentation as necessary  
9 to implement the requirements of this section.

10           Section 86. Subsections (1) and (5) of section  
11 400.431, Florida Statutes, are amended to read:

12           400.431 Closing of facility; notice; penalty.--

13           (1) ~~Whenever a facility voluntarily discontinues~~  
14 ~~operation, it shall inform the agency in writing at least 90~~  
15 ~~days prior to the discontinuance of operation.~~ The facility  
16 shall also inform each resident or the next of kin, legal  
17 representative, or agency acting on each resident's behalf, of  
18 the fact and the proposed time of such discontinuance,  
19 following the notification requirements provided in s.  
20 400.428(1)(k). In the event a resident has no person to  
21 represent him or her, the facility shall be responsible for  
22 referral to an appropriate social service agency for  
23 placement.

24           (5) The agency may levy a fine in an amount no greater  
25 than \$5,000 upon each person or business entity that owns any  
26 interest in a facility that terminates operation without  
27 providing notice to the agency and the residents of the  
28 facility at least 30 days before operation ceases. This fine  
29 shall not be levied against any facility involuntarily closed  
30 at the initiation of the agency. The agency shall use the  
31 proceeds of the fines to operate the facility until all

1 residents of the facility are relocated ~~and shall deposit any~~  
2 ~~balance of the proceeds into the Health Care Trust Fund~~  
3 ~~established pursuant to s. 400.418.~~

4 Section 87. Section 400.434, Florida Statutes, is  
5 amended to read:

6 400.434 Right of entry and inspection.--Any duly  
7 designated officer or employee of the department, the  
8 Department of Children and Family Services, ~~the agency,~~the  
9 state or local fire marshal, ~~or~~ a member of the state or local  
10 long-term care ombudsman council, or the agency in accordance  
11 with s. 408.811 shall have the right to enter unannounced upon  
12 and into the premises of any facility licensed pursuant to  
13 this part in order to determine the state of compliance with  
14 the provisions of this part, ss. 408.801-408.819,and  
15 applicable of rules or standards in force pursuant thereto.  
16 ~~The right of entry and inspection shall also extend to any~~  
17 ~~premises which the agency has reason to believe is being~~  
18 ~~operated or maintained as a facility without a license; but no~~  
19 ~~such entry or inspection of any premises may be made without~~  
20 ~~the permission of the owner or person in charge thereof,~~  
21 ~~unless a warrant is first obtained from the circuit court~~  
22 ~~authorizing such entry. The warrant requirement shall extend~~  
23 ~~only to a facility which the agency has reason to believe is~~  
24 ~~being operated or maintained as a facility without a license.~~  
25 ~~Any application for a license or renewal thereof made pursuant~~  
26 ~~to this part shall constitute permission for, and complete~~  
27 ~~acquiescence in, any entry or inspection of the premises for~~  
28 ~~which the license is sought, in order to facilitate~~  
29 ~~verification of the information submitted on or in connection~~  
30 ~~with the application; to discover, investigate, and determine~~  
31 ~~the existence of abuse or neglect; or to elicit, receive,~~

1 ~~respond to, and resolve complaints. Any current valid license~~  
2 ~~shall constitute unconditional permission for, and complete~~  
3 ~~acquiescence in, any entry or inspection of the premises by~~  
4 ~~authorized personnel.~~ The agency shall retain the right of  
5 entry and inspection of facilities that have had a license  
6 revoked or suspended within the previous 24 months, to ensure  
7 that the facility is not operating unlawfully. However, before  
8 entering the facility, a statement of probable cause must be  
9 filed with the director of the agency, who must approve or  
10 disapprove the action within 48 hours. Probable cause shall  
11 include, but is not limited to, evidence that the facility  
12 holds itself out to the public as a provider of personal care  
13 services or the receipt of a complaint by the long-term care  
14 ombudsman council about the facility. Data collected by the  
15 state or local long-term care ombudsman councils or the state  
16 or local advocacy councils may be used by the agency in  
17 investigations involving violations of regulatory standards.

18       Section 88. Subsection (1) of section 400.435, Florida  
19 Statutes, is repealed.

20       Section 89. Section 400.441, Florida Statutes, is  
21 amended to read:

22       400.441 Rules establishing standards.--

23       (1) It is the intent of the Legislature that rules  
24 published and enforced pursuant to this section shall include  
25 criteria by which a reasonable and consistent quality of  
26 resident care and quality of life may be ensured and the  
27 results of such resident care may be demonstrated. Such rules  
28 shall also ensure a safe and sanitary environment that is  
29 residential and noninstitutional in design or nature. It is  
30 further intended that reasonable efforts be made to  
31 accommodate the needs and preferences of residents to enhance

1 the quality of life in a facility. In order to provide safe  
2 and sanitary facilities and the highest quality of resident  
3 care accommodating the needs and preferences of residents, the  
4 agency ~~department~~, in consultation with the department ~~agency~~,  
5 the Department of Children and Family Services, and the  
6 Department of Health, shall adopt rules, policies, and  
7 procedures to administer this part and ss. 408.801-408.819,  
8 which must include reasonable and fair minimum standards in  
9 relation to:

10 (a) The requirements for and maintenance of  
11 facilities, not in conflict with the provisions of chapter  
12 553, relating to plumbing, heating, cooling, lighting,  
13 ventilation, living space, and other housing conditions, which  
14 will ensure the health, safety, and comfort of residents and  
15 protection from fire hazard, including adequate provisions for  
16 fire alarm and other fire protection suitable to the size of  
17 the structure. Uniform firesafety standards shall be  
18 established and enforced by the State Fire Marshal in  
19 cooperation with the agency, the department, and the  
20 Department of Health.

21 1. Evacuation capability determination.--

22 a. The provisions of the National Fire Protection  
23 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
24 for determining the ability of the residents, with or without  
25 staff assistance, to relocate from or within a licensed  
26 facility to a point of safety as provided in the fire codes  
27 adopted herein. An evacuation capability evaluation for  
28 initial licensure shall be conducted within 6 months after the  
29 date of licensure. For existing licensed facilities that are  
30 not equipped with an automatic fire sprinkler system, the  
31 administrator shall evaluate the evacuation capability of

1 residents at least annually. The evacuation capability  
2 evaluation for each facility not equipped with an automatic  
3 fire sprinkler system shall be validated, without liability,  
4 by the State Fire Marshal, by the local fire marshal, or by  
5 the local authority having jurisdiction over firesafety,  
6 before the license renewal date. If the State Fire Marshal,  
7 local fire marshal, or local authority having jurisdiction  
8 over firesafety has reason to believe that the evacuation  
9 capability of a facility as reported by the administrator may  
10 have changed, it may, with assistance from the facility  
11 administrator, reevaluate the evacuation capability through  
12 timed exiting drills. Translation of timed fire exiting drills  
13 to evacuation capability may be determined:

14 (I) Three minutes or less: prompt.

15 (II) More than 3 minutes, but not more than 13  
16 minutes: slow.

17 (III) More than 13 minutes: impractical.

18 b. The Office of the State Fire Marshal shall provide  
19 or cause the provision of training and education on the proper  
20 application of Chapter 5, NFPA 101A, 1995 edition, to its  
21 employees, to staff of the Agency for Health Care  
22 Administration who are responsible for regulating facilities  
23 under this part, and to local governmental inspectors. The  
24 Office of the State Fire Marshal shall provide or cause the  
25 provision of this training within its existing budget, but may  
26 charge a fee for this training to offset its costs. The  
27 initial training must be delivered within 6 months after July  
28 1, 1995, and as needed thereafter.

29 c. The Office of the State Fire Marshal, in  
30 cooperation with provider associations, shall provide or cause  
31 the provision of a training program designed to inform

1 facility operators on how to properly review bid documents  
2 relating to the installation of automatic fire sprinklers.  
3 The Office of the State Fire Marshal shall provide or cause  
4 the provision of this training within its existing budget, but  
5 may charge a fee for this training to offset its costs. The  
6 initial training must be delivered within 6 months after July  
7 1, 1995, and as needed thereafter.

8 d. The administrator of a licensed facility shall sign  
9 an affidavit verifying the number of residents occupying the  
10 facility at the time of the evacuation capability evaluation.

11 2. Firesafety requirements.--

12 a. Except for the special applications provided  
13 herein, effective January 1, 1996, the provisions of the  
14 National Fire Protection Association, Life Safety Code, NFPA  
15 101, 1994 edition, Chapter 22 for new facilities and Chapter  
16 23 for existing facilities shall be the uniform fire code  
17 applied by the State Fire Marshal for assisted living  
18 facilities, pursuant to s. 633.022.

19 b. Any new facility, regardless of size, that applies  
20 for a license on or after January 1, 1996, must be equipped  
21 with an automatic fire sprinkler system. The exceptions as  
22 provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as  
23 adopted herein, apply to any new facility housing eight or  
24 fewer residents. On July 1, 1995, local governmental entities  
25 responsible for the issuance of permits for construction shall  
26 inform, without liability, any facility whose permit for  
27 construction is obtained prior to January 1, 1996, of this  
28 automatic fire sprinkler requirement. As used in this part,  
29 the term "a new facility" does not mean an existing facility  
30 that has undergone change of ownership.

31

1           c. Notwithstanding any provision of s. 633.022 or of  
2 the National Fire Protection Association, NFPA 101A, Chapter  
3 5, 1995 edition, to the contrary, any existing facility  
4 housing eight or fewer residents is not required to install an  
5 automatic fire sprinkler system, nor to comply with any other  
6 requirement in Chapter 23, NFPA 101, 1994 edition, that  
7 exceeds the firesafety requirements of NFPA 101, 1988 edition,  
8 that applies to this size facility, unless the facility has  
9 been classified as impractical to evacuate. Any existing  
10 facility housing eight or fewer residents that is classified  
11 as impractical to evacuate must install an automatic fire  
12 sprinkler system within the timeframes granted in this  
13 section.

14           d. Any existing facility that is required to install  
15 an automatic fire sprinkler system under this paragraph need  
16 not meet other firesafety requirements of Chapter 23, NFPA  
17 101, 1994 edition, which exceed the provisions of NFPA 101,  
18 1988 edition. The mandate contained in this paragraph which  
19 requires certain facilities to install an automatic fire  
20 sprinkler system supersedes any other requirement.

21           e. This paragraph does not supersede the exceptions  
22 granted in NFPA 101, 1988 edition or 1994 edition.

23           f. This paragraph does not exempt facilities from  
24 other firesafety provisions adopted under s. 633.022 and local  
25 building code requirements in effect before July 1, 1995.

26           g. A local government may charge fees only in an  
27 amount not to exceed the actual expenses incurred by local  
28 government relating to the installation and maintenance of an  
29 automatic fire sprinkler system in an existing and properly  
30 licensed assisted living facility structure as of January 1,  
31 1996.

1           h. If a licensed facility undergoes major  
2 reconstruction or addition to an existing building on or after  
3 January 1, 1996, the entire building must be equipped with an  
4 automatic fire sprinkler system. Major reconstruction of a  
5 building means repair or restoration that costs in excess of  
6 50 percent of the value of the building as reported on the tax  
7 rolls, excluding land, before reconstruction. Multiple  
8 reconstruction projects within a 5-year period the total costs  
9 of which exceed 50 percent of the initial value of the  
10 building at the time the first reconstruction project was  
11 permitted are to be considered as major reconstruction.  
12 Application for a permit for an automatic fire sprinkler  
13 system is required upon application for a permit for a  
14 reconstruction project that creates costs that go over the  
15 50-percent threshold.

16           i. Any facility licensed before January 1, 1996, that  
17 is required to install an automatic fire sprinkler system  
18 shall ensure that the installation is completed within the  
19 following timeframes based upon evacuation capability of the  
20 facility as determined under subparagraph 1.:

21           (I) Impractical evacuation capability, 24 months.

22           (II) Slow evacuation capability, 48 months.

23           (III) Prompt evacuation capability, 60 months.

24

25 The beginning date from which the deadline for the automatic  
26 fire sprinkler installation requirement must be calculated is  
27 upon receipt of written notice from the local fire official  
28 that an automatic fire sprinkler system must be installed. The  
29 local fire official shall send a copy of the document  
30 indicating the requirement of a fire sprinkler system to the  
31 Agency for Health Care Administration.

1           j. It is recognized that the installation of an  
2 automatic fire sprinkler system may create financial hardship  
3 for some facilities. The appropriate local fire official  
4 shall, without liability, grant two 1-year extensions to the  
5 timeframes for installation established herein, if an  
6 automatic fire sprinkler installation cost estimate and proof  
7 of denial from two financial institutions for a construction  
8 loan to install the automatic fire sprinkler system are  
9 submitted. However, for any facility with a class I or class  
10 II, or a history of uncorrected class III, firesafety  
11 deficiencies, an extension must not be granted. The local  
12 fire official shall send a copy of the document granting the  
13 time extension to the Agency for Health Care Administration.

14           k. A facility owner whose facility is required to be  
15 equipped with an automatic fire sprinkler system under Chapter  
16 23, NFPA 101, 1994 edition, as adopted herein, must disclose  
17 to any potential buyer of the facility that an installation of  
18 an automatic fire sprinkler requirement exists. The sale of  
19 the facility does not alter the timeframe for the installation  
20 of the automatic fire sprinkler system.

21           l. Existing facilities required to install an  
22 automatic fire sprinkler system as a result of  
23 construction-type restrictions in Chapter 23, NFPA 101, 1994  
24 edition, as adopted herein, or evacuation capability  
25 requirements shall be notified by the local fire official in  
26 writing of the automatic fire sprinkler requirement, as well  
27 as the appropriate date for final compliance as provided in  
28 this subparagraph. The local fire official shall send a copy  
29 of the document to the Agency for Health Care Administration.

30           m. Except in cases of life-threatening fire hazards,  
31 if an existing facility experiences a change in the evacuation

1 capability, or if the local authority having jurisdiction  
2 identifies a construction-type restriction, such that an  
3 automatic fire sprinkler system is required, it shall be  
4 afforded time for installation as provided in this  
5 subparagraph.

6  
7 Facilities that are fully sprinkled and in compliance with  
8 other firesafety standards are not required to conduct more  
9 than one of the required fire drills between the hours of 11  
10 p.m. and 7 a.m., per year. In lieu of the remaining drills,  
11 staff responsible for residents during such hours may be  
12 required to participate in a mock drill that includes a review  
13 of evacuation procedures. Such standards must be included or  
14 referenced in the rules adopted by the State Fire Marshal.  
15 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the  
16 final administrative authority for firesafety standards  
17 established and enforced pursuant to this section. All  
18 licensed facilities must have an annual fire inspection  
19 conducted by the local fire marshal or authority having  
20 jurisdiction.

21 (b) The preparation and annual update of a  
22 comprehensive emergency management plan. Such standards must  
23 be included in the rules adopted by the agency ~~department~~  
24 after consultation with the Department of Community Affairs.  
25 At a minimum, the rules must provide for plan components that  
26 address emergency evacuation transportation; adequate  
27 sheltering arrangements; postdisaster activities, including  
28 provision of emergency power, food, and water; postdisaster  
29 transportation; supplies; staffing; emergency equipment;  
30 individual identification of residents and transfer of  
31 records; communication with families; and responses to family

1 inquiries. The comprehensive emergency management plan is  
2 subject to review and approval by the local emergency  
3 management agency. During its review, the local emergency  
4 management agency shall ensure that the following agencies, at  
5 a minimum, are given the opportunity to review the plan: the  
6 Department of Elderly Affairs, the Department of Health, the  
7 Agency for Health Care Administration, and the Department of  
8 Community Affairs. Also, appropriate volunteer organizations  
9 must be given the opportunity to review the plan. The local  
10 emergency management agency shall complete its review within  
11 60 days and either approve the plan or advise the facility of  
12 necessary revisions.

13 (c) The number, training, and qualifications of all  
14 personnel having responsibility for the care of residents.  
15 The rules must require adequate staff to provide for the  
16 safety of all residents. Facilities licensed for 17 or more  
17 residents are required to maintain an alert staff for 24 hours  
18 per day.

19 (d) All sanitary conditions within the facility and  
20 its surroundings which will ensure the health and comfort of  
21 residents. The rules must clearly delineate the  
22 responsibilities of the agency's licensure and survey staff,  
23 the county health departments, and the local authority having  
24 jurisdiction over fire safety and ensure that inspections are  
25 not duplicative. The agency may collect fees for food service  
26 inspections conducted by the county health departments and  
27 transfer such fees to the Department of Health.

28 (e) ~~License application and license renewal, transfer~~  
29 ~~of ownership,~~ Proper management of resident funds and personal  
30 property, surety bonds, resident contracts, refund policies,  
31 ~~financial ability to operate,~~ and facility and staff records.

1 (f) Inspections, complaint investigations,  
2 ~~moratoriums~~, classification of deficiencies, levying and  
3 enforcement of penalties, and use of income from fees and  
4 fines.

5 (g) The enforcement of the resident bill of rights  
6 specified in s. 400.428.

7 (h) The care and maintenance of residents, which must  
8 include, but is not limited to:

9 1. The supervision of residents;

10 2. The provision of personal services;

11 3. The provision of, or arrangement for, social and  
12 leisure activities;

13 4. The arrangement for appointments and transportation  
14 to appropriate medical, dental, nursing, or mental health  
15 services, as needed by residents;

16 5. The management of medication;

17 6. The nutritional needs of residents;

18 7. Resident records; and

19 8. Internal risk management and quality assurance.

20 (i) Facilities holding a limited nursing, extended  
21 congregate care, or limited mental health license.

22 (j) The establishment of specific criteria to define  
23 appropriateness of resident admission and continued residency  
24 in a facility holding a standard, limited nursing, extended  
25 congregate care, and limited mental health license.

26 (k) The use of physical or chemical restraints. The  
27 use of physical restraints is limited to half-bed rails as  
28 prescribed and documented by the resident's physician with the  
29 consent of the resident or, if applicable, the resident's  
30 representative or designee or the resident's surrogate,  
31 guardian, or attorney in fact. The use of chemical restraints

1 is limited to prescribed dosages of medications authorized by  
2 the resident's physician and must be consistent with the  
3 resident's diagnosis. Residents who are receiving medications  
4 that can serve as chemical restraints must be evaluated by  
5 their physician at least annually to assess:

6 1. The continued need for the medication.

7 2. The level of the medication in the resident's  
8 blood.

9 3. The need for adjustments in the prescription.

10 (2) In adopting any rules pursuant to this part, the  
11 agency ~~department~~, in conjunction with the department ~~agency~~,  
12 shall make distinct standards for facilities based upon  
13 facility size; the types of care provided; the physical and  
14 mental capabilities and needs of residents; the type,  
15 frequency, and amount of services and care offered; and the  
16 staffing characteristics of the facility. Rules developed  
17 pursuant to this section shall not restrict the use of shared  
18 staffing and shared programming in facilities that are part of  
19 retirement communities that provide multiple levels of care  
20 and otherwise meet the requirements of law and rule. Except  
21 for uniform firesafety standards, the agency ~~department~~ shall  
22 adopt by rule separate and distinct standards for facilities  
23 with 16 or fewer beds and for facilities with 17 or more beds.  
24 The standards for facilities with 16 or fewer beds shall be  
25 appropriate for a noninstitutional residential environment,  
26 provided that the structure is no more than two stories in  
27 height and all persons who cannot exit the facility unassisted  
28 in an emergency reside on the first floor. The agency  
29 ~~department~~, in conjunction with the department ~~agency~~, may  
30 make other distinctions among types of facilities as necessary  
31 to enforce the provisions of this part. Where appropriate, the

1 agency shall offer alternate solutions for complying with  
2 established standards, based on distinctions made by the  
3 department and the agency relative to the physical  
4 characteristics of facilities and the types of care offered  
5 therein.

6 (3) ~~The department shall submit a copy of proposed~~  
7 ~~rules to the Speaker of the House of Representatives, the~~  
8 ~~President of the Senate, and appropriate committees of~~  
9 ~~substance for review and comment prior to the promulgation~~  
10 ~~thereof.~~

11 (a) Rules adopted ~~promulgated~~ by the agency ~~department~~  
12 shall encourage the development of homelike facilities which  
13 promote the dignity, individuality, personal strengths, and  
14 decisionmaking ability of residents.

15 (b) The agency, in consultation with the department,  
16 may waive rules promulgated pursuant to this part in order to  
17 demonstrate and evaluate innovative or cost-effective  
18 congregate care alternatives which enable individuals to age  
19 in place. Such waivers may be granted only in instances where  
20 there is reasonable assurance that the health, safety, or  
21 welfare of residents will not be endangered. To apply for a  
22 waiver, the licensee shall submit to the agency a written  
23 description of the concept to be demonstrated, including  
24 goals, objectives, and anticipated benefits; the number and  
25 types of residents who will be affected, if applicable; a  
26 brief description of how the demonstration will be evaluated;  
27 and any other information deemed appropriate by the agency.  
28 Any facility granted a waiver shall submit a report of  
29 findings to the agency and the department within 12 months.  
30 At such time, the agency may renew or revoke the waiver or  
31 pursue any regulatory or statutory changes necessary to allow

1 other facilities to adopt the same practices. The agency  
2 ~~department~~ may by rule clarify terms and establish waiver  
3 application procedures, criteria for reviewing waiver  
4 proposals, and procedures for reporting findings, as necessary  
5 to implement this subsection.

6 (4) The agency may use an abbreviated biennial  
7 standard licensure inspection that consists of a review of key  
8 quality-of-care standards in lieu of a full inspection in  
9 facilities which have a good record of past performance.  
10 However, a full inspection shall be conducted in facilities  
11 which have had a history of class I or class II violations,  
12 uncorrected class III violations, confirmed ombudsman council  
13 complaints, or confirmed licensure complaints, within the  
14 previous licensure period immediately preceding the inspection  
15 or when a potentially serious problem is identified during the  
16 abbreviated inspection. The agency, in consultation with the  
17 department, shall develop the key quality-of-care standards  
18 with input from the State Long-Term Care Ombudsman Council and  
19 representatives of provider groups for incorporation into its  
20 rules. The agency department, in consultation with the  
21 department agency, shall report annually to the Legislature  
22 concerning its implementation of this subsection. The report  
23 shall include, at a minimum, the key quality-of-care standards  
24 which have been developed; the number of facilities identified  
25 as being eligible for the abbreviated inspection; the number  
26 of facilities which have received the abbreviated inspection  
27 and, of those, the number that were converted to full  
28 inspection; the number and type of subsequent complaints  
29 received by the agency or department on facilities which have  
30 had abbreviated inspections; any recommendations for  
31 modification to this subsection; any plans by the agency to

1 modify its implementation of this subsection; and any other  
2 information which the agency department believes should be  
3 reported.

4 ~~(5) A fee shall be charged by the department to any~~  
5 ~~person requesting a copy of this part or rules promulgated~~  
6 ~~under this part. Such fees shall not exceed the actual cost~~  
7 ~~of duplication and postage.~~

8 Section 90. Subsection (4) of section 400.442, Florida  
9 Statutes, is amended to read:

10 400.442 Pharmacy and dietary services.--

11 (4) The agency department may by rule establish  
12 procedures and specify documentation as necessary to implement  
13 this section.

14 Section 91. Subsection (3) of section 400.444, Florida  
15 Statutes, is amended to read:

16 400.444 Construction and renovation; requirements.--

17 (3) The agency department may adopt rules to establish  
18 procedures and specify the documentation necessary to  
19 implement this section.

20 Section 92. Subsections (1), (2), and (3) of section  
21 400.447 and section 400.451, Florida Statutes, are repealed.

22 Section 93. Subsections (1), (3), and (6) of section  
23 400.452, Florida Statutes, as amended by section 3 of chapter  
24 2003-405, Laws of Florida, are amended to read:

25 400.452 Staff training and educational programs; core  
26 educational requirement.--

27 (1) Administrators and other assisted living facility  
28 staff must meet minimum training and education requirements  
29 established by the Department of Elderly Affairs or the agency  
30 by rule. This training and education is intended to assist  
31 facilities to appropriately respond to the needs of residents,

1 to maintain resident care and facility standards, and to meet  
2 licensure requirements.

3 (3) Effective January 1, 2004, a new facility  
4 administrator must complete the required training and  
5 education, including the competency test, within a reasonable  
6 time after being employed as an administrator, as determined  
7 by the department. Failure to do so is a violation of this  
8 part and subjects the violator to an administrative fine as  
9 prescribed in s. 400.419. Administrators licensed in  
10 accordance with chapter 468, part II, are exempt from this  
11 requirement. Other licensed professionals may be exempted, as  
12 determined ~~by the department~~ by rule.

13 (6) Other facility staff shall participate in training  
14 relevant to their job duties as specified by rule ~~of the~~  
15 ~~department~~.

16 Section 94. Section 400.454, Florida Statutes, is  
17 amended to read:

18 400.454 Collection of information; local subsidy.--

19 (1) To enable the agency ~~department~~ to collect the  
20 information requested by the Legislature regarding the actual  
21 cost of providing room, board, and personal care in  
22 facilities, the agency may ~~department is authorized to~~ conduct  
23 field visits and audits of facilities as may be necessary.  
24 The owners of randomly sampled facilities shall submit such  
25 reports, audits, and accountings of cost as required ~~the~~  
26 ~~department may require~~ by rule; provided that such reports,  
27 audits, and accountings shall be the minimum necessary to  
28 implement the provisions of this section. Any facility  
29 selected to participate in the study shall cooperate with the  
30 agency ~~department~~ by providing cost of operation information  
31 to interviewers.

1           (2) Local governments or organizations may contribute  
2 to the cost of care of local facility residents by further  
3 subsidizing the rate of state-authorized payment to such  
4 facilities. Implementation of local subsidy shall require  
5 agency ~~departmental~~ approval and shall not result in  
6 reductions in the state supplement.

7           Section 95. Subsections (1) and (4) of section  
8 400.464, Florida Statutes, are amended to read:

9           400.464 Home health agencies to be licensed;  
10 expiration of license; exemptions; unlawful acts; penalties.--

11           (1) The requirements of ss. 408.801-408.819 apply to  
12 the provision of services that necessitate licensure pursuant  
13 to this part and ss. 408.801-408.819 and to entities licensed  
14 or registered by or applying for such licensure or  
15 registration from the Agency for Health Care Administration  
16 pursuant to this part.~~Any home health agency must be licensed~~  
17 ~~by the agency to operate in this state. A license issued to a~~  
18 ~~home health agency, unless sooner suspended or revoked,~~  
19 ~~expires 1 year after its date of issuance.~~

20           (4)(a) ~~An organization may not provide, offer, or~~  
21 ~~advertise home health services to the public unless the~~  
22 ~~organization has a valid license or is specifically exempted~~  
23 ~~under this part.~~An organization that offers or advertises to  
24 the public any service for which licensure or registration is  
25 required under this part must include in the advertisement the  
26 license number or regulation number issued to the organization  
27 by the agency. The agency shall assess a fine of not less  
28 than \$100 to any licensee or registrant who fails to include  
29 the license or registration number when submitting the  
30 advertisement for publication, broadcast, or printing. The  
31 holder of a license issued under this part may not advertise

1 or indicate to the public that it holds a home health agency  
2 or nurse registry license other than the one it has been  
3 issued.

4 (b) A person who violates paragraph (a) is subject to  
5 an injunctive proceeding under s. 408.816 ~~s. 400.515~~. A  
6 violation of paragraph (a) or s. 408.812 is a deceptive and  
7 unfair trade practice and constitutes a violation of the  
8 Florida Deceptive and Unfair Trade Practices Act.

9 ~~(c) A person who violates the provisions of paragraph~~  
10 ~~(a) commits a misdemeanor of the second degree, punishable as~~  
11 ~~provided in s. 775.082 or s. 775.083. Any person who commits~~  
12 ~~a second or subsequent violation commits a misdemeanor of the~~  
13 ~~first degree, punishable as provided in s. 775.082 or s.~~  
14 ~~775.083. Each day of continuing violation constitutes a~~  
15 ~~separate offense.~~

16 Section 96. Section 400.471, Florida Statutes, is  
17 amended to read:

18 400.471 Application for license; fee; provisional  
19 license; temporary permit.--

20 (1) Each applicant for licensure must comply with all  
21 provisions of ss. 408.801-408.819.~~Application for an initial~~  
22 ~~license or for renewal of an existing license must be made~~  
23 ~~under oath to the agency on forms furnished by it and must be~~  
24 ~~accompanied by the appropriate license fee as provided in~~  
25 ~~subsection (8). The agency must take final action on an~~  
26 ~~initial licensure application within 60 days after receipt of~~  
27 ~~all required documentation.~~

28 (2) In addition to the requirements of ss.  
29 408.801-408.819, the applicant must file with the application  
30 satisfactory proof that the home health agency is in  
31 compliance with this part and applicable rules, including:

1           (a) A listing of services to be provided, either  
2 directly by the applicant or through contractual arrangements  
3 with existing providers; and

4           (b) The number and discipline of professional staff to  
5 be employed. ~~an annually thereafter~~

6           ~~(c) Proof of financial ability to operate.~~

7           ~~(3) An applicant for initial licensure must  
8 demonstrate financial ability to operate by submitting a  
9 balance sheet and income and expense statement for the first 2  
10 years of operation which provide evidence of having sufficient  
11 assets, credit, and projected revenues to cover liabilities  
12 and expenses. The applicant shall have demonstrated financial  
13 ability to operate if the applicant's assets, credit, and  
14 projected revenues meet or exceed projected liabilities and  
15 expenses. All documents required under this subsection must  
16 be prepared in accordance with generally accepted accounting  
17 principles, and the financial statement must be signed by a  
18 certified public accountant.~~

19           ~~(4) Each applicant for licensure must comply with the  
20 following requirements:~~

21           ~~(a) Upon receipt of a completed, signed, and dated  
22 application, the agency shall require background screening of  
23 the applicant, in accordance with the level 2 standards for  
24 screening set forth in chapter 435. As used in this  
25 subsection, the term "applicant" means the administrator, or a  
26 similarly titled person who is responsible for the day-to-day  
27 operation of the licensed home health agency, and the  
28 financial officer, or similarly titled individual who is  
29 responsible for the financial operation of the licensed home  
30 health agency.~~

31

1           ~~(b) The agency may require background screening for a~~  
2 ~~member of the board of directors of the licensee or an officer~~  
3 ~~or an individual owning 5 percent or more of the licensee if~~  
4 ~~the agency reasonably suspects that such individual has been~~  
5 ~~convicted of an offense prohibited under the level 2 standards~~  
6 ~~for screening set forth in chapter 435.~~

7           ~~(c) Proof of compliance with the level 2 background~~  
8 ~~screening requirements of chapter 435 which has been submitted~~  
9 ~~within the previous 5 years in compliance with any other~~  
10 ~~health care or assisted living licensure requirements of this~~  
11 ~~state is acceptable in fulfillment of paragraph (a). Proof of~~  
12 ~~compliance with background screening which has been submitted~~  
13 ~~within the previous 5 years to fulfill the requirements of the~~  
14 ~~Financial Services Commission and the Office of Insurance~~  
15 ~~Regulation pursuant to chapter 651 as part of an application~~  
16 ~~for a certificate of authority to operate a continuing care~~  
17 ~~retirement community is acceptable in fulfillment of the~~  
18 ~~Department of Law Enforcement and Federal Bureau of~~  
19 ~~Investigation background check.~~

20           ~~(d) A provisional license may be granted to an~~  
21 ~~applicant when each individual required by this section to~~  
22 ~~undergo background screening has met the standards for the~~  
23 ~~Department of Law Enforcement background check, but the agency~~  
24 ~~has not yet received background screening results from the~~  
25 ~~Federal Bureau of Investigation. A standard license may be~~  
26 ~~granted to the licensee upon the agency's receipt of a report~~  
27 ~~of the results of the Federal Bureau of Investigation~~  
28 ~~background screening for each individual required by this~~  
29 ~~section to undergo background screening which confirms that~~  
30 ~~all standards have been met, or upon the granting of a~~  
31 ~~disqualification exemption by the agency as set forth in~~

1 ~~chapter 435. Any other person who is required to undergo level~~  
2 ~~2 background screening may serve in his or her capacity~~  
3 ~~pending the agency's receipt of the report from the Federal~~  
4 ~~Bureau of Investigation. However, the person may not continue~~  
5 ~~to serve if the report indicates any violation of background~~  
6 ~~screening standards and a disqualification exemption has not~~  
7 ~~been requested of and granted by the agency as set forth in~~  
8 ~~chapter 435.~~

9 ~~(e) Each applicant must submit to the agency, with its~~  
10 ~~application, a description and explanation of any exclusions,~~  
11 ~~permanent suspensions, or terminations of the licensee or~~  
12 ~~potential licensee from the Medicare or Medicaid programs.~~  
13 ~~Proof of compliance with the requirements for disclosure of~~  
14 ~~ownership and control interest under the Medicaid or Medicare~~  
15 ~~programs may be accepted in lieu of this submission.~~

16 ~~(f) Each applicant must submit to the agency a~~  
17 ~~description and explanation of any conviction of an offense~~  
18 ~~prohibited under the level 2 standards of chapter 435 by a~~  
19 ~~member of the board of directors of the applicant, its~~  
20 ~~officers, or any individual owning 5 percent or more of the~~  
21 ~~applicant. This requirement does not apply to a director of a~~  
22 ~~not-for-profit corporation or organization if the director~~  
23 ~~serves solely in a voluntary capacity for the corporation or~~  
24 ~~organization, does not regularly take part in the day-to-day~~  
25 ~~operational decisions of the corporation or organization,~~  
26 ~~receives no remuneration for his or her services on the~~  
27 ~~corporation or organization's board of directors, and has no~~  
28 ~~financial interest and has no family members with a financial~~  
29 ~~interest in the corporation or organization, provided that the~~  
30 ~~director and the not-for-profit corporation or organization~~  
31 ~~include in the application a statement affirming that the~~

1 ~~director's relationship to the corporation satisfies the~~  
2 ~~requirements of this paragraph.~~

3 ~~(g) A license may not be granted to an applicant if~~  
4 ~~the applicant, administrator, or financial officer has been~~  
5 ~~found guilty of, regardless of adjudication, or has entered a~~  
6 ~~plea of nolo contendere or guilty to, any offense prohibited~~  
7 ~~under the level 2 standards for screening set forth in chapter~~  
8 ~~435, unless an exemption from disqualification has been~~  
9 ~~granted by the agency as set forth in chapter 435.~~

10 ~~(h) The agency may deny or revoke licensure if the~~  
11 ~~applicant:~~

12 ~~1. Has falsely represented a material fact in the~~  
13 ~~application required by paragraph (e) or paragraph (f), or has~~  
14 ~~omitted any material fact from the application required by~~  
15 ~~paragraph (e) or paragraph (f); or~~

16 ~~2. Has been or is currently excluded, suspended,~~  
17 ~~terminated from, or has involuntarily withdrawn from~~  
18 ~~participation in this state's Medicaid program, or the~~  
19 ~~Medicaid program of any other state, or from participation in~~  
20 ~~the Medicare program or any other governmental or private~~  
21 ~~health care or health insurance program.~~

22 ~~(i) An application for license renewal must contain~~  
23 ~~the information required under paragraphs (e) and (f).~~

24 (3)(5) In addition to the requirements of s. 408.810,  
25 the home health agency must also obtain and maintain the  
26 following insurance coverages in an amount of not less than  
27 \$250,000 per claim, and the home health agency must submit  
28 proof of coverage with an initial application for licensure  
29 and with each annual application for license renewal:

30 (a) Malpractice insurance as defined in s.  
31 624.605(1)(k); and

1 (b) Liability insurance as defined in s.  
2 624.605(1)(b).

3 ~~(6) Ninety days before the expiration date, an~~  
4 ~~application for renewal must be submitted to the agency under~~  
5 ~~oath on forms furnished by it, and a license must be renewed~~  
6 ~~if the applicant has met the requirements established under~~  
7 ~~this part and applicable rules. The home health agency must~~  
8 ~~file with the application satisfactory proof that it is in~~  
9 ~~compliance with this part and applicable rules. If there is~~  
10 ~~evidence of financial instability, the home health agency must~~  
11 ~~submit satisfactory proof of its financial ability to comply~~  
12 ~~with the requirements of this part.~~

13 ~~(7) When transferring the ownership of a home health~~  
14 ~~agency, the transferee must submit an application for a~~  
15 ~~license at least 60 days before the effective date of the~~  
16 ~~transfer. If the home health agency is being leased, a copy~~  
17 ~~of the lease agreement must be filed with the application.~~

18 (4)(8) In accordance with s. 408.805, an applicant or  
19 licensee shall pay a fee for each license application  
20 submitted under this part and ss. 408.801-408.819. The fee  
21 shall be established by rule and shall be set at ~~The license~~  
22 ~~fee and annual renewal fee required of a home health agency~~  
23 ~~are nonrefundable. The agency shall set the fees in an amount~~  
24 ~~that is sufficient to cover the agency's its costs in carrying~~  
25 ~~out its responsibilities under this part, but may not to~~  
26 ~~exceed\$2,000 per biennium\$1,000. However, state, county, or~~  
27 ~~municipal governments applying for licenses under this part~~  
28 ~~are exempt from the payment of license fees. All fees~~  
29 ~~collected under this part must be deposited in the Health Care~~  
30 ~~Trust Fund for the administration of this part.~~

31

1           ~~(9) The license must be displayed in a conspicuous~~  
2 ~~place in the administrative office of the home health agency~~  
3 ~~and is valid only while in the possession of the person to~~  
4 ~~which it is issued. The license may not be sold, assigned, or~~  
5 ~~otherwise transferred, voluntarily or involuntarily, and is~~  
6 ~~valid only for the home health agency and location for which~~  
7 ~~originally issued.~~

8           ~~(10) A home health agency against whom a revocation or~~  
9 ~~suspension proceeding is pending at the time of license~~  
10 ~~renewal may be issued a provisional license effective until~~  
11 ~~final disposition by the agency of such proceedings. If~~  
12 ~~judicial relief is sought from the final disposition, the~~  
13 ~~court that has jurisdiction may issue a temporary permit for~~  
14 ~~the duration of the judicial proceeding.~~

15           ~~(5)(11)~~ The agency may not issue a license designated  
16 as certified to a home health agency that fails to satisfy the  
17 requirements of a Medicare certification survey from the  
18 agency.

19           ~~(12) The agency may not issue a license to a home~~  
20 ~~health agency that has any unpaid fines assessed under this~~  
21 ~~part.~~

22           Section 97. Section 400.474, Florida Statutes, is  
23 amended to read:

24           400.474 Denial or, ~~suspension~~, revocation of license;  
25 injunction; grounds; penalties.--

26           (1) The agency may deny, ~~revoke~~, or suspend a license,  
27 ~~or~~ impose an administrative fine in the manner provided in  
28 chapter 120, or initiate injunctive proceedings under s.  
29 408.816 for the violation of any provision of this part, ss.  
30 408.801-408.819, or applicable rules s. 400.515.

31

1           (2) Any of the following actions by a home health  
2 agency or its employee is grounds for disciplinary action by  
3 the agency:

4           (a) Violation of this part, ss. 408.801-408.819, or of  
5 applicable rules.

6           (b) An intentional, reckless, or negligent act that  
7 materially affects the health or safety of a patient.

8           (c) Knowingly providing home health services in an  
9 unlicensed assisted living facility or unlicensed adult  
10 family-care home, unless the home health agency or employee  
11 reports the unlicensed facility or home to the agency within  
12 72 hours after providing the services.

13           ~~(3) The agency may impose the following penalties for~~  
14 ~~operating without a license upon an applicant or owner who has~~  
15 ~~in the past operated, or who currently operates, a licensed~~  
16 ~~home health agency.~~

17           ~~(a) If a home health agency that is found to be~~  
18 ~~operating without a license wishes to apply for a license, the~~  
19 ~~home health agency may submit an application only after the~~  
20 ~~agency has verified that the home health agency no longer~~  
21 ~~operates an unlicensed home health agency.~~

22           ~~(b) Any person, partnership, or corporation that~~  
23 ~~violates paragraph (a) and that previously operated a licensed~~  
24 ~~home health agency or concurrently operates both a licensed~~  
25 ~~home health agency and an unlicensed home health agency~~  
26 ~~commits a felony of the third degree punishable as provided in~~  
27 ~~s. 775.082, s. 775.083, or s. 775.084. If an owner has an~~  
28 ~~interest in more than one home health agency and fails to~~  
29 ~~license any one of those home health agencies, the agency must~~  
30 ~~issue a cease and desist order for the activities of the~~  
31 ~~unlicensed home health agency and impose a moratorium on any~~

1 ~~or all of the licensed related home health agencies until the~~  
2 ~~unlicensed home health agency is licensed.~~

3       ~~(3)(c)~~ If any home health agency is found to be  
4 operating without a license ~~meets the criteria in paragraph~~  
5 ~~(a) or paragraph (b) and that home health agency has received~~  
6 ~~any government reimbursement for services provided by an~~  
7 ~~unlicensed home health agency, the agency shall make a fraud~~  
8 ~~referral to the appropriate government reimbursement program.~~

9       ~~(4) The agency may deny, revoke, or suspend the~~  
10 ~~license of a home health agency, or may impose on a home~~  
11 ~~health agency administrative fines not to exceed the aggregate~~  
12 ~~sum of \$5,000 if:~~

13       ~~(a) The agency is unable to obtain entry to the home~~  
14 ~~health agency to conduct a licensure survey, complaint~~  
15 ~~investigation, surveillance visit, or monitoring visit.~~

16       ~~(b) An applicant or a licensed home health agency has~~  
17 ~~falsely represented a material fact in the application, or has~~  
18 ~~omitted from the application any material fact, including, but~~  
19 ~~not limited to, the fact that the controlling or ownership~~  
20 ~~interest is held by any officer, director, agent, manager,~~  
21 ~~employee, affiliated person, partner, or shareholder who is~~  
22 ~~not eligible to participate.~~

23       ~~(c) An applicant, owner, or person who has a 5 percent~~  
24 ~~or greater interest in a licensed entity:~~

25           ~~1. Has been previously found by any licensing,~~  
26 ~~certifying, or professional standards board or agency to have~~  
27 ~~violated the standards or conditions that relate to home~~  
28 ~~health-related licensure or certification, or to the quality~~  
29 ~~of home health-related services provided; or~~

30           ~~2. Has been or is currently excluded, suspended,~~  
31 ~~terminated from, or has involuntarily withdrawn from,~~

1 ~~participation in the Medicaid program of this state or any~~  
2 ~~other state, the Medicare program, or any other governmental~~  
3 ~~health care or health insurance program.~~

4 Section 98. Subsection (1) and paragraphs (a) and (b)  
5 of subsection (2) of section 400.484, Florida Statutes, are  
6 amended to read:

7 400.484 Right of inspection; deficiencies; fines.--

8 (1) In accordance with s. 408.811,~~Any duly authorized~~  
9 ~~officer or employee of the agency may make such inspections~~  
10 ~~and investigations as are necessary in order to determine the~~  
11 ~~state of compliance with this part and with applicable rules.~~  
12 ~~The right of inspection extends to any business that the~~  
13 ~~agency has reason to believe is being operated as a home~~  
14 ~~health agency without a license, but such inspection of any~~  
15 ~~such business may not be made without the permission of the~~  
16 ~~owner or person in charge unless a warrant is first obtained~~  
17 ~~from a circuit court. Any application for a license issued~~  
18 ~~under this part or for license renewal constitutes permission~~  
19 ~~for an appropriate inspection to verify the information~~  
20 ~~submitted on or in connection with the application.~~

21 (2) The agency shall impose fines for various classes  
22 of deficiencies in accordance with the following schedule:

23 (a) A class I deficiency is any act, omission, or  
24 practice that results in a patient's death, disablement, or  
25 permanent injury, or places a patient at imminent risk of  
26 death, disablement, or permanent injury. Upon finding a class  
27 I deficiency, the agency may impose an administrative fine in  
28 the amount of \$5,000 for each occurrence and each day that the  
29 deficiency exists. In addition, the agency may immediately  
30 revoke the license, or impose a moratorium pursuant to s.

31

1 ~~408.814 on the admission of new patients~~, until the factors  
2 causing the deficiency have been corrected.

3 (b) A class II deficiency is any act, omission, or  
4 practice that has a direct adverse effect on the health,  
5 safety, or security of a patient. Upon finding a class II  
6 deficiency, the agency may impose an administrative fine in  
7 the amount of \$1,000 for each occurrence and each day that the  
8 deficiency exists. In addition, the agency may suspend the  
9 license, or impose a moratorium pursuant to s. ~~408.814 on the~~  
10 ~~admission of new patients~~, until the deficiency has been  
11 corrected.

12 Section 99. Section 400.494, Florida Statutes, is  
13 amended to read:

14 400.494 Information about patients confidential.--

15 (1) Information about patients received by persons  
16 employed by, or providing services to, a home health agency or  
17 received by the licensing agency through reports or inspection  
18 shall be confidential and exempt from the provisions of s.  
19 119.07(1) and may ~~shall~~ not be disclosed to any person other  
20 than the patient without the written consent of that patient  
21 or the patient's guardian.

22 (2) This section does not apply to information  
23 lawfully requested by the Medicaid Fraud Control Unit of the  
24 Office of the Attorney General or requested under s. 408.811  
25 ~~Department of Legal Affairs.~~

26 Section 100. Section 400.495, Florida Statutes, is  
27 amended to read:

28 400.495 Notice of toll-free telephone number for  
29 central abuse hotline.--In addition to the requirements of s.  
30 408.810(5), ~~On or before the first day home health services~~  
31 ~~are provided to a patient, any home health agency or nurse~~

1 ~~registry licensed under this part must inform the patient and~~  
2 ~~his or her immediate family, if appropriate, of the right to~~  
3 ~~report abusive, neglectful, or exploitative practices. The~~  
4 ~~statewide toll-free telephone number for the central abuse~~  
5 ~~hotline must be provided to patients in a manner that is~~  
6 ~~clearly legible and must include the words: "To report abuse,~~  
7 ~~neglect, or exploitation, please call toll-free ... (phone~~  
8 ~~number)...."~~the Agency for Health Care Administration shall  
9 adopt rules ~~that provide for 90 days' advance notice of a~~  
10 ~~change in the toll-free telephone number and~~ that outline due  
11 process procedures, as provided under chapter 120, for home  
12 health agency personnel and nurse registry personnel who are  
13 reported to the central abuse hotline. Home health agencies  
14 and nurse registries shall establish appropriate policies and  
15 procedures for providing such notice to patients.

16 Section 101. Section 400.497, Florida Statutes, is  
17 amended to read:

18 400.497 Rules establishing minimum standards.--The  
19 agency shall adopt, publish, and enforce rules to implement  
20 ss. 408.801-408.819, this part, including, as applicable, ss.  
21 400.506 and 400.509, which must provide reasonable and fair  
22 minimum standards relating to:

23 (1) The home health aide competency test and home  
24 health aide training. The agency shall create the home health  
25 aide competency test and establish the curriculum and  
26 instructor qualifications for home health aide training.  
27 Licensed home health agencies may provide this training and  
28 shall furnish documentation of such training to other licensed  
29 home health agencies upon request. Successful passage of the  
30 competency test by home health aides may be substituted for  
31

1 the training required under this section and any rule adopted  
2 pursuant thereto.

3 (2) Shared staffing. The agency shall allow shared  
4 staffing if the home health agency is part of a retirement  
5 community that provides multiple levels of care, is located on  
6 one campus, is licensed under this chapter, and otherwise  
7 meets the requirements of law and rule.

8 (3) The criteria for the frequency of onsite licensure  
9 surveys.

10 (4) Licensure application and renewal.

11 (5) The requirements for onsite and electronic  
12 accessibility of supervisory personnel of home health  
13 agencies.

14 (6) Information to be included in patients' records.

15 (7) Geographic service areas.

16 (8) Preparation of a comprehensive emergency  
17 management plan pursuant to s. 400.492.

18 (a) The Agency for Health Care Administration shall  
19 adopt rules establishing minimum criteria for the plan and  
20 plan updates, with the concurrence of the Department of Health  
21 and in consultation with the Department of Community Affairs.

22 (b) The rules must address the requirements in s.  
23 400.492. In addition, the rules shall provide for the  
24 maintenance of patient-specific medication lists that can  
25 accompany patients who are transported from their homes.

26 (c) The plan is subject to review and approval by the  
27 county health department. During its review, the county health  
28 department shall ensure that the following agencies, at a  
29 minimum, are given the opportunity to review the plan:

30 1. The local emergency management agency.

31 2. The Agency for Health Care Administration.

1           3. The local chapter of the American Red Cross or  
2 other lead sheltering agency.

3           4. The district office of the Department of Children  
4 and Family Services.

5  
6 The county health department shall complete its review within  
7 60 days after receipt of the plan and shall either approve the  
8 plan or advise the home health agency of necessary revisions.

9           (d) For any home health agency that operates in more  
10 than one county, the Department of Health shall review the  
11 plan, after consulting with all of the county health  
12 departments, the agency, and all the local chapters of the  
13 American Red Cross or other lead sheltering agencies in the  
14 areas of operation for that particular home health agency. The  
15 Department of Health shall complete its review within 90 days  
16 after receipt of the plan and shall either approve the plan or  
17 advise the home health agency of necessary revisions. The  
18 Department of Health shall make every effort to avoid imposing  
19 differing requirements based on differences between counties  
20 on the home health agency.

21           (e) The requirements in this subsection do not apply  
22 to:

23           1. A facility that is certified under chapter 651 and  
24 has a licensed home health agency used exclusively by  
25 residents of the facility; or

26           2. A retirement community that consists of residential  
27 units for independent living and either a licensed nursing  
28 home or an assisted living facility, and has a licensed home  
29 health agency used exclusively by the residents of the  
30 retirement community, provided the comprehensive emergency  
31 management plan for the facility or retirement community

1 provides for continuous care of all residents with special  
2 needs during an emergency.

3 Section 102. Section 400.506, Florida Statutes, is  
4 amended to read:

5 400.506 Licensure of nurse registries; requirements;  
6 penalties.--

7 (1) A nurse registry is exempt from the licensing  
8 requirements of a home health agency but must be licensed as a  
9 nurse registry. The requirements of ss. 408.801-408.819 apply  
10 to the provision of services that necessitate licensure  
11 pursuant to ss. 400.506-400.518 and ss. 408.801-408.819 and to  
12 entities licensed by or applying for such licensed from the  
13 Agency for Health Care Administration pursuant to ss.  
14 400.506-400.518.Each operational site of the nurse registry  
15 must be licensed, unless there is more than one site within a  
16 county. If there is more than one site within a county, only  
17 one license per county is required. Each operational site  
18 must be listed on the license.

19 (2) Each applicant for licensure must comply with all  
20 provisions of ss. 408.801-408.819, with the exception of s.  
21 408.810(6) and (10).~~the following requirements:~~

22 ~~(a) Upon receipt of a completed, signed, and dated~~  
23 ~~application, the agency shall require background screening, in~~  
24 ~~accordance with the level 2 standards for screening set forth~~  
25 ~~in chapter 435, of the managing employee, or other similarly~~  
26 ~~titled individual who is responsible for the daily operation~~  
27 ~~of the nurse registry, and of the financial officer, or other~~  
28 ~~similarly titled individual who is responsible for the~~  
29 ~~financial operation of the registry, including billings for~~  
30 ~~patient care and services. The applicant shall comply with~~

31

1 ~~the procedures for level 2 background screening as set forth~~  
2 ~~in chapter 435.~~

3 ~~(b) The agency may require background screening of any~~  
4 ~~other individual who is an applicant if the agency has~~  
5 ~~probable cause to believe that he or she has been convicted of~~  
6 ~~a crime or has committed any other offense prohibited under~~  
7 ~~the level 2 standards for screening set forth in chapter 435.~~

8 ~~(c) Proof of compliance with the level 2 background~~  
9 ~~screening requirements of chapter 435 which has been submitted~~  
10 ~~within the previous 5 years in compliance with any other~~  
11 ~~health care or assisted living licensure requirements of this~~  
12 ~~state is acceptable in fulfillment of the requirements of~~  
13 ~~paragraph (a).~~

14 ~~(d) A provisional license may be granted to an~~  
15 ~~applicant when each individual required by this section to~~  
16 ~~undergo background screening has met the standards for the~~  
17 ~~Department of Law Enforcement background check but the agency~~  
18 ~~has not yet received background screening results from the~~  
19 ~~Federal Bureau of Investigation. A standard license may be~~  
20 ~~granted to the applicant upon the agency's receipt of a report~~  
21 ~~of the results of the Federal Bureau of Investigation~~  
22 ~~background screening for each individual required by this~~  
23 ~~section to undergo background screening which confirms that~~  
24 ~~all standards have been met, or upon the granting of a~~  
25 ~~disqualification exemption by the agency as set forth in~~  
26 ~~chapter 435. Any other person who is required to undergo level~~  
27 ~~2 background screening may serve in his or her capacity~~  
28 ~~pending the agency's receipt of the report from the Federal~~  
29 ~~Bureau of Investigation. However, the person may not continue~~  
30 ~~to serve if the report indicates any violation of background~~  
31 ~~screening standards and a disqualification exemption has not~~

1 ~~been requested of and granted by the agency as set forth in~~  
2 ~~chapter 435.~~

3 ~~(e) Each applicant must submit to the agency, with its~~  
4 ~~application, a description and explanation of any exclusions,~~  
5 ~~permanent suspensions, or terminations of the applicant from~~  
6 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
7 ~~the requirements for disclosure of ownership and control~~  
8 ~~interests under the Medicaid or Medicare programs may be~~  
9 ~~accepted in lieu of this submission.~~

10 ~~(f) Each applicant must submit to the agency a~~  
11 ~~description and explanation of any conviction of an offense~~  
12 ~~prohibited under the level 2 standards of chapter 435 by a~~  
13 ~~member of the board of directors of the applicant, its~~  
14 ~~officers, or any individual owning 5 percent or more of the~~  
15 ~~applicant. This requirement does not apply to a director of a~~  
16 ~~not-for-profit corporation or organization if the director~~  
17 ~~serves solely in a voluntary capacity for the corporation or~~  
18 ~~organization, does not regularly take part in the day-to-day~~  
19 ~~operational decisions of the corporation or organization,~~  
20 ~~receives no remuneration for his or her services on the~~  
21 ~~corporation or organization's board of directors, and has no~~  
22 ~~financial interest and has no family members with a financial~~  
23 ~~interest in the corporation or organization, provided that the~~  
24 ~~director and the not-for-profit corporation or organization~~  
25 ~~include in the application a statement affirming that the~~  
26 ~~director's relationship to the corporation satisfies the~~  
27 ~~requirements of this paragraph.~~

28 ~~(g) A license may not be granted to an applicant if~~  
29 ~~the applicant or managing employee has been found guilty of,~~  
30 ~~regardless of adjudication, or has entered a plea of nolo~~  
31 ~~contendere or guilty to, any offense prohibited under the~~

1 ~~level 2 standards for screening set forth in chapter 435,~~  
2 ~~unless an exemption from disqualification has been granted by~~  
3 ~~the agency as set forth in chapter 435.~~

4 ~~(h) The agency may deny or revoke the license if any~~  
5 ~~applicant:~~

6 ~~1. Has falsely represented a material fact in the~~  
7 ~~application required by paragraph (e) or paragraph (f), or has~~  
8 ~~omitted any material fact from the application required by~~  
9 ~~paragraph (e) or paragraph (f); or~~

10 ~~2. Has had prior action taken against the applicant~~  
11 ~~under the Medicaid or Medicare program as set forth in~~  
12 ~~paragraph (e).~~

13 ~~(i) An application for license renewal must contain~~  
14 ~~the information required under paragraphs (e) and (f).~~

15 ~~(3) In accordance with s. 408.805, an applicant or~~  
16 ~~licensee shall pay a fee for each license application~~  
17 ~~submitted under ss. 400.508-400.518 and ss. 408.801-408.819.~~  
18 ~~The amount of the fee shall be established by rule and may not~~  
19 ~~exceed \$2,000 per biennium.~~ ~~Application for license must be~~  
20 ~~made to the Agency for Health Care Administration on forms~~  
21 ~~furnished by it and must be accompanied by the appropriate~~  
22 ~~licensure fee, as established by rule and not to exceed the~~  
23 ~~cost of regulation under this part. The licensure fee for~~  
24 ~~nurse registries may not exceed \$1,000 and must be deposited~~  
25 ~~in the Health Care Trust Fund.~~

26 ~~(4) The Agency for Health Care Administration may~~  
27 ~~deny, revoke, or suspend a license or impose an administrative~~  
28 ~~fine in the manner provided in chapter 120 against a nurse~~  
29 ~~registry that:~~

30 ~~(a) Fails to comply with this section or applicable~~  
31 ~~rules.~~

1           ~~(b) Commits an intentional, reckless, or negligent act~~  
2 ~~that materially affects the health or safety of a person~~  
3 ~~receiving services.~~

4           ~~(5) A license issued for the operation of a nurse~~  
5 ~~registry, unless sooner suspended or revoked, expires 1 year~~  
6 ~~after its date of issuance. Sixty days before the expiration~~  
7 ~~date, an application for renewal must be submitted to the~~  
8 ~~Agency for Health Care Administration on forms furnished by~~  
9 ~~it. The Agency for Health Care Administration shall renew the~~  
10 ~~license if the applicant has met the requirements of this~~  
11 ~~section and applicable rules. A nurse registry against which~~  
12 ~~a revocation or suspension proceeding is pending at the time~~  
13 ~~of license renewal may be issued a conditional license~~  
14 ~~effective until final disposition by the Agency for Health~~  
15 ~~Care Administration of such proceedings. If judicial relief is~~  
16 ~~sought from the final disposition, the court having~~  
17 ~~jurisdiction may issue a conditional license for the duration~~  
18 ~~of the judicial proceeding.~~

19           ~~(6) The Agency for Health Care Administration may~~  
20 ~~institute injunctive proceedings under s. 400.515.~~

21           (4)(7) A person that offers or advertises to the  
22 public that it provides any service for which licensure is  
23 required under this section must include in such advertisement  
24 the license number issued to it by the Agency for Health Care  
25 Administration.

26           ~~(8) It is unlawful for a person to offer or advertise~~  
27 ~~to the public services as defined by rule without obtaining a~~  
28 ~~valid license from the Agency for Health Care Administration.~~  
29 ~~It is unlawful for any holder of a license to advertise or~~  
30 ~~hold out to the public that he or she holds a license for~~  
31 ~~other than that for which he or she actually holds a license.~~

1 ~~A person who violates this subsection is subject to injunctive~~  
2 ~~proceedings under s. 400.515.~~

3 ~~(9) Any duly authorized officer or employee of the~~  
4 ~~Agency for Health Care Administration may make such~~  
5 ~~inspections and investigations as are necessary to respond to~~  
6 ~~complaints or to determine the state of compliance with this~~  
7 ~~section and applicable rules.~~

8 ~~(a) If, in responding to a complaint, an agent or~~  
9 ~~employee of the Agency for Health Care Administration has~~  
10 ~~reason to believe that a crime has been committed, he or she~~  
11 ~~shall notify the appropriate law enforcement agency.~~

12 ~~(b) If, in responding to a complaint, an agent or~~  
13 ~~employee of the Agency for Health Care Administration has~~  
14 ~~reason to believe that abuse, neglect, or exploitation has~~  
15 ~~occurred, according to the definitions in chapter 415, he or~~  
16 ~~she shall file a report under chapter 415.~~

17 (5)~~(10)~~(a) A nurse registry may refer for contract in  
18 private residences registered nurses and licensed practical  
19 nurses registered and licensed under part I of chapter 464,  
20 certified nursing assistants certified under part II of  
21 chapter 464, home health aides who present documented proof of  
22 successful completion of the training required by rule of the  
23 agency, and companions or homemakers for the purposes of  
24 providing those services authorized under s. 400.509(1). Each  
25 person referred by a nurse registry must provide current  
26 documentation that he or she is free from communicable  
27 diseases.

28 (b) A certified nursing assistant or home health aide  
29 may be referred for a contract to provide care to a patient in  
30 his or her home only if that patient is under a physician's  
31 care. A certified nursing assistant or home health aide

1 referred for contract in a private residence shall be limited  
2 to assisting a patient with bathing, dressing, toileting,  
3 grooming, eating, physical transfer, and those normal daily  
4 routines the patient could perform for himself or herself were  
5 he or she physically capable. A certified nursing assistant  
6 or home health aide may not provide medical or other health  
7 care services that require specialized training and that may  
8 be performed only by licensed health care professionals. The  
9 nurse registry shall obtain the name and address of the  
10 attending physician and send written notification to the  
11 physician within 48 hours after a contract is concluded that a  
12 certified nursing assistant or home health aide will be  
13 providing care for that patient.

14 (c) A registered nurse shall make monthly visits to  
15 the patient's home to assess the patient's condition and  
16 quality of care being provided by the certified nursing  
17 assistant or home health aide. Any condition which in the  
18 professional judgment of the nurse requires further medical  
19 attention shall be reported to the attending physician and the  
20 nurse registry. The assessment shall become a part of the  
21 patient's file with the nurse registry and may be reviewed by  
22 the agency during their survey procedure.

23 (6)~~(11)~~ A person who is referred by a nurse registry  
24 for contract in private residences and who is not a nurse  
25 licensed under part I of chapter 464 may perform only those  
26 services or care to clients that the person has been certified  
27 to perform or trained to perform as required by law or rules  
28 of the Agency for Health Care Administration or the Department  
29 of Business and Professional Regulation. Providing services  
30 beyond the scope authorized under this subsection constitutes  
31 the unauthorized practice of medicine or a violation of the

1 Nurse Practice Act and is punishable as provided under chapter  
2 458, chapter 459, or part I of chapter 464.

3 (7)~~(12)~~ Each nurse registry must require every  
4 applicant for contract to complete an application form  
5 providing the following information:

6 (a) The name, address, date of birth, and social  
7 security number of the applicant.

8 (b) The educational background and employment history  
9 of the applicant.

10 (c) The number and date of the applicable license or  
11 certification.

12 (d) When appropriate, information concerning the  
13 renewal of the applicable license, registration, or  
14 certification.

15 (8)~~(13)~~ Each nurse registry must comply with the  
16 procedures set forth in s. 400.512 for maintaining records of  
17 the employment history of all persons referred for contract  
18 and is subject to the standards and conditions set forth in  
19 that section. However, an initial screening may not be  
20 required for persons who have been continuously registered  
21 with the nurse registry since September 30, 1990.

22 (9)~~(14)~~ The nurse registry must maintain the  
23 application on file, and that file must be open to the  
24 inspection of the Agency for Health Care Administration. The  
25 nurse registry must maintain on file the name and address of  
26 the client to whom the nurse or other nurse registry personnel  
27 is sent for contract and the amount of the fee received by the  
28 nurse registry. A nurse registry must maintain the file that  
29 includes the application and other applicable documentation  
30 for 3 years after the date of the last file entry of  
31 client-related information.

1           (10)~~(15)~~ Nurse registries shall assist persons who  
2 would need assistance and sheltering during evacuations  
3 because of physical, mental, or sensory disabilities in  
4 registering with the appropriate local emergency management  
5 agency pursuant to s. 252.355.

6           (11)~~(16)~~ Each nurse registry shall prepare and  
7 maintain a comprehensive emergency management plan that is  
8 consistent with the criteria in this subsection and with the  
9 local special needs plan. The plan shall be updated annually.  
10 The plan shall specify how the nurse registry shall facilitate  
11 the provision of continuous care by persons referred for  
12 contract to persons who are registered pursuant to s. 252.355  
13 during an emergency that interrupts the provision of care or  
14 services in private residences.

15           (a) All persons referred for contract who care for  
16 persons registered pursuant to s. 252.355 must include in the  
17 patient record a description of how care will be continued  
18 during a disaster or emergency that interrupts the provision  
19 of care in the patient's home. It shall be the responsibility  
20 of the person referred for contract to ensure that continuous  
21 care is provided.

22           (b) Each nurse registry shall maintain a current  
23 prioritized list of patients in private residences who are  
24 registered pursuant to s. 252.355 and are under the care of  
25 persons referred for contract and who need continued services  
26 during an emergency. This list shall indicate, for each  
27 patient, if the client is to be transported to a special needs  
28 shelter and if the patient is receiving skilled nursing  
29 services. Nurse registries shall make this list available to  
30 county health departments and to local emergency management  
31 agencies upon request.

1           (c) Each person referred for contract who is caring  
2 for a patient who is registered pursuant to s. 252.355 shall  
3 provide a list of the patient's medication and equipment needs  
4 to the nurse registry. Each person referred for contract shall  
5 make this information available to county health departments  
6 and to local emergency management agencies upon request.

7           (d) Each person referred for contract shall not be  
8 required to continue to provide care to patients in emergency  
9 situations that are beyond the person's control and that make  
10 it impossible to provide services, such as when roads are  
11 impassable or when patients do not go to the location  
12 specified in their patient records.

13           (e) The comprehensive emergency management plan  
14 required by this subsection is subject to review and approval  
15 by the county health department. During its review, the county  
16 health department shall ensure that, at a minimum, the local  
17 emergency management agency, the Agency for Health Care  
18 Administration, and the local chapter of the American Red  
19 Cross or other lead sheltering agency are given the  
20 opportunity to review the plan. The county health department  
21 shall complete its review within 60 days after receipt of the  
22 plan and shall either approve the plan or advise the nurse  
23 registry of necessary revisions.

24           (f) The Agency for Health Care Administration shall  
25 adopt rules establishing minimum criteria for the  
26 comprehensive emergency management plan and plan updates  
27 required by this subsection, with the concurrence of the  
28 Department of Health and in consultation with the Department  
29 of Community Affairs.

30  
31

1           (12)~~(17)~~ All persons referred for contract in private  
2 residences by a nurse registry must comply with the following  
3 requirements for a plan of treatment:

4           (a) When, in accordance with the privileges and  
5 restrictions imposed upon a nurse under part I of chapter 464,  
6 the delivery of care to a patient is under the direction or  
7 supervision of a physician or when a physician is responsible  
8 for the medical care of the patient, a medical plan of  
9 treatment must be established for each patient receiving care  
10 or treatment provided by a licensed nurse in the home. The  
11 original medical plan of treatment must be timely signed by  
12 the physician and reviewed by him or her in consultation with  
13 the licensed nurse at least every 2 months. Any additional  
14 order or change in orders must be obtained from the physician  
15 and reduced to writing and timely signed by the physician.  
16 The delivery of care under a medical plan of treatment must be  
17 substantiated by the appropriate nursing notes or  
18 documentation made by the nurse in compliance with nursing  
19 practices established under part I of chapter 464.

20           (b) Whenever a medical plan of treatment is  
21 established for a patient, the initial medical plan of  
22 treatment, any amendment to the plan, additional order or  
23 change in orders, and copy of nursing notes must be filed in  
24 the office of the nurse registry.

25           (13)~~(18)~~ The nurse registry must comply with the  
26 notice requirements of s. 400.495, relating to abuse  
27 reporting.

28           (14)~~(19)~~ In addition to any other penalties imposed  
29 pursuant to this section or part, the agency may assess costs  
30 related to an investigation that results in a successful  
31 prosecution, ~~excluding costs associated with an attorney's~~

1 ~~time. If the agency imposes such an assessment and the~~  
2 ~~assessment is not paid, and if challenged is not the subject~~  
3 ~~of a pending appeal, prior to the renewal of the license, the~~  
4 ~~license shall not be issued until the assessment is paid or~~  
5 ~~arrangements for payment of the assessment are made.~~

6 (15)(20) The Agency for Health Care Administration  
7 shall adopt rules to implement this section and ss.  
8 408.801-408.819.

9 Section 103. Section 400.509, Florida Statutes, is  
10 amended to read:

11 400.509 Registration of particular service providers  
12 exempt from licensure; certificate of registration; regulation  
13 of registrants.--

14 (1) Any organization that provides companion services  
15 or homemaker services and does not provide a home health  
16 service to a person is exempt from licensure under this part.  
17 However, any organization that provides companion services or  
18 homemaker services must register with the agency.

19 (2) The requirements of ss. 408.801-408.819 apply to  
20 the provision of services that necessitate registration or  
21 licensure pursuant to ss. 400.509-400.512 and ss.  
22 408.801-408.819 and to entities registered by or applying for  
23 such registration from the Agency for Health Care  
24 Administration pursuant to ss. 400.509-400.512. Each applicant  
25 for registration must comply with all provisions of ss.  
26 408.801-408.819, with the exception of s. 408.810(6)-(10).  
27 ~~Registration consists of annually filing with the agency,~~  
28 ~~under oath, on forms provided by it, the following~~  
29 ~~information:~~

1           ~~(a) If the registrant is a firm or partnership, the~~  
2 ~~name, address, date of birth, and social security number of~~  
3 ~~every member.~~

4           ~~(b) If the registrant is a corporation or association,~~  
5 ~~its name and address; the name, address, date of birth, and~~  
6 ~~social security number of each of its directors and officers;~~  
7 ~~and the name and address of each person having at least a 5~~  
8 ~~percent interest in the corporation or association.~~

9           ~~(c) The name, address, date of birth, and social~~  
10 ~~security number of each person employed by or under contract~~  
11 ~~with the organization.~~

12           (3) In accordance with s. 408.805, an applicant or  
13 registrant shall pay a fee for each registration issued under  
14 this part and ss. 408.801-408.819. The amount of the fee shall  
15 be \$50 per biennium.~~The agency shall charge a registration~~  
16 ~~fee of \$25 to be submitted with the information required under~~  
17 ~~subsection (2).~~

18           ~~(4) Each applicant for registration must comply with~~  
19 ~~the following requirements:~~

20           ~~(a) Upon receipt of a completed, signed, and dated~~  
21 ~~application, the agency shall require background screening, in~~  
22 ~~accordance with the level 1 standards for screening set forth~~  
23 ~~in chapter 435, of every individual who will have contact with~~  
24 ~~the client. The agency shall require background screening of~~  
25 ~~the managing employee or other similarly titled individual who~~  
26 ~~is responsible for the operation of the entity, and of the~~  
27 ~~financial officer or other similarly titled individual who is~~  
28 ~~responsible for the financial operation of the entity,~~  
29 ~~including billings for client services in accordance with the~~  
30 ~~level 2 standards for background screening as set forth in~~  
31 ~~chapter 435.~~

1           ~~(b) The agency may require background screening of any~~  
2 ~~other individual who is affiliated with the applicant if the~~  
3 ~~agency has a reasonable basis for believing that he or she has~~  
4 ~~been convicted of a crime or has committed any other offense~~  
5 ~~prohibited under the level 2 standards for screening set forth~~  
6 ~~in chapter 435.~~

7           ~~(c) Proof of compliance with the level 2 background~~  
8 ~~screening requirements of chapter 435 which has been submitted~~  
9 ~~within the previous 5 years in compliance with any other~~  
10 ~~health care or assisted living licensure requirements of this~~  
11 ~~state is acceptable in fulfillment of paragraph (a).~~

12           ~~(d) A provisional registration may be granted to an~~  
13 ~~applicant when each individual required by this section to~~  
14 ~~undergo background screening has met the standards for the~~  
15 ~~abuse-registry background check through the agency and the~~  
16 ~~Department of Law Enforcement background check, but the agency~~  
17 ~~has not yet received background screening results from the~~  
18 ~~Federal Bureau of Investigation. A standard registration may~~  
19 ~~be granted to the applicant upon the agency's receipt of a~~  
20 ~~report of the results of the Federal Bureau of Investigation~~  
21 ~~background screening for each individual required by this~~  
22 ~~section to undergo background screening which confirms that~~  
23 ~~all standards have been met, or upon the granting of a~~  
24 ~~disqualification exemption by the agency as set forth in~~  
25 ~~chapter 435. Any other person who is required to undergo~~  
26 ~~level 2 background screening may serve in his or her capacity~~  
27 ~~pending the agency's receipt of the report from the Federal~~  
28 ~~Bureau of Investigation. However, the person may not continue~~  
29 ~~to serve if the report indicates any violation of background~~  
30 ~~screening standards and if a disqualification exemption has~~

31

1 ~~not been requested of and granted by the agency as set forth~~  
2 ~~in chapter 435.~~

3 ~~(e) Each applicant must submit to the agency, with its~~  
4 ~~application, a description and explanation of any exclusions,~~  
5 ~~permanent suspensions, or terminations of the applicant from~~  
6 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
7 ~~the requirements for disclosure of ownership and control~~  
8 ~~interests under the Medicaid or Medicare programs may be~~  
9 ~~accepted in lieu of this submission.~~

10 ~~(f) Each applicant must submit to the agency a~~  
11 ~~description and explanation of any conviction of an offense~~  
12 ~~prohibited under the level 2 standards of chapter 435 which~~  
13 ~~was committed by a member of the board of directors of the~~  
14 ~~applicant, its officers, or any individual owning 5 percent or~~  
15 ~~more of the applicant. This requirement does not apply to a~~  
16 ~~director of a not-for-profit corporation or organization who~~  
17 ~~serves solely in a voluntary capacity for the corporation or~~  
18 ~~organization, does not regularly take part in the day-to-day~~  
19 ~~operational decisions of the corporation or organization,~~  
20 ~~receives no remuneration for his or her services on the~~  
21 ~~corporation's or organization's board of directors, and has no~~  
22 ~~financial interest and no family members having a financial~~  
23 ~~interest in the corporation or organization, if the director~~  
24 ~~and the not-for-profit corporation or organization include in~~  
25 ~~the application a statement affirming that the director's~~  
26 ~~relationship to the corporation satisfies the requirements of~~  
27 ~~this paragraph.~~

28 ~~(g) A registration may not be granted to an applicant~~  
29 ~~if the applicant or managing employee has been found guilty~~  
30 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
31 ~~contendere or guilty to, any offense prohibited under the~~

1 ~~level 2 standards for screening set forth in chapter 435,~~  
2 ~~unless an exemption from disqualification has been granted by~~  
3 ~~the agency as set forth in chapter 435.~~

4 ~~(h) The agency may deny or revoke the registration of~~  
5 ~~any applicant who:~~

6 1. ~~Has falsely represented a material fact in the~~  
7 ~~application required by paragraph (e) or paragraph (f), or has~~  
8 ~~omitted any material fact from the application required by~~  
9 ~~paragraph (e) or paragraph (f); or~~

10 2. ~~Has had prior action taken against the applicant~~  
11 ~~under the Medicaid or Medicare program as set forth in~~  
12 ~~paragraph (e).~~

13 ~~(i) An application for licensure renewal must contain~~  
14 ~~the information required under paragraphs (e) and (f).~~

15 (4)(5) Each registrant must obtain the employment or  
16 contract history of persons who are employed by or under  
17 contract with the organization and who will have contact at  
18 any time with patients or clients in their homes by:

19 (a) Requiring such persons to submit an employment or  
20 contractual history to the registrant; and

21 (b) Verifying the employment or contractual history,  
22 unless through diligent efforts such verification is not  
23 possible. The agency shall prescribe by rule the minimum  
24 requirements for establishing that diligent efforts have been  
25 made.

26  
27 There is no monetary liability on the part of, and no cause of  
28 action for damages arises against, a former employer of a  
29 prospective employee of or prospective independent contractor  
30 with a registrant who reasonably and in good faith  
31 communicates his or her honest opinions about the former

1 employee's or contractor's job performance. This subsection  
2 does not affect the official immunity of an officer or  
3 employee of a public corporation.

4 ~~(6) On or before the first day on which services are~~  
5 ~~provided to a patient or client, any registrant under this~~  
6 ~~part must inform the patient or client and his or her~~  
7 ~~immediate family, if appropriate, of the right to report~~  
8 ~~abusive, neglectful, or exploitative practices. The statewide~~  
9 ~~toll-free telephone number for the central abuse hotline must~~  
10 ~~be provided to patients or clients in a manner that is clearly~~  
11 ~~legible and must include the words: "To report abuse, neglect,~~  
12 ~~or exploitation, please call toll-free ... (phone number)...."~~  
13 ~~Registrants must establish appropriate policies and procedures~~  
14 ~~for providing such notice to patients or clients.~~

15 ~~(7) The provisions of s. 400.512 regarding screening~~  
16 ~~apply to any person or business entity registered under this~~  
17 ~~section on or after October 1, 1994.~~

18 ~~(8) Upon verification that all requirements for~~  
19 ~~registration have been met, the Agency for Health Care~~  
20 ~~Administration shall issue a certificate of registration valid~~  
21 ~~for no more than 1 year.~~

22 ~~(9) The Agency for Health Care Administration may~~  
23 ~~deny, suspend, or revoke the registration of a person that:~~

24 ~~(a) Fails to comply with this section or applicable~~  
25 ~~rules.~~

26 ~~(b) Commits an intentional, reckless, or negligent act~~  
27 ~~that materially affects the health or safety of a person~~  
28 ~~receiving services.~~

29 ~~(10) The Agency for Health Care Administration may~~  
30 ~~institute injunctive proceedings under s. 400.515.~~

31

1           (5)~~(11)~~ A person that offers or advertises to the  
2 public a service for which registration is required must  
3 include in its advertisement the registration number issued by  
4 the Agency for Health Care Administration.

5           ~~(12) It is unlawful for a person to offer or advertise~~  
6 ~~to the public services, as defined by rule, without obtaining~~  
7 ~~a certificate of registration from the Agency for Health Care~~  
8 ~~Administration. It is unlawful for any holder of a~~  
9 ~~certificate of registration to advertise or hold out to the~~  
10 ~~public that he or she holds a certificate of registration for~~  
11 ~~other than that for which he or she actually holds a~~  
12 ~~certificate of registration. Any person who violates this~~  
13 ~~subsection is subject to injunctive proceedings under s.~~  
14 ~~400.515.~~

15           ~~(13) Any duly authorized officer or employee of the~~  
16 ~~Agency for Health Care Administration has the right to make~~  
17 ~~such inspections and investigations as are necessary in order~~  
18 ~~to respond to complaints or to determine the state of~~  
19 ~~compliance with this section and applicable rules.~~

20           ~~(a) If, in responding to a complaint, an officer or~~  
21 ~~employee of the Agency for Health Care Administration has~~  
22 ~~reason to believe that a crime has been committed, he or she~~  
23 ~~shall notify the appropriate law enforcement agency.~~

24           ~~(b) If, in responding to a complaint, an officer or~~  
25 ~~employee of the Agency for Health Care Administration has~~  
26 ~~reason to believe that abuse, neglect, or exploitation has~~  
27 ~~occurred, according to the definitions in chapter 415, he or~~  
28 ~~she shall file a report under chapter 415.~~

29           (6)~~(14)~~ In addition to any other penalties imposed  
30 pursuant to this section or part, the agency may assess costs  
31 related to an investigation that results in a successful

1 prosecution, excluding costs associated with an attorney's  
2 time. If the agency imposes such an assessment and the  
3 assessment is not paid, and if challenged is not the subject  
4 of a pending appeal, prior to the renewal of the registration,  
5 the registration shall not be issued until the assessment is  
6 paid or arrangements for payment of the assessment are made.

7 (7)~~(15)~~ The Agency for Health Care Administration  
8 shall adopt rules to administer this section and ss.  
9 408.801-408.819.

10 Section 104. Subsections (2) and (7) of section  
11 400.512, Florida Statutes, are amended to read:

12 400.512 Screening of home health agency personnel;  
13 nurse registry personnel; and companions and homemakers.--The  
14 agency shall require employment or contractor screening as  
15 provided in chapter 435, using the level 1 standards for  
16 screening set forth in that chapter, for home health agency  
17 personnel; persons referred for employment by nurse  
18 registries; and persons employed by companion or homemaker  
19 services registered under s. 400.509.

20 ~~(2) The administrator of each home health agency, the~~  
21 ~~managing employee of each nurse registry, and the managing~~  
22 ~~employee of each companion or homemaker service registered~~  
23 ~~under s. 400.509 must sign an affidavit annually, under~~  
24 ~~penalty of perjury, stating that all personnel hired,~~  
25 ~~contracted with, or registered on or after October 1, 1994,~~  
26 ~~who enter the home of a patient or client in their service~~  
27 ~~capacity have been screened and that its remaining personnel~~  
28 ~~have worked for the home health agency or registrant~~  
29 ~~continuously since before October 1, 1994.~~

30  
31

1           (7)(a) It is a misdemeanor of the first degree,  
2 punishable under s. 775.082 or s. 775.083, for any person  
3 willfully, knowingly, or intentionally to:

4           1. Fail, by false statement, misrepresentation,  
5 impersonation, or other fraudulent means, to disclose in any  
6 application for voluntary or paid employment a material fact  
7 used in making a determination as to such person's  
8 qualifications to be an employee under this section;

9           ~~2. Operate or attempt to operate an entity licensed or~~  
10 ~~registered under this part with persons who do not meet the~~  
11 ~~minimum standards for good moral character as contained in~~  
12 ~~this section; or~~

13           ~~2.3.~~ Use information from the criminal records  
14 obtained under this section for any purpose other than  
15 screening that person for employment as specified in this  
16 section or release such information to any other person for  
17 any purpose other than screening for employment under this  
18 section.

19           (b) It is a felony of the third degree, punishable  
20 under s. 775.082, s. 775.083, or s. 775.084, for any person  
21 willfully, knowingly, or intentionally to use information from  
22 the juvenile records of a person obtained under this section  
23 for any purpose other than screening for employment under this  
24 section.

25           Section 105. Section 400.515, Florida Statutes, is  
26 repealed.

27           Section 106. Subsections (6) and (7) of section  
28 400.551, Florida Statutes, are amended to read:

29           400.551 Definitions.--As used in this part, the term:

30           (6) "Operator" means the licensee or person having  
31 general administrative charge of an adult day care center.

1           (7) "Owner" means the licensee ~~owner~~ of an adult day  
2 care center.

3           Section 107. Section 400.554, Florida Statutes, is  
4 amended to read:

5           400.554 License requirement; fee; exemption;  
6 display.--

7           (1) The requirements of ss. 408.801-408.819 apply to  
8 the provision of services that necessitate licensure pursuant  
9 to this part and ss. 408.801-408.819 and to entities licensed  
10 by or applying for such licensure from the Agency for Health  
11 Care Administration pursuant to this part. ~~It is unlawful to~~  
12 ~~operate an adult day care center without first obtaining from~~  
13 ~~the agency a license authorizing such operation. The agency~~  
14 ~~is responsible for licensing adult day care centers in~~  
15 ~~accordance with this part.~~

16           (2) Separate licenses are required for centers  
17 operated on separate premises, even though operated under the  
18 same management. Separate licenses are not required for  
19 separate buildings on the same premises.

20           (3) In accordance with s. 408.805, an applicant or  
21 licensee shall pay a fee for each license application  
22 submitted under this part and ss. 408.801-408.819. The amount  
23 of the fee shall be established by rule and ~~The biennial~~  
24 ~~license fee required of a center shall be determined by the~~  
25 ~~department, but may not exceed \$150 per biennium.~~

26           (4) County-operated or municipally operated centers  
27 applying for licensure under this part are exempt from the  
28 payment of license fees.

29           ~~(5) The license for a center shall be displayed in a~~  
30 ~~conspicuous place inside the center.~~

31

1           ~~(6) A license is valid only in the possession of the~~  
2 ~~individual, firm, partnership, association, or corporation to~~  
3 ~~which it is issued and is not subject to sale, assignment, or~~  
4 ~~other transfer, voluntary or involuntary; nor is a license~~  
5 ~~valid for any premises other than the premises for which~~  
6 ~~originally issued.~~

7           Section 108. Section 400.555, Florida Statutes, is  
8 amended to read:

9           400.555 Application for license.--

10           ~~(1) An application for a license to operate an adult~~  
11 ~~day care center must be made to the agency on forms furnished~~  
12 ~~by the agency and must be accompanied by the appropriate~~  
13 ~~license fee unless the applicant is exempt from payment of the~~  
14 ~~fee as provided in s. 400.554(4).~~

15           ~~(2) In addition to all provisions of ss.~~  
16 ~~408-801-408.819,the applicant for licensure must furnish+~~

17           ~~(a) a description of the physical and mental~~  
18 ~~capabilities and needs of the participants to be served and~~  
19 ~~the availability, frequency, and intensity of basic services~~  
20 ~~and of supportive and optional services to be provided.~~

21           ~~(b) Satisfactory proof of financial ability to operate~~  
22 ~~and conduct the center in accordance with the requirements of~~  
23 ~~this part, which must include, in the case of an initial~~  
24 ~~application, a 1-year operating plan and proof of a 3-month~~  
25 ~~operating reserve fund; and~~

26           ~~(c) Proof of adequate liability insurance coverage.~~

27           ~~(d) Proof of compliance with level 2 background~~  
28 ~~screening as required under s. 400.5572.~~

29           ~~(e) A description and explanation of any exclusions,~~  
30 ~~permanent suspensions, or terminations of the application from~~  
31 ~~the Medicare or Medicaid programs. Proof of compliance with~~

1 ~~disclosure of ownership and control interest requirements of~~  
2 ~~the Medicare or Medicaid programs shall be accepted in lieu of~~  
3 ~~this submission.~~

4 Section 109. Section 400.556, Florida Statutes, is  
5 amended to read:

6 400.556 Denial or, ~~suspension~~, revocation of license;  
7 administrative fines; investigations and inspections.--

8 (1) The agency may deny, revoke, or suspend a license  
9 under this part, impose a moratorium, or ~~may~~ impose an  
10 administrative fine against the owner of an adult day care  
11 center or its operator or employee in the manner provided in  
12 chapter 120 for a violation of any provision of this part, ss.  
13 408.801-408.819, or applicable rules.

14 (2) Each of the following actions by the owner of an  
15 adult day care center or by its operator or employee is a  
16 ground for action by the agency against the owner of the  
17 center or its operator or employee:

18 (a) An intentional or negligent act materially  
19 affecting the health or safety of center participants.

20 ~~(b) A violation of this part or of any standard or~~  
21 ~~rule under this part.~~

22 (b)(c) A failure of persons subject to level 2  
23 background screening under s. 400.4174(1) to meet the  
24 screening standards of s. 435.04, or the retention by the  
25 center of an employee subject to level 1 background screening  
26 standards under s. 400.4174(2) who does not meet the screening  
27 standards of s. 435.03 and for whom exemptions from  
28 disqualification have not been provided by the agency.

29 (c)(d) Failure to follow the criteria and procedures  
30 provided under part I of chapter 394 relating to the  
31

1 transportation, voluntary admission, and involuntary  
2 examination of center participants.

3 (d)~~(e)~~ Multiple or repeated violations of this part or  
4 of any standard or rule adopted under this part or ss.  
5 408.801-408.819.

6 ~~(f) Exclusion, permanent suspension, or termination of~~  
7 ~~the owner, if an individual, officer, or board member of the~~  
8 ~~adult day care center, if the owner is a firm, corporation,~~  
9 ~~partnership, or association, or any person owning 5 percent or~~  
10 ~~more of the center, from the Medicare or Medicaid program.~~

11 (3) The agency is responsible for all investigations  
12 and inspections conducted pursuant to this part.

13 Section 110. Section 400.5565, Florida Statutes, is  
14 amended to read:

15 400.5565 Administrative fines ~~interest~~.--

16 (1)(a) If the agency determines that an adult day care  
17 center is not operated in compliance with this part, ss.  
18 408.801-408.819, or applicable with rules adopted under this  
19 part, the agency, notwithstanding any other administrative  
20 action it takes, shall make a reasonable attempt to discuss  
21 with the owner each violation and recommended corrective  
22 action prior to providing the owner with written notification.  
23 The agency may request the submission of a corrective action  
24 plan for the center which demonstrates a good faith effort to  
25 remedy each violation by a specific date, subject to the  
26 approval of the agency.

27 (b) The owner of a center or its operator or employee  
28 found in violation of this part, ss. 408.801-408.819, or  
29 applicable of rules adopted under this part may be fined by  
30 the agency. A fine may not exceed \$500 for each violation.

31

1 In no event, however, may such fines in the aggregate exceed  
2 \$5,000.

3 (c) The failure to correct a violation by the date set  
4 by the agency, or the failure to comply with an approved  
5 corrective action plan, is a separate violation for each day  
6 such failure continues, unless the agency approves an  
7 extension to a specific date.

8 ~~(d) If the owner of a center or its operator or~~  
9 ~~employee appeals an agency action under this section and the~~  
10 ~~fine is upheld, the violator shall pay the fine, plus interest~~  
11 ~~at the legal rate specified in s. 687.01 for each day that the~~  
12 ~~fine remains unpaid after the date set by the agency for~~  
13 ~~payment of the fine.~~

14 (2) In determining whether to impose a fine and in  
15 fixing the amount of any fine, the agency shall consider the  
16 following factors:

17 (a) The gravity of the violation, including the  
18 probability that death or serious physical or emotional harm  
19 to a participant will result or has resulted, the severity of  
20 the actual or potential harm, and the extent to which the  
21 provisions of the applicable statutes or rules were violated.

22 (b) Actions taken by the owner or operator to correct  
23 violations.

24 (c) Any previous violations.

25 (d) The financial benefit to the center of committing  
26 or continuing the violation.

27 Section 111. Section 400.557, Florida Statutes, is  
28 amended to read:

29 400.557 ~~Expiration of license; renewal; Conditional~~  
30 license or permit.--

31

1           ~~(1) A license issued for the operation of an adult day~~  
2 ~~care center, unless sooner suspended or revoked, expires 2~~  
3 ~~years after the date of issuance. The agency shall notify a~~  
4 ~~licensee at least 120 days before the expiration date that~~  
5 ~~license renewal is required to continue operation. The~~  
6 ~~notification must be provided electronically or by mail~~  
7 ~~delivery. At least 90 days prior to the expiration date, an~~  
8 ~~application for renewal must be submitted to the agency. A~~  
9 ~~license shall be renewed, upon the filing of an application on~~  
10 ~~forms furnished by the agency, if the applicant has first met~~  
11 ~~the requirements of this part and of the rules adopted under~~  
12 ~~this part. The applicant must file with the application~~  
13 ~~satisfactory proof of financial ability to operate the center~~  
14 ~~in accordance with the requirements of this part and in~~  
15 ~~accordance with the needs of the participants to be served and~~  
16 ~~an affidavit of compliance with the background screening~~  
17 ~~requirements of s. 400.5572.~~

18           ~~(2) A licensee against whom a revocation or suspension~~  
19 ~~proceeding is pending at the time for license renewal may be~~  
20 ~~issued a conditional license effective until final disposition~~  
21 ~~by the agency of the proceeding. If judicial relief is sought~~  
22 ~~from the final disposition, the court having jurisdiction may~~  
23 ~~issue a conditional permit effective for the duration of the~~  
24 ~~judicial proceeding.~~

25           ~~(3) The agency may issue a conditional license to an~~  
26 ~~applicant for license renewal or change of ownership if the~~  
27 ~~applicant fails to meet all standards and requirements for~~  
28 ~~licensure. A conditional license issued under this subsection~~  
29 ~~must be limited to a specific period not exceeding 6 months,~~  
30 ~~as determined by the agency, and must be accompanied by an~~  
31 ~~approved plan of correction.~~

1           Section 112. Section 400.5572, Florida Statutes, is  
2 amended to read:

3           400.5572 Background screening.--

4           ~~(1)(a) Level 2 background screening must be conducted~~  
5 ~~on each of the following persons, who shall be considered~~  
6 ~~employees for the purposes of conducting screening under~~  
7 ~~chapter 435:~~

8           ~~1. The adult day care center owner if an individual,~~  
9 ~~the operator, and the financial officer.~~

10           ~~2. An officer or board member if the owner of the~~  
11 ~~adult day care center is a firm, corporation, partnership, or~~  
12 ~~association, or any person owning 5 percent or more of the~~  
13 ~~facility, if the agency has probable cause to believe that~~  
14 ~~such person has been convicted of any offense prohibited by s.~~  
15 ~~435.04. For each officer, board member, or person owning 5~~  
16 ~~percent or more who has been convicted of any such offense,~~  
17 ~~the facility shall submit to the agency a description and~~  
18 ~~explanation of the conviction at the time of license~~  
19 ~~application. This subparagraph does not apply to a board~~  
20 ~~member of a not-for-profit corporation or organization if the~~  
21 ~~board member serves solely in a voluntary capacity, does not~~  
22 ~~regularly take part in the day-to-day operational decisions of~~  
23 ~~the corporation or organization, receives no remuneration for~~  
24 ~~his or her services, and has no financial interest and has no~~  
25 ~~family members with a financial interest in the corporation or~~  
26 ~~organization, provided that the board member and facility~~  
27 ~~submit a statement affirming that the board member's~~  
28 ~~relationship to the facility satisfies the requirements of~~  
29 ~~this subparagraph.~~

30           ~~(b) Proof of compliance with level 2 screening~~  
31 ~~standards which has been submitted within the previous 5 years~~

1 ~~to meet any facility or professional licensure requirements of~~  
2 ~~the agency or the Department of Health satisfies the~~  
3 ~~requirements of this subsection.~~

4 ~~(c) The agency may grant a provisional license to an~~  
5 ~~adult day care center applying for an initial license when~~  
6 ~~each individual required by this subsection to undergo~~  
7 ~~screening has completed the Department of Law Enforcement~~  
8 ~~background check, but has not yet received results from the~~  
9 ~~Federal Bureau of Investigation, or when a request for an~~  
10 ~~exemption from disqualification has been submitted to the~~  
11 ~~agency pursuant to s. 435.07, but a response has not been~~  
12 ~~issued.~~

13 ~~(2)~~ The owner or administrator of an adult day care  
14 center must conduct level 1 background screening as set forth  
15 in chapter 435 on all employees hired on or after October 1,  
16 1998, who provide basic services or supportive and optional  
17 services to the participants. Such persons satisfy this  
18 requirement if:

19 (1)(a) Proof of compliance with level 1 screening  
20 requirements obtained to meet any professional license  
21 requirements in this state is provided and accompanied, under  
22 penalty of perjury, by a copy of the person's current  
23 professional license and an affidavit of current compliance  
24 with the background screening requirements.

25 (2)(b) The person required to be screened has been  
26 continuously employed, without a breach in service that  
27 exceeds 180 days, in the same type of occupation for which the  
28 person is seeking employment and provides proof of compliance  
29 with the level 1 screening requirement which is no more than 2  
30 years old. Proof of compliance must be provided directly from  
31 one employer or contractor to another, and not from the person

1 screened. Upon request, a copy of screening results shall be  
2 provided to the person screened by the employer retaining  
3 documentation of the screening.

4 ~~(3)(c)~~ The person required to be screened is employed  
5 by a corporation or business entity or related corporation or  
6 business entity that owns, operates, or manages more than one  
7 facility or agency licensed under this chapter, and for whom a  
8 level 1 screening was conducted by the corporation or business  
9 entity as a condition of initial or continued employment.

10 Section 113. Sections 400.5575 and 400.558, Florida  
11 Statutes, are repealed.

12 Section 114. Section 400.559, Florida Statutes, is  
13 amended to read:

14 400.559 ~~Closing or change of owner or operator of~~  
15 ~~center.--~~

16 ~~(1)~~ Before operation of an adult day care center may  
17 be voluntarily discontinued, the operator must inform the  
18 ~~agency in writing~~ at least 60 days prior to the discontinuance  
19 of operation. ~~The operator must also, at such time,~~ inform  
20 each participant of the fact and the proposed date of such  
21 discontinuance.

22 ~~(2)~~ ~~Immediately upon discontinuance of the operation~~  
23 ~~of a center, the owner or operator shall surrender the license~~  
24 ~~for the center to the agency, and the license shall be~~  
25 ~~canceled by the agency.~~

26 ~~(3)~~ ~~If a center has a change of ownership, the new~~  
27 ~~owner shall apply to the agency for a new license at least 60~~  
28 ~~days before the date of the change of ownership.~~

29 ~~(4)~~ ~~If a center has a change of operator, the new~~  
30 ~~operator shall notify the agency in writing within 30 days~~  
31 ~~after the change of operator.~~

1           Section 115. Section 400.56, Florida Statutes, is  
2 amended to read:

3           400.56 Right of entry and inspection.--In accordance  
4 with s. 408.811,~~Any duly designated officer or employee of~~  
5 the agency or department has the right to enter the premises  
6 of any adult day care center licensed pursuant to this part,  
7 at any reasonable time, in order to determine the state of  
8 compliance with this part, ss. 408.801-408.819, and applicable  
9 ~~the rules or standards in force pursuant to this part. The~~  
10 ~~right of entry and inspection also extends to any premises~~  
11 ~~that the agency has reason to believe are being operated as a~~  
12 ~~center without a license, but no entry or inspection of any~~  
13 ~~unlicensed premises may be made without the permission of the~~  
14 ~~owner or operator unless a warrant is first obtained from the~~  
15 ~~circuit court authorizing entry or inspection. Any~~  
16 ~~application for a center license or license renewal made~~  
17 ~~pursuant to this part constitutes permission for, and complete~~  
18 ~~acquiescence in, any entry or inspection of the premises for~~  
19 ~~which the license is sought in order to facilitate~~  
20 ~~verification of the information submitted on or in connection~~  
21 ~~with the application.~~

22           Section 116. Section 400.562, Florida Statutes, is  
23 amended to read:

24           400.562 Rules establishing standards.--

25           (1) The agency ~~Department of Elderly Affairs~~, in  
26 conjunction with the Department of Elderly Affairs ~~agency~~,  
27 shall adopt rules to implement the provisions of this part and  
28 ss. 408.801-408.819. The rules must include reasonable and  
29 fair standards. Any conflict between these standards and those  
30 that may be set forth in local, county, or municipal  
31

1 ordinances shall be resolved in favor of those having  
2 statewide effect. Such standards must relate to:

3 (a) The maintenance of adult day care centers with  
4 respect to plumbing, heating, lighting, ventilation, and other  
5 building conditions, including adequate meeting space, to  
6 ensure the health, safety, and comfort of participants and  
7 protection from fire hazard. Such standards may not conflict  
8 with chapter 553 and must be based upon the size of the  
9 structure and the number of participants.

10 (b) The number and qualifications of all personnel  
11 employed by adult day care centers who have responsibilities  
12 for the care of participants.

13 (c) All sanitary conditions within adult day care  
14 centers and their surroundings, including water supply, sewage  
15 disposal, food handling, and general hygiene, and maintenance  
16 of sanitary conditions, to ensure the health and comfort of  
17 participants.

18 (d) Basic services provided by adult day care centers.

19 (e) Supportive and optional services provided by adult  
20 day care centers.

21 (f) Data and information relative to participants and  
22 programs of adult day care centers, including, but not limited  
23 to, the physical and mental capabilities and needs of the  
24 participants, the availability, frequency, and intensity of  
25 basic services and of supportive and optional services  
26 provided, the frequency of participation, the distances  
27 traveled by participants, the hours of operation, the number  
28 of referrals to other centers or elsewhere, and the incidence  
29 of illness.

30 (g) Components of a comprehensive emergency management  
31 plan, developed in consultation with the Department of Health,

1 the Department of Elderly Affairs ~~Agency for Health Care~~  
2 ~~Administration~~, and the Department of Community Affairs.

3 ~~(2) Pursuant to s. 119.07, the agency may charge a fee~~  
4 ~~for furnishing a copy of this part, or of the rules adopted~~  
5 ~~under this part, to any person upon request for the copy.~~

6 (2)(3) Pursuant to this part, s. 408.811, and  
7 applicable rules adopted by the department, the agency may  
8 conduct an abbreviated biennial inspection of key  
9 quality-of-care standards, in lieu of a full inspection, of a  
10 center that has a record of good performance. However, the  
11 agency must conduct a full inspection of a center that has had  
12 one or more confirmed complaints within the licensure period  
13 immediately preceding the inspection or which has a serious  
14 problem identified during the abbreviated inspection. The  
15 agency shall by rule develop the key quality-of-care  
16 standards, taking into consideration the comments and  
17 recommendations of the Department of Elderly Affairs and of  
18 provider groups. ~~These standards shall be included in rules~~  
19 ~~adopted by the Department of Elderly Affairs.~~

20 Section 117. Section 400.564, Florida Statutes, is  
21 repealed.

22 Section 118. Section 400.602, Florida Statutes, is  
23 amended to read:

24 400.602 Licensure required; prohibited acts;  
25 exemptions; ~~display~~, transferability of license.--

26 (1)(a) The requirements of ss. 408.801-408.819 apply  
27 to the provision of services that necessitate licensure  
28 pursuant to this part and ss. 408.801-408.819 and to entities  
29 licensed by or applying for such licensure from the Agency for  
30 Health Care Administration pursuant to this part.~~It is~~

31

1 ~~unlawful to operate or maintain a hospice without first~~  
2 ~~obtaining a license from the agency.~~

3 ~~(b) It is unlawful for~~ Any person or legal entity not  
4 licensed as a hospice under this part may not ~~to~~ use the word  
5 "hospice" in its name, ~~or to offer or advertise hospice~~  
6 services or hospice-like services in such a way as to mislead  
7 a person to believe that the offeror is a hospice licensed  
8 under this part.

9 (2) Services provided by a hospital, nursing home, or  
10 other health care facility, health care provider, or  
11 caregiver, or under the Community Care for the Elderly Act, do  
12 not constitute a hospice unless the facility, provider, or  
13 caregiver establishes a separate and distinct administrative  
14 program to provide home, residential, and homelike inpatient  
15 hospice services.

16 (3)(a) A separately licensed hospice may not use a  
17 name which is substantially the same as the name of another  
18 hospice licensed under this part.

19 (b) A licensed hospice which intends to change its  
20 name or address must notify the agency at least 60 days before  
21 making the change.

22 ~~(4) The license shall be displayed in a conspicuous~~  
23 ~~place inside the hospice program office; shall be valid only~~  
24 ~~in the possession of the person or public agency to which it~~  
25 ~~is issued; shall not be subject to sale, assignment, or other~~  
26 ~~transfer, voluntary or involuntary; and shall not be valid for~~  
27 ~~any hospice other than the hospice for which originally~~  
28 ~~issued.~~

29 (4)~~(5)~~ Notwithstanding s. 400.601(3), any hospice  
30 operating in corporate form exclusively as a hospice,  
31 incorporated on or before July 1, 1978, may be transferred to

1 a for-profit or not-for-profit entity, and may transfer the  
2 license to that entity.

3 ~~(5)~~~~(6)~~ Notwithstanding s. 400.601(3), at any time  
4 after July 1, 1995, any entity entitled to licensure under  
5 subsection~~(4)~~~~(5)~~ may obtain a license for up to two  
6 additional hospices in accordance with the other requirements  
7 of this part and upon receipt of any certificate of need that  
8 may be required under the provisions of ss. 408.031-408.045.

9 Section 119. Section 400.605, Florida Statutes, is  
10 amended to read:

11 400.605 Administration; forms; fees; rules;  
12 inspections; fines.--

13 (1) The agency ~~department~~, in consultation with the  
14 department ~~agency~~, shall by rule establish minimum standards  
15 and procedures for a hospice pursuant to this part and ss.  
16 408.801-408.819. The rules must include:

17 ~~(a) License application procedures and requirements.~~

18 ~~(a)~~~~(b)~~ The qualifications of professional and  
19 ancillary personnel to ensure the provision of appropriate and  
20 adequate hospice care.

21 ~~(b)~~~~(c)~~ Standards and procedures for the administrative  
22 management of a hospice.

23 ~~(c)~~~~(d)~~ Standards for hospice services that ensure the  
24 provision of quality patient care.

25 ~~(d)~~~~(e)~~ Components of a patient plan of care.

26 ~~(e)~~~~(f)~~ Procedures relating to the implementation of  
27 advanced directives and do-not-resuscitate orders.

28 ~~(f)~~~~(g)~~ Procedures for maintaining and ensuring  
29 confidentiality of patient records.

30 ~~(g)~~~~(h)~~ Standards for hospice care provided in  
31 freestanding inpatient facilities that are not otherwise

1 licensed medical facilities and in residential care facilities  
2 such as nursing homes, assisted living facilities, adult  
3 family care homes, and hospice residential units and  
4 facilities.

5 (h)~~(i)~~ Physical plant standards for hospice  
6 residential and inpatient facilities and units.

7 (i)~~(j)~~ Components of a comprehensive emergency  
8 management plan, developed in consultation with the Department  
9 of Health, the Department of Elderly Affairs, and the  
10 Department of Community Affairs.

11 (j)~~(k)~~ Standards and procedures relating to the  
12 establishment and activities of a quality assurance and  
13 utilization review committee.

14 (k)~~(l)~~ Components and procedures relating to the  
15 collection of patient demographic data and other information  
16 on the provision of hospice care in this state.

17 (2) In accordance with s. 408.805, an applicant or  
18 licensee shall pay a fee for each license application  
19 submitted under this part and ss. 408.801-408.819. The amount  
20 of the fee shall be established by rule and may not exceed  
21 \$1,200 per biennium.~~The agency shall:~~

22 ~~(a) Prepare and furnish all forms necessary under the~~  
23 ~~provisions of this part in relation to applications for~~  
24 ~~licensure or licensure renewals.~~

25 ~~(b) Collect from the applicant at the time of filing~~  
26 ~~an application for a license or at the time of renewal of a~~  
27 ~~license a fee which must be reasonably calculated to cover the~~  
28 ~~cost of regulation under this part, but may not exceed \$600~~  
29 ~~per program. All fees collected under this part shall be~~  
30 ~~deposited in the Health Care Trust Fund for the administration~~  
31 ~~of this part.~~

1           ~~(c) Issue hospice licenses to all applicants which~~  
2 ~~meet the provisions of this part and applicable rules.~~

3           (3)(d) In accordance with s. 408.811, the agency shall  
4 conduct annual licensure inspections of all licensees, except  
5 that licensure inspections may be conducted biennially for  
6 hospices having a 3-year record of substantial compliance. The  
7 agency shall

8           ~~(e) conduct such inspections and investigations as are~~  
9 ~~necessary in order to determine the state of compliance with~~  
10 ~~the provisions of this part, ss. 408.801-408.819, and~~  
11 applicable adopted rules. The right of inspection also  
12 ~~extends to any program that the agency has reason to believe~~  
13 ~~is offering or advertising itself as a hospice without a~~  
14 ~~license, but no inspection may be made without the permission~~  
15 ~~of the owner or person in charge thereof unless a warrant is~~  
16 ~~first obtained from a circuit court authorizing such~~  
17 ~~inspection. An application for a license or license renewal~~  
18 ~~made pursuant to this part constitutes permission for an~~  
19 ~~inspection of the hospice for which the license is sought in~~  
20 ~~order to facilitate verification of the information submitted~~  
21 ~~on or in connection with the application.~~

22           (4)(f) In accordance with ss. 408.801-408.819, the  
23 agency may impose an administrative fine for any violation of  
24 the provisions of this part, ss. 408.801-408.819, or  
25 applicable rules.

26           Section 120. Section 400.606, Florida Statutes, is  
27 amended to read:

28           400.606 License; application; renewal; conditional  
29 license or permit; certificate of need.--

30           ~~(1) A license application must be filed on a form~~  
31 ~~provided by the agency and must be accompanied by the~~

1 ~~appropriate license fee as well as satisfactory proof that the~~  
2 ~~hospice is in compliance with this part and any rules adopted~~  
3 ~~by the department and proof of financial ability to operate~~  
4 ~~and conduct the hospice in accordance with the requirements of~~

5 this part.The initial application and change-of-ownership  
6 application must be accompanied by a plan for the delivery of  
7 home, residential, and homelike inpatient hospice services to  
8 terminally ill persons and their families. Such plan must  
9 contain, but need not be limited to:

10 (a) The estimated average number of terminally ill  
11 persons to be served monthly.

12 (b) The geographic area in which hospice services will  
13 be available.

14 (c) A listing of services which are or will be  
15 provided, either directly by the applicant or through  
16 contractual arrangements with existing providers.

17 (d) Provisions for the implementation of hospice home  
18 care within 3 months after licensure.

19 (e) Provisions for the implementation of hospice  
20 homelike inpatient care within 12 months after licensure.

21 (f) The number and disciplines of professional staff  
22 to be employed.

23 (g) The name and qualifications of any existing or  
24 potential contractee.

25 (h) A plan for attracting and training volunteers.

26 (i) The projected annual operating cost of the  
27 hospice.

28 ~~(j) A statement of financial resources and personnel~~  
29 ~~available to the applicant to deliver hospice care.~~

30  
31

1 If the applicant is licensed to operate an existing health  
2 care provider, the application must be accompanied by a copy  
3 of the most recent profit-loss statement and, if applicable,  
4 the most recent licensure inspection report.

5 ~~(2) Each applicant must submit to the agency with its~~  
6 ~~application a description and explanation of any exclusions,~~  
7 ~~permanent suspensions, or terminations from the Medicaid or~~  
8 ~~Medicare programs of the owner, if an individual; of any~~  
9 ~~officer or board member of the hospice, if the owner is a~~  
10 ~~firm, corporation, partnership, or association; or of any~~  
11 ~~person owning 5 percent or more of the hospice. Proof of~~  
12 ~~compliance with disclosure of ownership and control interest~~  
13 ~~requirements of the Medicaid or Medicare programs may be~~  
14 ~~accepted in lieu of this submission.~~

15 ~~(2)(3) A license issued for the operation of a~~  
16 ~~hospice, unless sooner suspended or revoked, shall expire~~  
17 ~~automatically 1 year from the date of issuance. Sixty days~~  
18 ~~prior to the expiration date, a hospice wishing to renew its~~  
19 ~~license shall submit an application for renewal to the agency~~  
20 ~~on forms furnished by the agency. The agency shall renew the~~  
21 ~~license if the applicant has first met the requirements~~  
22 ~~established under this part and all applicable rules and has~~  
23 ~~provided the information described under this section in~~  
24 ~~addition to the application. However, The application for~~  
25 ~~license renewal shall be accompanied by an update of the plan~~  
26 ~~for delivery of hospice care only if information contained in~~  
27 ~~the plan submitted pursuant to subsection (1) is no longer~~  
28 ~~applicable.~~

29 ~~(4) A hospice against which a revocation or suspension~~  
30 ~~proceeding is pending at the time of license renewal may be~~  
31 ~~issued a conditional license by the agency effective until~~

1 ~~final disposition of such proceeding. If judicial relief is~~  
2 ~~sought from the final agency action, the court having~~  
3 ~~jurisdiction may issue a conditional permit for the duration~~  
4 ~~of the judicial proceeding.~~

5 (3)~~(5)~~ The agency shall not issue a license to a  
6 hospice that fails to receive a certificate of need under the  
7 provisions of ss. 408.031-408.045. A licensed hospice is a  
8 health care facility as that term is used in s. 408.039(5) and  
9 is entitled to initiate or intervene in an administrative  
10 hearing.

11 (4)~~(6)~~ A freestanding hospice facility that is  
12 primarily engaged in providing inpatient and related services  
13 and that is not otherwise licensed as a health care facility  
14 shall be required to obtain a certificate of need. However, a  
15 freestanding hospice facility with six or fewer beds shall not  
16 be required to comply with institutional standards such as,  
17 but not limited to, standards requiring sprinkler systems,  
18 emergency electrical systems, or special lavatory devices.

19 Section 121. Section 400.6065, Florida Statutes, is  
20 amended to read:

21 400.6065 Background screening.--

22 ~~(1) Upon receipt of a completed application under s.~~  
23 ~~400.606, the agency shall require level 2 background screening~~  
24 ~~on each of the following persons, who shall be considered~~  
25 ~~employees for the purposes of conducting screening under~~  
26 ~~chapter 435:~~

27 ~~(a) The hospice administrator and financial officer.~~

28 ~~(b) An officer or board member if the hospice is a~~  
29 ~~firm, corporation, partnership, or association, or any person~~  
30 ~~owning 5 percent or more of the hospice if the agency has~~  
31 ~~probable cause to believe that such officer, board member, or~~

1 ~~owner has been convicted of any offense prohibited by s.~~  
2 ~~435.04. For each officer, board member, or person owning 5~~  
3 ~~percent or more who has been convicted of any such offense,~~  
4 ~~the hospice shall submit to the agency a description and~~  
5 ~~explanation of the conviction at the time of license~~  
6 ~~application. This paragraph does not apply to a board member~~  
7 ~~of a not-for-profit corporation or organization if the board~~  
8 ~~member serves solely in a voluntary capacity, does not~~  
9 ~~regularly take part in the day-to-day operational decisions of~~  
10 ~~the corporation or organization, receives no remuneration for~~  
11 ~~his or her services, and has no financial interest and has no~~  
12 ~~family members with a financial interest in the corporation or~~  
13 ~~organization, provided that the board member and the~~  
14 ~~corporation or organization submit a statement affirming that~~  
15 ~~the board member's relationship to the corporation or~~  
16 ~~organization satisfies the requirements of this paragraph.~~

17 ~~(2) Proof of compliance with level 2 screening~~  
18 ~~standards which has been submitted within the previous 5 years~~  
19 ~~to meet any facility or professional licensure requirements of~~  
20 ~~the agency or the Department of Health satisfies the~~  
21 ~~requirements of this section.~~

22 ~~(3) The agency may grant a provisional license to a~~  
23 ~~hospice applying for an initial license when each individual~~  
24 ~~required by this section to undergo screening has completed~~  
25 ~~the Department of Law Enforcement background check, but has~~  
26 ~~not yet received results from the Federal Bureau of~~  
27 ~~Investigation.~~

28 (1)(4) The agency shall require employment or  
29 contractor screening as provided in chapter 435, using the  
30 level 1 standards for screening set forth in that chapter, for  
31 hospice personnel.

1           (2)~~(5)~~ The agency may grant exemptions from  
2 disqualification from employment under this section as  
3 provided in s. 435.07.

4           ~~(6) The administration of each hospice must sign an~~  
5 ~~affidavit annually, under penalty of perjury, stating that all~~  
6 ~~personnel employed or contracted with on or after October 1,~~  
7 ~~1998, who provide hospice services in a facility, or who enter~~  
8 ~~the home of a patient in their service capacity, have been~~  
9 ~~screened.~~

10           (3)~~(7)~~ Proof of compliance with the screening  
11 requirements of chapter 435 shall be accepted in lieu of the  
12 requirements of this section if the person has been  
13 continuously employed or registered without a breach in  
14 service that exceeds 180 days, the proof of compliance is not  
15 more than 2 years old, and the person has been screened, at  
16 the discretion of the hospice.

17           (4)~~(8)~~(a) It is a misdemeanor of the first degree,  
18 punishable under s. 775.082 or s. 775.083, for any person  
19 willfully, knowingly, or intentionally to:

20           1. Fail, by false statement, misrepresentation,  
21 impersonation, or other fraudulent means, to disclose in any  
22 application for voluntary or paid employment a material fact  
23 used in making a determination as to such person's  
24 qualifications to be employed or contracted with under this  
25 section;

26           ~~2. Operate or attempt to operate an entity licensed~~  
27 ~~under this part with persons who do not meet the minimum~~  
28 ~~standards for good moral character as contained in this~~  
29 ~~section; or~~

30           ~~2.3.~~ Use information from the criminal records  
31 obtained under this section for any purpose other than

1 screening as specified in this section, or release such  
2 information to any other person for any purpose other than  
3 screening under this section.

4 (b) It is a felony of the third degree, punishable  
5 under s. 775.082, s. 775.083, or s. 775.084, for any person  
6 willfully, knowingly, or intentionally to use information from  
7 the juvenile records of a person obtained under this section  
8 for any purpose other than screening for employment under this  
9 section.

10 Section 122. Section 400.607, Florida Statutes, is  
11 amended to read:

12 400.607 Denial, ~~suspension~~, or revocation of license;  
13 imposition of administrative fine; grounds; injunctions.--

14 (1) The agency may deny or, ~~revoke~~, or ~~suspend~~ a  
15 license, impose a moratorium, or impose an administrative  
16 fine, which may not exceed \$5,000 per violation, for the  
17 violation of any provision of this part, ss. 408.801-408.819,  
18 or applicable rules in the manner provided in chapter 120.

19 (2) Any of the following actions by a licensed hospice  
20 or any of its employees shall be grounds for action by the  
21 agency against a hospice:

22 (a) A violation of the provisions of this part or  
23 applicable rules.

24 (b) An intentional or negligent act materially  
25 affecting the health or safety of a patient.

26 ~~(3) The agency may deny or revoke a license upon a~~  
27 ~~determination that:~~

28 ~~(a) Persons subject to level 2 background screening~~  
29 ~~under s. 400.6065 do not meet the screening standards of s.~~  
30 ~~435.04, and exemptions from disqualification have not been~~  
31 ~~provided by the agency.~~

1           ~~(b) An officer, board member, or person owning 5~~  
2 ~~percent or more of the hospice has been excluded, permanently~~  
3 ~~suspended, or terminated from the Medicare or Medicaid~~  
4 ~~programs.~~

5           (3)~~(4)~~ If, 3 months after the date of obtaining a  
6 license, or at any time thereafter, a hospice does not have in  
7 operation the home-care component of hospice care, the agency  
8 shall immediately revoke the license of such hospice.

9           (4)~~(5)~~ If, 12 months after the date of obtaining a  
10 license pursuant to s. 400.606, or at any time thereafter, a  
11 hospice does not have in operation the inpatient components of  
12 hospice care, the agency shall immediately revoke the license  
13 of such hospice.

14           ~~(6) The agency may institute a civil action in a court~~  
15 ~~of competent jurisdiction to seek injunctive relief to enforce~~  
16 ~~compliance with this part or any rule adopted pursuant to this~~  
17 ~~part.~~

18           (5)~~(7)~~ The remedies set forth in this section are  
19 independent of and cumulative to other remedies provided by  
20 law.

21           Section 123. Subsection (8) of section 400.6095,  
22 Florida Statutes, is amended to read:

23           400.6095 Patient admission; assessment; plan of care;  
24 discharge; death.--

25           (8) The hospice care team may withhold or withdraw  
26 cardiopulmonary resuscitation if presented with an order not  
27 to resuscitate executed pursuant to s. 401.45. The agency  
28 ~~department~~ shall adopt rules providing for the implementation  
29 of such orders. Hospice staff shall not be subject to criminal  
30 prosecution or civil liability, nor be considered to have  
31 engaged in negligent or unprofessional conduct, for

1 withholding or withdrawing cardiopulmonary resuscitation  
2 pursuant to such an order and applicable rules ~~adopted by the~~  
3 ~~department~~. The absence of an order to resuscitate executed  
4 pursuant to s. 401.45 does not preclude a physician from  
5 withholding or withdrawing cardiopulmonary resuscitation as  
6 otherwise permitted by law.

7 Section 124. Subsection (5) of section 400.617,  
8 Florida Statutes, is amended to read:

9 400.617 Legislative intent; purpose.--

10 (5) Rules of the agency ~~department~~ relating to adult  
11 family-care homes shall be as minimal and flexible as possible  
12 to ensure the protection of residents while minimizing the  
13 obstacles that could inhibit the establishment of adult  
14 family-care homes.

15 Section 125. Section 400.619, Florida Statutes, is  
16 amended to read:

17 400.619 Licensure ~~application and renewal~~--

18 (1) The requirements of ss. 408.801-408.819 apply to  
19 the provision of services that necessitate licensure pursuant  
20 to this part and ss. 408.801-408.819 and to entities licensed  
21 by or applying for such licensure from the Agency for Health  
22 Care Administration pursuant to this part. ~~Each person who~~  
23 ~~intends to be an adult family-care home provider must apply~~  
24 ~~for a license from the agency at least 90 days before the~~  
25 ~~applicant intends to operate the adult family-care home.~~

26 (2) A person who intends to be an adult family-care  
27 home provider must own or rent the adult family-care home that  
28 is to be licensed and reside therein.

29 (3) In accordance with s. 408.805, an applicant or  
30 licensee shall pay a fee for each license application  
31 submitted under this part and ss. 408.801-408.819. The amount

1 ~~of the fee shall be \$200 per biennium. The agency shall notify~~  
2 ~~a licensee at least 120 days before the expiration date that~~  
3 ~~license renewal is required to continue operation. The~~  
4 ~~notification must be provided electronically or by mail~~  
5 ~~delivery. Application for a license or annual license renewal~~  
6 ~~must be made on a form provided by the agency, signed under~~  
7 ~~oath, and must be accompanied by a licensing fee of \$100 per~~  
8 ~~year.~~

9 (4) Upon receipt of a completed license application or  
10 license renewal, and the fee, the agency shall initiate a  
11 level 1 background screening as provided under chapter 435 on  
12 the adult family-care home provider, the designated relief  
13 person, all adult household members, and all staff members.  
14 The applicant or licensee is responsible for paying the fees  
15 associated with obtaining the required screening.The agency  
16 shall conduct an onsite visit to the home that is to be  
17 licensed.

18 (a) Proof of compliance with level 1 screening  
19 standards which has been submitted within the previous 5 years  
20 to meet any facility or professional licensure requirements of  
21 the agency or the Department of Health satisfies the  
22 requirements of this subsection. Such proof must be  
23 accompanied, under penalty of perjury, by a copy of the  
24 person's current professional license and an affidavit of  
25 current compliance with the background screening requirements.

26 (b) The person required to be screened must have been  
27 continuously employed in the same type of occupation for which  
28 the person is seeking employment without a breach in service  
29 that exceeds 180 days, and proof of compliance with the level  
30 1 screening requirement which is no more than 2 years old must  
31 be provided. Proof of compliance shall be provided directly

1 from one employer or contractor to another, and not from the  
2 person screened. Upon request, a copy of screening results  
3 shall be provided to the person screened by the employer  
4 retaining documentation of the screening.

5 ~~(5) The application must be accompanied by a~~  
6 ~~description and explanation of any exclusions, permanent~~  
7 ~~suspensions, or terminations of the applicant from~~  
8 ~~participation in the Medicaid or Medicare programs or any~~  
9 ~~other governmental health care or health insurance program.~~

10 (5)(6) Unless the adult family-care home is a  
11 community residential home subject to chapter 419, the  
12 applicant must provide documentation, signed by the  
13 appropriate governmental official, that the home has met local  
14 zoning requirements for the location for which the license is  
15 sought.

16 (6)(7) Access to a licensed adult family-care home  
17 must be provided at reasonable times for the appropriate  
18 officials of the department, the Department of Health, the  
19 Department of Children and Family Services, the agency, and  
20 the State Fire Marshal, who are responsible for the  
21 development and maintenance of fire, health, sanitary, and  
22 safety standards, to inspect the facility to assure compliance  
23 with these standards. In addition, access to a licensed adult  
24 family-care home must be provided at reasonable times for the  
25 local long-term care ombudsman council.

26 ~~(8) A license is effective for 1 year after the date~~  
27 ~~of issuance unless revoked sooner. Each license must state~~  
28 ~~the name of the provider, the address of the home to which the~~  
29 ~~license applies, and the maximum number of residents of the~~  
30 ~~home. Failure to timely file a license renewal application~~

31

1 ~~shall result in a late fee equal to 50 percent of the license~~  
2 ~~fee.~~

3 ~~(9) A license is not transferable or applicable to any~~  
4 ~~location or person other than the location and person~~  
5 ~~indicated on the license.~~

6 (7)~~(10)~~ The licensed maximum capacity of each adult  
7 family-care home is based on the service needs of the  
8 residents and the capability of the provider to meet the needs  
9 of the residents. Any relative who lives in the adult  
10 family-care home and who is a disabled adult or frail elder  
11 must be included in that limitation.

12 (8)~~(11)~~ Each adult family-care home must designate at  
13 least one licensed space for a resident receiving optional  
14 state supplementation. The Department of Children and Family  
15 Services shall specify by rule the procedures to be followed  
16 for referring residents who receive optional state  
17 supplementation to adult family-care homes. Those homes  
18 licensed as adult foster homes or assisted living facilities  
19 prior to January 1, 1994, that convert to adult family-care  
20 homes, are exempt from this requirement.

21 (9)~~(12)~~ The agency may issue a conditional license to  
22 a provider for the purpose of bringing the adult family-care  
23 home into compliance with licensure requirements. A  
24 conditional license must be limited to a specific period, not  
25 exceeding 6 months. The agency ~~department~~ shall, by rule,  
26 establish criteria for issuing conditional licenses.

27 ~~(13) All moneys collected under this section must be~~  
28 ~~deposited into the Department of Elderly Affairs~~  
29 ~~Administrative Trust Fund and used to offset the expenses of~~  
30 ~~departmental training and education for adult family-care home~~  
31 ~~providers.~~

1           ~~(10)(14)~~ The agency ~~department~~ may adopt rules to  
2 establish procedures, identify forms, specify documentation,  
3 and clarify terms, as necessary, to administer this section  
4 and ss. 408.801-408.819.

5           Section 126. Section 400.6194, Florida Statutes, is  
6 amended to read:

7           400.6194 Denial or~~,revocation, or suspension~~ of a  
8 license.--In addition to the requirements of ss.  
9 408.801-408.819,the agency may deny,~~suspend~~,or revoke a  
10 license for any of the following reasons:

11           (1) Failure of any of the persons required to undergo  
12 background screening under s. 400.619 to meet the level 1  
13 screening standards of s. 435.03, unless an exemption from  
14 disqualification has been provided by the agency.

15           ~~(2) An intentional or negligent act materially~~  
16 ~~affecting the health, safety, or welfare of the adult~~  
17 ~~family-care home residents.~~

18           ~~(3) Submission of fraudulent information or omission~~  
19 ~~of any material fact on a license application or any other~~  
20 ~~document required by the agency.~~

21           ~~(4) Failure to pay an administrative fine assessed~~  
22 ~~under this part.~~

23           ~~(5) A violation of this part or adopted rules which~~  
24 ~~results in conditions or practices that directly threaten the~~  
25 ~~physical or emotional health, safety, or welfare of residents.~~

26           (2)(6) Failure to correct cited fire code violations  
27 that threaten the health, safety, or welfare of residents.

28           ~~(7) Failure to submit a completed initial license~~  
29 ~~application or to complete an application for license renewal~~  
30 ~~within the specified timeframes.~~

31

1           ~~(8) Exclusion, permanent suspension, or termination of~~  
2 ~~the provider from the Medicare or Medicaid program.~~

3           Section 127. Section 400.6196, Florida Statutes, is  
4 amended to read:

5           400.6196 Classification of deficiencies;  
6 administrative fines ~~Violations; penalties.--~~

7           (1) In accordance with ss. 408.801-408.819, and in  
8 addition to any other liability or penalty provided by law,  
9 the agency may impose an administrative fine against a civil  
10 ~~penalty on~~ a provider according to the following  
11 classification for a violation of any provision of this part,  
12 ss. 408-801-408.819, or applicable rules:

13           (a) Class I violations are those conditions or  
14 practices related to the operation and maintenance of an adult  
15 family-care home or to the care of residents which the agency  
16 determines present an imminent danger to the residents or  
17 guests of the facility or a substantial probability that death  
18 or serious physical or emotional harm would result therefrom.  
19 The condition or practice that constitutes a class I violation  
20 must be abated or eliminated within 24 hours, unless a fixed  
21 period, as determined by the agency, is required for  
22 correction. A class I deficiency is subject to an  
23 administrative fine in an amount not less than \$500 and not  
24 exceeding \$1,000 for each violation. A fine may be levied  
25 notwithstanding the correction of the deficiency.

26           (b) Class II violations are those conditions or  
27 practices related to the operation and maintenance of an adult  
28 family-care home or to the care of residents which the agency  
29 determines directly threaten the physical or emotional health,  
30 safety, or security of the residents, other than class I  
31 violations. A class II violation is subject to an

1 administrative fine in an amount not less than \$250 and not  
2 exceeding \$500 for each violation. A citation for a class II  
3 violation must specify the time within which the violation is  
4 required to be corrected. If a class II violation is corrected  
5 within the time specified, no civil penalty shall be imposed,  
6 unless it is a repeated offense.

7 (c) Class III violations are those conditions or  
8 practices related to the operation and maintenance of an adult  
9 family-care home or to the care of residents which the agency  
10 determines indirectly or potentially threaten the physical or  
11 emotional health, safety, or security of residents, other than  
12 class I or class II violations. A class III violation is  
13 subject to an administrative fine in an amount not less than  
14 \$100 and not exceeding \$250 for each violation. A citation for  
15 a class III violation shall specify the time within which the  
16 violation is required to be corrected. If a class III  
17 violation is corrected within the time specified, no civil  
18 penalty shall be imposed, unless it is a repeated offense.

19 (d) Class IV violations are those conditions or  
20 occurrences related to the operation and maintenance of an  
21 adult family-care home, or related to the required reports,  
22 forms, or documents, which do not have the potential of  
23 negatively affecting the residents. A provider that does not  
24 correct a class IV violation within the time limit specified  
25 by the agency is subject to an administrative fine in an  
26 amount not less than \$50 and not exceeding \$100 for each  
27 violation. Any class IV violation that is corrected during the  
28 time the agency survey is conducted will be identified as an  
29 agency finding and not as a violation.

30 (2) The agency may impose an administrative fine for  
31 violations which do not qualify as class I, class II, class

1 III, or class IV violations. The amount of the fine shall not  
2 exceed \$250 for each violation or \$2,000 in the aggregate.  
3 Unclassified violations include:  
4 (a) Violating any term or condition of a license.  
5 (b) Violating any provision of rule adopted under this  
6 part, ss. 408.801-408.819, or applicable rules.  
7 (c) Failure to follow the criteria and procedures  
8 provided under part I of chapter 394 relating to the  
9 transportation, voluntary admission, and involuntary  
10 examination of adult family-care home residents.  
11 (d) Exceeding licensed capacity.  
12 (e) Providing services beyond the scope of the  
13 license.  
14 (f) Violating a moratorium.  
15 ~~(3) Each day during which a violation occurs~~  
16 ~~constitutes a separate offense.~~  
17 (3)~~(4)~~ In determining whether a penalty is to be  
18 imposed, and in fixing the amount of any penalty to be  
19 imposed, the agency must consider:  
20 (a) The gravity of the violation.  
21 (b) Actions taken by the provider to correct a  
22 violation.  
23 (c) Any previous violation by the provider.  
24 (d) The financial benefit to the provider of  
25 committing or continuing the violation.  
26 (4)~~(5)~~ As an alternative to or in conjunction with an  
27 administrative action against a provider, the agency may  
28 request a plan of corrective action that demonstrates a good  
29 faith effort to remedy each violation by a specific date,  
30 subject to the approval of the agency.  
31

1           ~~(5)(6)~~ The department shall set forth, by rule, notice  
2 requirements and procedures for correction of deficiencies.

3           ~~(7) Civil penalties paid by a provider must be~~  
4 ~~deposited into the Department of Elderly Affairs~~  
5 ~~Administrative Trust Fund and used to offset the expenses of~~  
6 ~~departmental training and education for adult family-care home~~  
7 ~~providers.~~

8           ~~(8) The agency may impose an immediate moratorium on~~  
9 ~~admissions to any adult family-care home if the agency finds~~  
10 ~~that a condition in the home presents a threat to the health,~~  
11 ~~safety, or welfare of its residents. The department may by~~  
12 ~~rule establish facility conditions that constitute grounds for~~  
13 ~~imposing a moratorium and establish procedures for imposing~~  
14 ~~and lifting a moratorium.~~

15           Section 128. Section 400.621, Florida Statutes, is  
16 amended to read:

17           400.621 Rules and standards relating to adult  
18 family-care homes.--

19           (1) The agency ~~department~~, in consultation with the  
20 Department of Health, the Department of Children and Family  
21 Services, and the department ~~agency~~ shall, by rule, establish  
22 minimum standards to ensure the health, safety, and well-being  
23 of each resident in the adult family-care home pursuant to  
24 this part and ss. 408.801-408.819. The rules must address:

25           (a) Requirements for the physical site of the facility  
26 and facility maintenance.

27           (b) Services that must be provided to all residents of  
28 an adult family-care home and standards for such services,  
29 which must include, but need not be limited to:

30           1. Room and board.

31

1           2. Assistance necessary to perform the activities of  
2 daily living.

3           3. Assistance necessary to administer medication.

4           4. Supervision of residents.

5           5. Health monitoring.

6           6. Social and leisure activities.

7           (c) Standards and procedures for license application  
8 and annual license renewal, advertising, proper management of  
9 each resident's funds and personal property and personal  
10 affairs, financial ability to operate, medication management,  
11 inspections, complaint investigations, and facility, staff,  
12 and resident records.

13           (d) Qualifications, training, standards, and  
14 responsibilities for providers and staff.

15           (e) Compliance with chapter 419, relating to community  
16 residential homes.

17           (f) Criteria and procedures for determining the  
18 appropriateness of a resident's placement and continued  
19 residency in an adult family-care home. A resident who  
20 requires 24-hour nursing supervision may not be retained in an  
21 adult family-care home unless such resident is an enrolled  
22 hospice patient and the resident's continued residency is  
23 mutually agreeable to the resident and the provider.

24           (g) Procedures for providing notice and assuring the  
25 least possible disruption of residents' lives when residents  
26 are relocated, an adult family-care home is closed, or the  
27 ownership of an adult family-care home is transferred.

28           (h) Procedures to protect the residents' rights as  
29 provided in s. 400.628.

30           (i) Procedures to promote the growth of adult  
31 family-care homes as a component of a long-term care system.

1 (j) Procedures to promote the goal of aging in place  
2 for residents of adult family-care homes.

3 (2) The agency ~~department~~ shall by rule provide  
4 minimum standards and procedures for emergencies. Pursuant to  
5 s. 633.022, the State Fire Marshal, in consultation with the  
6 department and the agency, shall adopt uniform firesafety  
7 standards for adult family-care homes.

8 (3) The agency ~~department~~ shall adopt rules providing  
9 for the implementation of orders not to resuscitate. The  
10 provider may withhold or withdraw cardiopulmonary  
11 resuscitation if presented with an order not to resuscitate  
12 executed pursuant to s. 401.45. The provider shall not be  
13 subject to criminal prosecution or civil liability, nor be  
14 considered to have engaged in negligent or unprofessional  
15 conduct, for withholding or withdrawing cardiopulmonary  
16 resuscitation pursuant to such an order and applicable rules  
17 ~~adopted by the department.~~

18 ~~(4) The provider of any adult family-care home that is  
19 in operation at the time any rules are adopted or amended  
20 under this part may be given a reasonable time, not exceeding  
21 6 months, within which to comply with the new or revised rules  
22 and standards.~~

23 Section 129. Subsection (3) of section 400.6211,  
24 Florida Statutes, is amended to read:

25 400.6211 Training and education programs.--

26 (3) Effective January 1, 2004, providers must complete  
27 the training and education program within a reasonable time  
28 determined by the agency ~~department~~. Failure to complete the  
29 training and education program within the time set by the  
30 agency ~~department~~ is a violation of this part and subjects the  
31 provider to revocation of the license.

1           Section 130. Section 400.622, Florida Statutes, is  
2 repealed.

3           Section 131. Subsection (2) of section 400.625,  
4 Florida Statutes, is amended to read:

5           400.625 Residency agreements.--

6           (2) Each residency agreement must specify the personal  
7 care and accommodations to be provided by the adult  
8 family-care home, the rates or charges, a requirement of at  
9 least 30 days' notice before a rate increase, and any other  
10 provisions required by rule of the agency ~~department~~.

11          Section 132. Section 400.801, Florida Statutes, is  
12 amended to read:

13          400.801 Homes for special services.--

14          (1) As used in this section, the term:

15           (a) "Agency" means the "Agency for Health Care  
16 Administration."

17           (b) "Home for special services" means a site where  
18 specialized health care services are provided, including  
19 personal and custodial care, but not continuous nursing  
20 services.

21          (2) The requirements of ss. 408.801-408.819 apply to  
22 the provision of services that necessitate licensure pursuant  
23 to this section and ss. 408.801-408.819 and to entities  
24 licensed by or applying for such licensure from the Agency for  
25 Health Care Administration pursuant to this section. ~~A person~~  
26 ~~must obtain a license from the agency to operate a home for~~  
27 ~~special services. A license is valid for 1 year.~~

28          (3) In accordance with s. 408.805, an applicant or  
29 licensee shall pay a fee for each license application  
30 submitted under this section and ss. 408.801-408.819. The  
31 amount of the fee shall be established by rule and may not be

1 more than \$2,000 per biennium.~~The application for a license~~  
2 ~~under this section must be made on a form provided by the~~  
3 ~~agency. A nonrefundable license fee of not more than \$1,000~~  
4 ~~must be submitted with the license application.~~

5 ~~(4) Each applicant for licensure must comply with the~~  
6 ~~following requirements:~~

7 ~~(a) Upon receipt of a completed, signed, and dated~~  
8 ~~application, the agency shall require background screening, in~~  
9 ~~accordance with the level 2 standards for screening set forth~~  
10 ~~in chapter 435, of the managing employee, or other similarly~~  
11 ~~titled individual who is responsible for the daily operation~~  
12 ~~of the facility, and of the financial officer, or other~~  
13 ~~similarly titled individual who is responsible for the~~  
14 ~~financial operation of the facility, including billings for~~  
15 ~~client care and services, in accordance with the level 2~~  
16 ~~standards for screening set forth in chapter 435. The~~  
17 ~~applicant must comply with the procedures for level 2~~  
18 ~~background screening as set forth in chapter 435.~~

19 ~~(b) The agency may require background screening of any~~  
20 ~~other individual who is an applicant if the agency has~~  
21 ~~probable cause to believe that he or she has been convicted of~~  
22 ~~a crime or has committed any other offense prohibited under~~  
23 ~~the level 2 standards for screening set forth in chapter 435.~~

24 ~~(c) Proof of compliance with the level 2 background~~  
25 ~~screening requirements of chapter 435 which has been submitted~~  
26 ~~within the previous 5 years in compliance with any other~~  
27 ~~health care or assisted living licensure requirements of this~~  
28 ~~state is acceptable in fulfillment of the requirements of~~  
29 ~~paragraph (a).~~

30 ~~(d) A provisional license may be granted to an~~  
31 ~~applicant when each individual required by this section to~~

1 ~~undergo background screening has met the standards for the~~  
2 ~~Department of Law Enforcement background check, but the agency~~  
3 ~~has not yet received background screening results from the~~  
4 ~~Federal Bureau of Investigation, or a request for a~~  
5 ~~disqualification exemption has been submitted to the agency as~~  
6 ~~set forth in chapter 435, but a response has not yet been~~  
7 ~~issued. A standard license may be granted to the applicant~~  
8 ~~upon the agency's receipt of a report of the results of the~~  
9 ~~Federal Bureau of Investigation background screening for each~~  
10 ~~individual required by this section to undergo background~~  
11 ~~screening which confirms that all standards have been met, or~~  
12 ~~upon the granting of a disqualification exemption by the~~  
13 ~~agency as set forth in chapter 435. Any other person who is~~  
14 ~~required to undergo level 2 background screening may serve in~~  
15 ~~his or her capacity pending the agency's receipt of the report~~  
16 ~~from the Federal Bureau of Investigation. However, the person~~  
17 ~~may not continue to serve if the report indicates any~~  
18 ~~violation of background screening standards and a~~  
19 ~~disqualification exemption has not been requested of and~~  
20 ~~granted by the agency as set forth in chapter 435.~~

21 ~~(e) Each applicant must submit to the agency, with its~~  
22 ~~application, a description and explanation of any exclusions,~~  
23 ~~permanent suspensions, or terminations of the applicant from~~  
24 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
25 ~~the requirements for disclosure of ownership and control~~  
26 ~~interests under the Medicaid or Medicare programs may be~~  
27 ~~accepted in lieu of this submission.~~

28 ~~(f) Each applicant must submit to the agency a~~  
29 ~~description and explanation of any conviction of an offense~~  
30 ~~prohibited under the level 2 standards of chapter 435 by a~~  
31 ~~member of the board of directors of the applicant, its~~

1 ~~officers, or any individual owning 5 percent or more of the~~  
2 ~~applicant. This requirement does not apply to a director of a~~  
3 ~~not-for-profit corporation or organization if the director~~  
4 ~~serves solely in a voluntary capacity for the corporation or~~  
5 ~~organization, does not regularly take part in the day-to-day~~  
6 ~~operational decisions of the corporation or organization,~~  
7 ~~receives no remuneration for his or her services on the~~  
8 ~~corporation or organization's board of directors, and has no~~  
9 ~~financial interest and has no family members with a financial~~  
10 ~~interest in the corporation or organization, provided that the~~  
11 ~~director and the not-for-profit corporation or organization~~  
12 ~~include in the application a statement affirming that the~~  
13 ~~director's relationship to the corporation satisfies the~~  
14 ~~requirements of this paragraph.~~

15 ~~(g) A license may not be granted to an applicant if~~  
16 ~~the applicant or managing employee has been found guilty of,~~  
17 ~~regardless of adjudication, or has entered a plea of nolo~~  
18 ~~contendere or guilty to, any offense prohibited under the~~  
19 ~~level 2 standards for screening set forth in chapter 435,~~  
20 ~~unless an exemption from disqualification has been granted by~~  
21 ~~the agency as set forth in chapter 435.~~

22 ~~(h) The agency may deny or revoke licensure if the~~  
23 ~~applicant:~~

24 ~~1. Has falsely represented a material fact in the~~  
25 ~~application required by paragraph (e) or paragraph (f), or has~~  
26 ~~omitted any material fact from the application required by~~  
27 ~~paragraph (e) or paragraph (f); or~~

28 ~~2. Has had prior action taken against the applicant~~  
29 ~~under the Medicaid or Medicare program as set forth in~~  
30 ~~paragraph (e).~~

31

1           ~~(i) An application for license renewal must contain~~  
2 ~~the information required under paragraphs (e) and (f).~~

3           ~~(5) Application for license renewal must be submitted~~  
4 ~~90 days before the expiration of the license.~~

5           ~~(6) A change of ownership or control of a home for~~  
6 ~~special services must be reported to the agency in writing at~~  
7 ~~least 60 days before the change is scheduled to take effect.~~

8           ~~(4)(7)~~ The agency may ~~shall~~ adopt rules for  
9 implementing and enforcing this section and ss.  
10 408.801-408.819.

11           ~~(8)(a) It is unlawful for any person to establish,~~  
12 ~~conduct, manage, or operate a home for special services~~  
13 ~~without obtaining a license from the agency.~~

14           ~~(b) It is unlawful for any person to offer or~~  
15 ~~advertise to the public, in any medium whatever, specialized~~  
16 ~~health care services without obtaining a license from the~~  
17 ~~agency.~~

18           ~~(c) It is unlawful for a holder of a license issued~~  
19 ~~under this section to advertise or represent to the public~~  
20 ~~that it holds a license for a type of facility other than the~~  
21 ~~facility for which its license is issued.~~

22           ~~(5)(9)(a)~~ In accordance with ss. 408.801-408.819, a  
23 violation of any provision of this section, ss.  
24 408.801-408.819, or applicable rules adopted by the agency for  
25 implementing this section is punishable by payment of an  
26 administrative fine not to exceed \$5,000.

27           ~~(b) A violation of subsection (8) or rules adopted~~  
28 ~~under that subsection is a misdemeanor of the first degree,~~  
29 ~~punishable as provided in s. 775.082 or s. 775.083. Each day~~  
30 ~~of continuing violation is a separate offense.~~

31

1           Section 133. Section 400.805, Florida Statutes, is  
2 amended to read:

3           400.805 Transitional living facilities.--

4           (1) As used in this section, the term:

5           (a) "Agency" means the Agency for Health Care  
6 Administration.

7           (b) "Department" means the Department of Health.

8           (c) "Transitional living facility" means a site where  
9 specialized health care services are provided, including, but  
10 not limited to, rehabilitative services, community reentry  
11 training, aids for independent living, and counseling to  
12 spinal-cord-injured persons and head-injured persons. This  
13 term does not include a hospital licensed under chapter 395 or  
14 any federally operated hospital or facility.

15           (2)(a) The requirements of ss. 408.801-408.819 apply  
16 to the provision of services that necessitate licensure  
17 pursuant to this section and ss. 408.801-408.819 and to  
18 entities licensed by or applying for such licensure from the  
19 Agency for Health Care Administration pursuant to this  
20 section.~~A person must obtain a license from the agency to~~  
21 ~~operate a transitional living facility. A license issued~~  
22 ~~under this section is valid for 1 year.~~

23           (b) In accordance with s. 408.805, an applicant or  
24 licensee shall pay a fee for each license application  
25 submitted under this section and ss. 408.801-408.819. The fee  
26 shall be comprised of a license fee of \$4,000 per biennium and  
27 a fee of \$78.50 for each bed per biennium, unless modified by  
28 rule.~~The application for a license must be made on a form~~  
29 ~~provided by the agency. A nonrefundable license fee of \$2,000~~  
30 ~~and a fee of up to \$39.25 per bed must be submitted with the~~  
31 ~~license application.~~

1           (c) The agency may not issue a license to an applicant  
2 until the agency receives notice from the department as  
3 provided in paragraph (6)(b).

4           ~~(3) Each applicant for licensure must comply with the~~  
5 ~~following requirements:~~

6           ~~(a) Upon receipt of a completed, signed, and dated~~  
7 ~~application, the agency shall require background screening, in~~  
8 ~~accordance with the level 2 standards for screening set forth~~  
9 ~~in chapter 435, of the managing employee, or other similarly~~  
10 ~~titled individual who is responsible for the daily operation~~  
11 ~~of the facility, and of the financial officer, or other~~  
12 ~~similarly titled individual who is responsible for the~~  
13 ~~financial operation of the facility, including billings for~~  
14 ~~client care and services. The applicant must comply with the~~  
15 ~~procedures for level 2 background screening as set forth in~~  
16 ~~chapter 435.~~

17           ~~(b) The agency may require background screening of any~~  
18 ~~other individual who is an applicant if the agency has~~  
19 ~~probable cause to believe that he or she has been convicted of~~  
20 ~~a crime or has committed any other offense prohibited under~~  
21 ~~the level 2 standards for screening set forth in chapter 435.~~

22           ~~(c) Proof of compliance with the level 2 background~~  
23 ~~screening requirements of chapter 435 which has been submitted~~  
24 ~~within the previous 5 years in compliance with any other~~  
25 ~~health care or assisted living licensure requirements of this~~  
26 ~~state is acceptable in fulfillment of the requirements of~~  
27 ~~paragraph (a).~~

28           ~~(d) A provisional license may be granted to an~~  
29 ~~applicant when each individual required by this section to~~  
30 ~~undergo background screening has met the standards for the~~  
31 ~~Department of Law Enforcement background check, but the agency~~

1 ~~has not yet received background screening results from the~~  
2 ~~Federal Bureau of Investigation, or a request for a~~  
3 ~~disqualification exemption has been submitted to the agency as~~  
4 ~~set forth in chapter 435, but a response has not yet been~~  
5 ~~issued. A standard license may be granted to the applicant~~  
6 ~~upon the agency's receipt of a report of the results of the~~  
7 ~~Federal Bureau of Investigation background screening for each~~  
8 ~~individual required by this section to undergo background~~  
9 ~~screening which confirms that all standards have been met, or~~  
10 ~~upon the granting of a disqualification exemption by the~~  
11 ~~agency as set forth in chapter 435. Any other person who is~~  
12 ~~required to undergo level 2 background screening may serve in~~  
13 ~~his or her capacity pending the agency's receipt of the report~~  
14 ~~from the Federal Bureau of Investigation. However, the person~~  
15 ~~may not continue to serve if the report indicates any~~  
16 ~~violation of background screening standards and a~~  
17 ~~disqualification exemption has not been requested of and~~  
18 ~~granted by the agency as set forth in chapter 435.~~

19 ~~(e) Each applicant must submit to the agency, with its~~  
20 ~~application, a description and explanation of any exclusions,~~  
21 ~~permanent suspensions, or terminations of the applicant from~~  
22 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
23 ~~the requirements for disclosure of ownership and control~~  
24 ~~interests under the Medicaid or Medicare programs may be~~  
25 ~~accepted in lieu of this submission.~~

26 ~~(f) Each applicant must submit to the agency a~~  
27 ~~description and explanation of any conviction of an offense~~  
28 ~~prohibited under the level 2 standards of chapter 435 by a~~  
29 ~~member of the board of directors of the applicant, its~~  
30 ~~officers, or any individual owning 5 percent or more of the~~  
31 ~~applicant. This requirement does not apply to a director of a~~

1 ~~not-for-profit corporation or organization if the director~~  
2 ~~serves solely in a voluntary capacity for the corporation or~~  
3 ~~organization, does not regularly take part in the day-to-day~~  
4 ~~operational decisions of the corporation or organization,~~  
5 ~~receives no remuneration for his or her services on the~~  
6 ~~corporation or organization's board of directors, and has no~~  
7 ~~financial interest and has no family members with a financial~~  
8 ~~interest in the corporation or organization, provided that the~~  
9 ~~director and the not-for-profit corporation or organization~~  
10 ~~include in the application a statement affirming that the~~  
11 ~~director's relationship to the corporation satisfies the~~  
12 ~~requirements of this paragraph.~~

13 ~~(g) A license may not be granted to an applicant if~~  
14 ~~the applicant or managing employee has been found guilty of,~~  
15 ~~regardless of adjudication, or has entered a plea of nolo~~  
16 ~~contendere or guilty to, any offense prohibited under the~~  
17 ~~level 2 standards for screening set forth in chapter 435,~~  
18 ~~unless an exemption from disqualification has been granted by~~  
19 ~~the agency as set forth in chapter 435.~~

20 ~~(h) The agency may deny or revoke licensure if the~~  
21 ~~applicant:~~

22 ~~1. Has falsely represented a material fact in the~~  
23 ~~application required by paragraph (e) or paragraph (f), or has~~  
24 ~~omitted any material fact from the application required by~~  
25 ~~paragraph (e) or paragraph (f); or~~

26 ~~2. Has had prior action taken against the applicant~~  
27 ~~under the Medicaid or Medicare program as set forth in~~  
28 ~~paragraph (e).~~

29 ~~(i) An application for license renewal must contain~~  
30 ~~the information required under paragraphs (e) and (f).~~

31

1           ~~(4) An application for renewal of license must be~~  
2 ~~submitted 90 days before the expiration of the license. Upon~~  
3 ~~renewal of licensure, each applicant must submit to the~~  
4 ~~agency, under penalty of perjury, an affidavit as set forth in~~  
5 ~~paragraph (3)(d).~~

6           ~~(5) A change of ownership or control of a transitional~~  
7 ~~living facility must be reported to the agency in writing at~~  
8 ~~least 60 days before the change is scheduled to take effect.~~

9           (3)(6)(a) The agency shall adopt rules in consultation  
10 with the department governing the physical plant of  
11 transitional living facilities and the fiscal management of  
12 transitional living facilities.

13           (b) The department shall adopt rules in consultation  
14 with the agency governing the services provided to clients of  
15 transitional living facilities. The department shall enforce  
16 all requirements for providing services to the facility's  
17 clients. The department must notify the agency when it  
18 determines that an applicant for licensure meets the service  
19 requirements adopted by the department.

20           (c) The agency and the department shall enforce  
21 requirements under this section, as such requirements relate  
22 to them respectively, and their respective adopted rules.

23           ~~(7)(a) It is unlawful for any person to establish,~~  
24 ~~conduct, manage, or operate a transitional living facility~~  
25 ~~without obtaining a license from the agency.~~

26           ~~(b) It is unlawful for any person to offer or~~  
27 ~~advertise to the public, in any medium whatever, services or~~  
28 ~~care defined in paragraph (1)(c) without obtaining a license~~  
29 ~~from the agency.~~

30           ~~(c) It is unlawful for a holder of a license issued~~  
31 ~~under this section to advertise or represent to the public~~

1 ~~that it holds a license for a type of facility other than the~~  
2 ~~facility for which its license is issued.~~

3       (4)~~(8)~~ Any designated officer or employee of the  
4 agency, of the state, or of the local fire marshal may enter  
5 unannounced upon and into the premises of any facility  
6 licensed under this section in order to determine the state of  
7 compliance with this section and the rules or standards in  
8 force under this section. The right of entry and inspection  
9 also extends to any premises that the agency has reason to  
10 believe are being operated or maintained as a facility without  
11 a license; but such an entry or inspection may not be made  
12 without the permission of the owner or person in charge of the  
13 facility unless a warrant that authorizes the entry is first  
14 obtained from the circuit court. The warrant requirement  
15 extends only to a facility that the agency has reason to  
16 believe is being operated or maintained as a facility without  
17 a license. An application for a license or renewal thereof  
18 which is made under this section constitutes permission for,  
19 and acquiescence in, any entry or inspection of the premises  
20 for which the license is sought, in order to facilitate  
21 verification of the information submitted on or in connection  
22 with the application; to discover, investigate, and determine  
23 the existence of abuse or neglect; or to elicit, receive,  
24 respond to, and resolve complaints. A current valid license  
25 constitutes unconditional permission for, and acquiescence in,  
26 any entry or inspection of the premises by authorized  
27 personnel. The agency retains the right of entry and  
28 inspection of facilities that have had a license revoked or  
29 suspended within the previous 24 months, to ensure that the  
30 facility is not operating unlawfully. However, before the  
31 facility is entered, a statement of probable cause must be

1 filed with the director of the agency, who must approve or  
2 disapprove the action within 48 hours. Probable cause  
3 includes, but is not limited to, evidence that the facility  
4 holds itself out to the public as a provider of personal  
5 assistance services, or the receipt by the advisory council on  
6 brain and spinal cord injuries of a complaint about the  
7 facility.

8 (5)~~(9)~~ The agency may institute injunctive proceedings  
9 in a court of competent jurisdiction for temporary or  
10 permanent relief to:

11 (a) Enforce this section or any minimum standard,  
12 rule, or order issued pursuant thereto if the agency's effort  
13 to correct a violation through administrative fines has failed  
14 or when the violation materially affects the health, safety,  
15 or welfare of residents; or

16 (b) Terminate the operation of a facility if a  
17 violation of this section or of any standard or rule adopted  
18 pursuant thereto exists which materially affects the health,  
19 safety, or welfare of residents.

20  
21 The Legislature recognizes that, in some instances, action is  
22 necessary to protect residents of facilities from immediately  
23 life-threatening situations. If it appears by competent  
24 evidence or a sworn, substantiated affidavit that a temporary  
25 injunction should issue, the court, pending the determination  
26 on final hearing, shall enjoin operation of the facility.

27 ~~(10) The agency may impose an immediate moratorium on~~  
28 ~~admissions to a facility when the agency determines that any~~  
29 ~~condition in the facility presents a threat to the health,~~  
30 ~~safety, or welfare of the residents in the facility. If a~~  
31 ~~facility's license is denied, revoked, or suspended, the~~

1 ~~facility may be subject to the immediate imposition of a~~  
2 ~~moratorium on admissions to run concurrently with licensure~~  
3 ~~denial, revocation, or suspension.~~

4 (6)(11)(a) In accordance with ss. 408-801-408.819, a  
5 violation of any provision of this section, ss.  
6 408.801-408.819, or applicable rules adopted by the agency or  
7 department under this section is punishable by payment of an  
8 administrative or a civil penalty fine not to exceed \$5,000.

9 ~~(b) A violation of subsection (7) or rules adopted~~  
10 ~~under that subsection is a misdemeanor of the first degree,~~  
11 ~~punishable as provided in s. 775.082 or s. 775.083. Each day~~  
12 ~~of a continuing violation is a separate offense.~~

13 Section 134. Subsection (4) of section 400.902,  
14 Florida Statutes, is amended to read:

15 400.902 Definitions.--As used in this part, the term:

16 (4) "Owner or operator" means a licensee any  
17 ~~individual who has general administrative charge of a PPEC~~  
18 ~~center.~~

19 Section 135. Subsection (3) is added to section  
20 400.903, Florida Statutes, to read:

21 400.903 PPEC centers to be licensed; exemptions.--

22 (3) The requirements of ss. 408.801-408.819 apply to  
23 the provision of services that necessitate licensure pursuant  
24 to this part and ss. 408.801-408.819 and to entities licensed  
25 by or applying for such licensure from the Agency for Health  
26 Care Administration pursuant to this part.

27 Section 136. Section 400.905, Florida Statutes, is  
28 amended to read:

29 400.905 License required; fee; exemption; display.--

30 ~~(1)(a) It is unlawful to operate or maintain a PPEC~~  
31 ~~center without first obtaining from the agency a license~~

1 ~~authorizing such operation. The agency is responsible for~~  
2 ~~licensing PPEC centers in accordance with the provisions of~~  
3 ~~this part.~~

4 ~~(b) Any person who violates paragraph (a) is guilty of~~  
5 ~~a felony of the third degree, punishable as provided in s.~~  
6 ~~775.082, s. 775.083, or s. 775.084.~~

7 (1)(2) Separate licenses are required for PPEC centers  
8 maintained on separate premises, even though they are operated  
9 under the same management. Separate licenses are not required  
10 for separate buildings on the same grounds.

11 (2)(3) In accordance with s. 408.805, an applicant or  
12 licensee shall pay a fee for each license application  
13 submitted under this part and ss. 408.801-408.819. The amount  
14 of the fee shall be established by rule and may not be less  
15 than \$1,000 or more than \$3,000 per biennium.~~The annual~~  
16 ~~license fee required of a PPEC center shall be in an amount~~  
17 ~~determined by the agency to be sufficient to cover the~~  
18 ~~agency's costs in carrying out its responsibilities under this~~  
19 ~~part, but shall not be less than \$500 or more than \$1,500.~~

20 (3)(4) County-operated or municipally operated PPEC  
21 centers applying for licensure under this part are exempt from  
22 the payment of license fees.

23 ~~(5) The license shall be displayed in a conspicuous~~  
24 ~~place inside the PPEC center.~~

25 ~~(6) A license shall be valid only in the possession of~~  
26 ~~the individual, firm, partnership, association, or corporation~~  
27 ~~to whom it is issued and shall not be subject to sale,~~  
28 ~~assignment, or other transfer, voluntary or involuntary; nor~~  
29 ~~shall a license be valid for any premises other than that for~~  
30 ~~which originally issued.~~

31

1           ~~(7) Any license granted by the agency shall state the~~  
2 ~~maximum capacity of the facility, the date the license was~~  
3 ~~issued, the expiration date of the license, and any other~~  
4 ~~information deemed necessary by the agency.~~

5           Section 137. Section 400.906, Florida Statutes, is  
6 repealed.

7           Section 138. Section 400.907, Florida Statutes, is  
8 amended to read:

9           400.907 Denial or, ~~suspension~~, revocation of  
10 licensure; administrative fines; grounds.--

11           (1) In accordance with ss. 408.801-408.819, the agency  
12 may deny ~~or, revoke, or suspend~~ a license or impose an  
13 administrative fine for a violation of any provision of this  
14 part, ss. 408.801-408.819, or applicable rules in the manner  
15 ~~provided in chapter 120.~~

16           (2) Any of the following actions by a PPEC center ~~or~~  
17 ~~its~~ employee is grounds for action by the agency against a  
18 PPEC center or its employee:

19           (a) An intentional or negligent act materially  
20 affecting the health or safety of children in the PPEC center.

21           (b) A violation of the provisions of this part, ss.  
22 408.801-408.819, or applicable rules ~~or of any standards or~~  
23 ~~rules adopted pursuant to this part.~~

24           ~~(c) Multiple and repeated violations of this part or~~  
25 ~~of minimum standards or rules adopted pursuant to this part.~~

26           ~~(3) The agency shall be responsible for all~~  
27 ~~investigations and inspections conducted pursuant to this~~  
28 ~~part.~~

29           Section 139. Section 400.908, Florida Statutes, is  
30 amended to read:

31

1           400.908 Administrative fines; disposition of fees and  
2 fines.--

3           (1)(a) If the agency determines that a PPEC center is  
4 ~~being operated without a license or is otherwise~~ not in  
5 compliance with ~~rules adopted under~~ this part, ss.  
6 408.801-408.819, or applicable rules,the agency,  
7 notwithstanding any other administrative action it takes,  
8 shall make a reasonable attempt to discuss each violation and  
9 recommended corrective action with the owner of the PPEC  
10 center prior to written notification thereof. The agency may  
11 request that the PPEC center submit a corrective action plan  
12 which demonstrates a good faith effort to remedy each  
13 violation by a specific date, subject to the approval of the  
14 agency.

15           (b) In accordance with ss. 408.801-408.819,the agency  
16 may fine a PPEC center or employee found in violation of ~~rules~~  
17 ~~adopted pursuant to~~ this part, ss. 408.801-408.819, or  
18 applicable rules in an amount not to exceed \$500 for each  
19 violation. Such fine may not exceed \$5,000 in the aggregate.

20           (c) The failure to correct a violation by the date set  
21 by the agency, or the failure to comply with an approved  
22 corrective action plan, is a separate violation for each day  
23 such failure continues, unless the agency approves an  
24 extension to a specific date.

25           ~~(d) If a PPEC center desires to appeal any agency~~  
26 ~~action under this section and the fine is upheld, the violator~~  
27 ~~shall pay the fine, plus interest at the legal rate specified~~  
28 ~~in s. 687.01, for each day beyond the date set by the agency~~  
29 ~~for payment of the fine.~~

30  
31

1           (2) In determining if a fine is to be imposed and in  
2 fixing the amount of any fine, the agency shall consider the  
3 following factors:

4           (a) The gravity of the violation, including the  
5 probability that death or serious physical or emotional harm  
6 to a child will result or has resulted, the severity of the  
7 actual or potential harm, and the extent to which the  
8 provisions of the applicable statutes or rules were violated.

9           (b) Actions taken by the owner or operator to correct  
10 violations.

11           (c) Any previous violations.

12           (d) The financial benefit to the PPEC center of  
13 committing or continuing the violation.

14           ~~(3) Fees and fines received by the agency under this~~  
15 ~~part shall be deposited in the Health Care Trust Fund created~~  
16 ~~in s. 408.16.~~

17           Section 140. Sections 400.910 and 400.911, Florida  
18 Statutes, are repealed.

19           Section 141. Section 400.912, Florida Statutes, is  
20 amended to read:

21           400.912 Closing of a PPEC center.--

22           ~~(1) Whenever a PPEC center voluntarily discontinues~~  
23 ~~operation, it shall inform the agency in writing at least 30~~  
24 ~~days before the discontinuance of operation. The PPEC center~~  
25 ~~shall also, at such time, inform each child's legal guardian~~  
26 ~~of the fact and the proposed time of such discontinuance.~~

27           ~~(2) Immediately upon discontinuance of the operation~~  
28 ~~of a PPEC center, the owner or operator shall surrender the~~  
29 ~~license therefor to the agency and the license shall be~~  
30 ~~canceled.~~

31

1           Section 142. Section 400.913, Florida Statutes, is  
2 repealed.

3           Section 143. Subsection (1) of section 400.914,  
4 Florida Statutes, is amended to read:

5           400.914 Rules establishing standards.--

6           (1) Pursuant to the intention of the Legislature to  
7 provide safe and sanitary facilities and healthful programs,  
8 the agency in conjunction with the Division of Children's  
9 Medical Services Prevention and Intervention of the Department  
10 of Health shall adopt and publish rules to implement the  
11 provisions of this part and ss. 408.801-408.819, which shall  
12 include reasonable and fair standards. Any conflict between  
13 these standards and those that may be set forth in local,  
14 county, or city ordinances shall be resolved in favor of those  
15 having statewide effect. Such standards shall relate to:

16           (a) The assurance that PPEC services are family  
17 centered and provide individualized medical, developmental,  
18 and family training services.

19           (b) The maintenance of PPEC centers, not in conflict  
20 with the provisions of chapter 553 and based upon the size of  
21 the structure and number of children, relating to plumbing,  
22 heating, lighting, ventilation, and other building conditions,  
23 including adequate space, which will ensure the health,  
24 safety, comfort, and protection from fire of the children  
25 served.

26           (c) The appropriate provisions of the most recent  
27 edition of the "Life Safety Code" (NFPA-101) shall be applied.

28           (d) The number and qualifications of all personnel who  
29 have responsibility for the care of the children served.

30           (e) All sanitary conditions within the PPEC center and  
31 its surroundings, including water supply, sewage disposal,

1 food handling, and general hygiene, and maintenance thereof,  
2 which will ensure the health and comfort of children served.

3 (f) Programs and basic services promoting and  
4 maintaining the health and development of the children served  
5 and meeting the training needs of the children's legal  
6 guardians.

7 (g) Supportive, contracted, other operational, and  
8 transportation services.

9 (h) Maintenance of appropriate medical records, data,  
10 and information relative to the children and programs. Such  
11 records shall be maintained in the facility for inspection by  
12 the agency.

13 Section 144. Section 400.915, Florida Statutes, is  
14 amended to read:

15 400.915 Construction and renovation;  
16 requirements.--The requirements for the construction or  
17 renovation of a PPEC center shall comply with:

18 (1) The provisions of chapter 553, which pertain to  
19 building construction standards, including plumbing,  
20 electrical code, glass, manufactured buildings, accessibility  
21 for the physically disabled;

22 (2) The minimum standards for physical facilities in  
23 rule 10M-12.003, Florida Administrative Code, Child Care  
24 Standards; and

25 (3) The standards or rules adopted pursuant to this  
26 part and ss. 408.801-408.819.

27 Section 145. Sections 400.916 and 400.917, Florida  
28 Statutes, are repealed.

29 Section 146. Section 400.925, Florida Statutes, is  
30 amended to read:

31 400.925 Definitions.--As used in this part, the term:

1           (1) "Accrediting organizations" means the Joint  
2 Commission on Accreditation of Healthcare Organizations or  
3 other national accreditation agencies whose standards for  
4 accreditation are comparable to those required by this part  
5 for licensure.

6           ~~(2) "Affiliated person" means any person who directly~~  
7 ~~or indirectly manages, controls, or oversees the operation of~~  
8 ~~a corporation or other business entity that is a licensee,~~  
9 ~~regardless of whether such person is a partner, shareholder,~~  
10 ~~owner, officer, director, agent, or employee of the entity.~~

11           (2)~~(3)~~ "Agency" means the Agency for Health Care  
12 Administration.

13           ~~(4) "Applicant" means an individual applicant in the~~  
14 ~~case of a sole proprietorship, or any officer, director,~~  
15 ~~agent, managing employee, general manager, or affiliated~~  
16 ~~person, or any partner or shareholder having an ownership~~  
17 ~~interest equal to 5 percent or greater in the corporation,~~  
18 ~~partnership, or other business entity.~~

19           (3)~~(5)~~ "Consumer" or "patient" means any person who  
20 uses home medical equipment in his or her place of residence.

21           (4)~~(6)~~ "Department" means the Department of Children  
22 and Family Services.

23           (5)~~(7)~~ "General manager" means the individual who has  
24 the general administrative charge of the premises of a  
25 licensed home medical equipment provider.

26           (6)~~(8)~~ "Home medical equipment" includes any product  
27 as defined by the Federal Drug Administration's Drugs, Devices  
28 and Cosmetics Act, any products reimbursed under the Medicare  
29 Part B Durable Medical Equipment benefits, or any products  
30 reimbursed under the Florida Medicaid durable medical  
31 equipment program. Home medical equipment includes oxygen and

1 related respiratory equipment; manual, motorized, or  
2 customized wheelchairs and related seating and positioning,  
3 but does not include prosthetics or orthotics or any splints,  
4 braces, or aids custom fabricated by a licensed health care  
5 practitioner; motorized scooters; personal transfer systems;  
6 and specialty beds, for use by a person with a medical need.

7 (7)~~(9)~~ "Home medical equipment provider" means any  
8 person or entity that sells or rents or offers to sell or rent  
9 to or for a consumer:

10 (a) Any home medical equipment and services; or

11 (b) Home medical equipment that requires any home  
12 medical equipment services.

13 (8)~~(10)~~ "Home medical equipment provider personnel"  
14 means persons who are employed by or under contract with a  
15 home medical equipment provider.

16 (9)~~(11)~~ "Home medical equipment services" means  
17 equipment management and consumer instruction, including  
18 selection, delivery, setup, and maintenance of equipment, and  
19 other related services for the use of home medical equipment  
20 in the consumer's regular or temporary place of residence.

21 (10)~~(12)~~ "Licensee" means the person or entity to whom  
22 a license to operate as a home medical equipment provider is  
23 issued by the agency.

24 (11)~~(13)~~ "Moratorium" has the same meaning as in s.  
25 408.803, except that ~~means a mandated temporary cessation or~~  
26 ~~suspension of the sale, rental, or offering of equipment after~~  
27 ~~the imposition of the moratorium.~~ services related to  
28 equipment sold or rented prior to the moratorium must be  
29 continued without interruption, unless deemed otherwise by the  
30 agency.

31

1           (12)~~(14)~~ "Person" means any individual, firm,  
2 partnership, corporation, or association.

3           (13)~~(15)~~ "Premises" means those buildings and  
4 equipment which are located at the address of the licensed  
5 home medical equipment provider for the provision of home  
6 medical equipment services, which are in such reasonable  
7 proximity as to appear to the public to be a single provider  
8 location, and which comply with zoning ordinances.

9           (14)~~(16)~~ "Residence" means the consumer's home or  
10 place of residence, which may include nursing homes, assisted  
11 living facilities, transitional living facilities, adult  
12 family-care homes, or other congregate residential facilities.

13           Section 147. Subsection (3) and paragraphs (d) and (e)  
14 of subsection (6) of section 400.93, Florida Statutes, are  
15 amended to read:

16           400.93 Licensure required; exemptions; unlawful acts;  
17 penalties.--

18           (3) The requirements of ss. 408.801-408.819 apply to  
19 the provision of services that necessitate licensure pursuant  
20 to this part and ss. 408.801-408.819 and to entities licensed  
21 by or applying for such licensure from the Agency for Health  
22 Care Administration pursuant to this part.~~A home medical~~  
23 ~~equipment provider must be licensed by the agency to operate~~  
24 ~~in this state or to provide home medical equipment and~~  
25 ~~services to consumers in this state. A standard license issued~~  
26 ~~to a home medical equipment provider, unless sooner suspended~~  
27 ~~or revoked, expires 2 years after its effective date.~~

28           (6)

29           ~~(d) The following penalties shall be imposed for~~  
30 ~~operating an unlicensed home medical equipment provider:~~

31

1           ~~1. Any person or entity who operates an unlicensed~~  
2 ~~provider commits a felony of the third degree.~~

3           ~~2. For any person or entity who has received~~  
4 ~~government reimbursement for services provided by an~~  
5 ~~unlicensed provider, the agency shall make a fraud referral to~~  
6 ~~the appropriate government reimbursement program.~~

7           ~~3. For any licensee found to be concurrently operating~~  
8 ~~licensed and unlicensed provider premises, the agency may~~  
9 ~~impose a fine or moratorium, or revoke existing licenses of~~  
10 ~~any or all of the licensee's licensed provider locations until~~  
11 ~~such time as the unlicensed provider premises is licensed.~~

12           ~~(e) A provider found to be operating without a license~~  
13 ~~may apply for licensure, and must cease operations until a~~  
14 ~~license is awarded by the agency.~~

15           Section 148. Section 400.931, Florida Statutes, is  
16 amended to read:

17           400.931 Application for license; fee; provisional  
18 license; temporary permit.--

19           ~~(1) Application for an initial license or for renewal~~  
20 ~~of an existing license must be made under oath to the agency~~  
21 ~~on forms furnished by it and must be accompanied by the~~  
22 ~~appropriate license fee as provided in subsection (12).~~

23           (1)(2) The applicant must file with the application  
24 satisfactory proof that the home medical equipment provider is  
25 in compliance with this part and applicable rules, including:

26           (a) A report, by category, of the equipment to be  
27 provided, indicating those offered either directly by the  
28 applicant or through contractual arrangements with existing  
29 providers. Categories of equipment include:

- 30           1. Respiratory modalities.  
31           2. Ambulation aids.

- 1           3. Mobility aids.
- 2           4. Sickroom setup.
- 3           5. Disposables.

4           (b) A report, by category, of the services to be  
5 provided, indicating those offered either directly by the  
6 applicant or through contractual arrangements with existing  
7 providers. Categories of services include:

- 8           1. Intake.
- 9           2. Equipment selection.
- 10          3. Delivery.
- 11          4. Setup and installation.
- 12          5. Patient training.
- 13          6. Ongoing service and maintenance.
- 14          7. Retrieval.

15          (c) A listing of those with whom the applicant  
16 contracts, both the providers the applicant uses to provide  
17 equipment or services to its consumers and the providers for  
18 whom the applicant provides services or equipment.

19          ~~(2)~~(3) The applicant for initial licensure must  
20 demonstrate financial ability to operate, which may be  
21 accomplished by the submission of a \$50,000 surety bond to the  
22 agency in lieu of the requirements of s. 408.810(8).

23          ~~(4) An applicant for renewal who has demonstrated~~  
24 ~~financial inability to operate must demonstrate financial~~  
25 ~~ability to operate.~~

26          ~~(5) Each applicant for licensure must comply with the~~  
27 ~~following requirements:~~

28          ~~(a) Upon receipt of a completed, signed, and dated~~  
29 ~~application, the agency shall require background screening of~~  
30 ~~the applicant, in accordance with the level 2 standards for~~  
31 ~~screening set forth in chapter 435. As used in this~~

1 ~~subsection, the term "applicant" means the general manager and~~  
2 ~~the financial officer or similarly titled individual who is~~  
3 ~~responsible for the financial operation of the licensed~~  
4 ~~facility.~~

5 ~~(b) The agency may require background screening for a~~  
6 ~~member of the board of directors of the licensee or an officer~~  
7 ~~or an individual owning 5 percent or more of the licensee if~~  
8 ~~the agency has probable cause to believe that such individual~~  
9 ~~has been convicted of an offense prohibited under the level 2~~  
10 ~~standards for screening set forth in chapter 435.~~

11 ~~(c) Proof of compliance with the level 2 background~~  
12 ~~screening requirements of chapter 435 which has been submitted~~  
13 ~~within the previous 5 years in compliance with any other~~  
14 ~~health care licensure requirements of this state is acceptable~~  
15 ~~in fulfillment of paragraph (a).~~

16 ~~(d) Each applicant must submit to the agency, with its~~  
17 ~~application, a description and explanation of any exclusions,~~  
18 ~~permanent suspensions, or terminations of the applicant from~~  
19 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
20 ~~disclosure of ownership and control interest requirements of~~  
21 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
22 ~~this submission.~~

23 ~~(e) Each applicant must submit to the agency a~~  
24 ~~description and explanation of any conviction of an offense~~  
25 ~~prohibited under the level 2 standards of chapter 435 by a~~  
26 ~~member of the board of directors of the applicant, its~~  
27 ~~officers, or any individual owning 5 percent or more of the~~  
28 ~~applicant. This requirement does not apply to a director of a~~  
29 ~~not-for-profit corporation or organization if the director~~  
30 ~~serves solely in a voluntary capacity for the corporation or~~  
31 ~~organization, does not regularly take part in the day-to-day~~

1 ~~operational decisions of the corporation or organization,~~  
2 ~~receives no remuneration for his or her services on the~~  
3 ~~corporation's or organization's board of directors, and has no~~  
4 ~~financial interest and has no family members with a financial~~  
5 ~~interest in the corporation or organization, provided that the~~  
6 ~~director and the not-for-profit corporation or organization~~  
7 ~~include in the application a statement affirming that the~~  
8 ~~director's relationship to the corporation satisfies the~~  
9 ~~requirements of this provision.~~

10 ~~(f) A license may not be granted to any potential~~  
11 ~~licensee if any applicant, administrator, or financial officer~~  
12 ~~has been found guilty of, regardless of adjudication, or has~~  
13 ~~entered a plea of nolo contendere or guilty to, any offense~~  
14 ~~prohibited under the level 2 standards for screening set forth~~  
15 ~~in chapter 435, unless an exemption from disqualification has~~  
16 ~~been granted by the agency as set forth in chapter 435.~~

17 ~~(g) The agency may deny or revoke licensure to any~~  
18 ~~potential licensee if any applicant:~~

19 ~~1. Has falsely represented a material fact in the~~  
20 ~~application required by paragraphs (d) and (e), or has omitted~~  
21 ~~any material fact from the application required by paragraphs~~  
22 ~~(d) and (e); or~~

23 ~~2. Has had prior Medicaid or Medicare action taken~~  
24 ~~against the applicant as set forth in paragraph (d).~~

25 ~~(h) Upon licensure renewal, each applicant must submit~~  
26 ~~to the agency, under penalty of perjury, an affidavit of~~  
27 ~~compliance with the background screening provisions of this~~  
28 ~~section.~~

29 ~~(3)(6)~~ As specified in ss. 408.801-408.819, the home  
30 medical equipment provider must also obtain and maintain  
31 professional and commercial liability insurance. Proof of

1 liability insurance, as defined in s. 624.605, must be  
2 submitted with the application. The agency shall set the  
3 required amounts of liability insurance by rule, but the  
4 required amount must not be less than \$250,000 per claim. In  
5 the case of contracted services, it is required that the  
6 contractor have liability insurance not less than \$250,000 per  
7 claim.

8 ~~(7) A provisional license shall be issued to an~~  
9 ~~approved applicant for initial licensure for a period of 90~~  
10 ~~days, during which time a survey must be conducted~~  
11 ~~demonstrating substantial compliance with this section. A~~  
12 ~~provisional license shall also be issued pending the results~~  
13 ~~of an applicant's Federal Bureau of Investigation report of~~  
14 ~~background screening confirming that all standards have been~~  
15 ~~met. If substantial compliance is demonstrated, a standard~~  
16 ~~license shall be issued to expire 2 years after the effective~~  
17 ~~date of the provisional license.~~

18 ~~(8) Ninety days before the expiration date, an~~  
19 ~~application for license renewal must be submitted to the~~  
20 ~~agency under oath on forms furnished by the agency, and a~~  
21 ~~license shall be renewed if the applicant has met the~~  
22 ~~requirements established under this part and applicable rules.~~  
23 ~~The home medical equipment provider must file with the~~  
24 ~~application satisfactory proof that it is in compliance with~~  
25 ~~this part and applicable rules. The home medical equipment~~  
26 ~~provider must submit satisfactory proof of its financial~~  
27 ~~ability to comply with the requirements of this part.~~

28 ~~(9) When a change of ownership of a home medical~~  
29 ~~equipment provider occurs, the prospective owner must submit~~  
30 ~~an initial application for a license at least 15 days before~~  
31 ~~the effective date of the change of ownership. An application~~

1 ~~for change of ownership of a license is required when~~  
2 ~~ownership, a majority of the ownership, or controlling~~  
3 ~~interest of a licensed home medical equipment provider is~~  
4 ~~transferred or assigned and when a licensee agrees to~~  
5 ~~undertake or provide services to the extent that legal~~  
6 ~~liability for operation of the home medical equipment provider~~  
7 ~~rests with the licensee. A provisional license shall be issued~~  
8 ~~to the new owner for a period of 90 days, during which time~~  
9 ~~all required documentation must be submitted and a survey must~~  
10 ~~be conducted demonstrating substantial compliance with this~~  
11 ~~section. If substantial compliance is demonstrated, a standard~~  
12 ~~license shall be issued to expire 2 years after the issuance~~  
13 ~~of the provisional license.~~

14 (4)(10) When a change of the general manager of a home  
15 medical equipment provider occurs, the licensee must notify  
16 the agency of the change within 45 days ~~thereof and must~~  
17 ~~provide evidence of compliance with the background screening~~  
18 ~~requirements in subsection (5); except that a general manager~~  
19 ~~who has met the standards for the Department of Law~~  
20 ~~Enforcement background check, but for whom background~~  
21 ~~screening results from the Federal Bureau of Investigation~~  
22 ~~have not yet been received, may be employed pending receipt of~~  
23 ~~the Federal Bureau of Investigation background screening~~  
24 ~~report. An individual may not continue to serve as general~~  
25 ~~manager if the Federal Bureau of Investigation background~~  
26 ~~screening report indicates any violation of background~~  
27 ~~screening standards.~~

28 (5)(11) In accordance with s. 408.805, an applicant or  
29 licensee shall pay a fee for each license application  
30 submitted under this part and ss. 408.801-408.819. The amount  
31 of the fee shall be established by rule and may not exceed

1 \$300 per biennium.~~All licensure fees required of a home~~  
2 ~~medical equipment provider are nonrefundable.~~The agency shall  
3 set the fees in an amount that is sufficient to cover its  
4 costs in carrying out its responsibilities under this part.  
5 However, state, county, or municipal governments applying for  
6 licenses under this part are exempt from the payment of  
7 license fees. ~~All fees collected under this part must be~~  
8 ~~deposited in the Health Care Trust Fund for the administration~~  
9 ~~of this part.~~

10       (6)~~(12)~~ An applicant for initial licensure, renewal,  
11 or change of ownership shall also pay a license processing fee  
12 ~~not to exceed \$300, to be paid by all applicants, and an~~  
13 ~~inspection fee, not to exceed \$400, which shall to be paid by~~  
14 ~~all applicants except those not subject to licensure~~  
15 ~~inspection by the agency as described in s. 400.933(2).~~

16       ~~(13) When a change is reported which requires issuance~~  
17 ~~of a license, a fee must be assessed. The fee must be based on~~  
18 ~~the actual cost of processing and issuing the license.~~

19       ~~(14) When a duplicate license is issued, a fee must be~~  
20 ~~assessed, not to exceed the actual cost of duplicating and~~  
21 ~~mailing.~~

22       ~~(15) When applications are mailed out upon request, a~~  
23 ~~fee must be assessed, not to exceed the cost of the printing,~~  
24 ~~preparation, and mailing.~~

25       ~~(16) The license must be displayed in a conspicuous~~  
26 ~~place in the administrative office of the home medical~~  
27 ~~equipment provider and is valid only while in the possession~~  
28 ~~of the person or entity to which it is issued. The license may~~  
29 ~~not be sold, assigned, or otherwise transferred, voluntarily~~  
30 ~~or involuntarily, and is valid only for the home medical~~  
31 ~~equipment provider and location for which originally issued.~~

1           ~~(17) A home medical equipment provider against whom a~~  
2 ~~proceeding for revocation or suspension, or for denial of a~~  
3 ~~renewal application, is pending at the time of license renewal~~  
4 ~~may be issued a provisional license effective until final~~  
5 ~~disposition by the agency of such proceedings. If judicial~~  
6 ~~relief is sought from the final disposition, the court that~~  
7 ~~has jurisdiction may issue a temporary permit for the duration~~  
8 ~~of the judicial proceeding.~~

9           Section 149. Section 400.932, Florida Statutes, is  
10 amended to read:

11           400.932 Administrative penalties; injunctions;  
12 emergency orders; moratoriums.--

13           (1) The agency may deny or, ~~revoke, or suspend~~ a  
14 license, or impose an administrative fine not to exceed \$5,000  
15 per violation, per day, or initiate injunctive proceedings  
16 under s. 400.956.

17           (2) Any of the following actions by an employee of a  
18 home medical equipment provider ~~or any of its employees~~ is  
19 grounds for administrative action or penalties by the agency:

20           (a) Violation of this part or of applicable rules.

21           (b) An intentional, reckless, or negligent act that  
22 materially affects the health or safety of a patient.

23           (3) The agency may deny or revoke the license of any  
24 applicant that:

25           ~~(a) Made a false representation or omission of any~~  
26 ~~material fact in making the application, including the~~  
27 ~~submission of an application that conceals the controlling or~~  
28 ~~ownership interest or any officer, director, agent, managing~~  
29 ~~employee, affiliated person, partner, or shareholder who may~~  
30 ~~not be eligible to participate;~~

31

1           (a)~~(b)~~ Has been previously found by any professional  
2 licensing, certifying, or standards board or agency to have  
3 violated the standards or conditions relating to licensure or  
4 certification or the quality of services provided.

5 "Professional licensing, certifying, or standards board or  
6 agency" shall include, but is not limited to, practitioners,  
7 health care facilities, programs, or services, or residential  
8 care, treatment programs, or other human services; or

9           (b)~~(c)~~ Has been or is currently excluded, suspended,  
10 or terminated from, or has involuntarily withdrawn from,  
11 participation in Florida's Medicaid program or any other  
12 state's Medicaid program, or participation in the Medicare  
13 program or any other governmental or private health care or  
14 health insurance program.

15           ~~(4) The agency may issue an emergency order~~  
16 ~~immediately suspending or revoking a license when it~~  
17 ~~determines that any condition within the responsibility of the~~  
18 ~~home medical equipment provider presents a clear and present~~  
19 ~~danger to public health and safety.~~

20           ~~(5) The agency may impose an immediate moratorium on~~  
21 ~~any licensed home medical equipment provider when the agency~~  
22 ~~determines that any condition within the responsibility of the~~  
23 ~~home medical equipment provider presents a threat to public~~  
24 ~~health or safety.~~

25           Section 150. Section 400.933, Florida Statutes, is  
26 amended to read:

27           400.933 Licensure inspections and investigations.--

28           ~~(1) The agency shall make or cause to be made such~~  
29 ~~inspections and investigations as it considers necessary,~~  
30 ~~including:~~

31           ~~(a) Licensure inspections.~~

1           ~~(b) Inspections directed by the federal Health Care~~  
2 ~~Financing Administration.~~

3           ~~(c) Licensure complaint investigations, including full~~  
4 ~~licensure investigations with a review of all licensure~~  
5 ~~standards as outlined in the administrative rules. Complaints~~  
6 ~~received by the agency from individuals, organizations, or~~  
7 ~~other sources are subject to review and investigation by the~~  
8 ~~agency.~~

9           ~~(2)~~ The agency shall accept, in lieu of its own  
10 periodic inspections for licensure, submission of the  
11 following:

12           (1)(a) The survey or inspection of an accrediting  
13 organization, provided the accreditation of the licensed home  
14 medical equipment provider is not provisional and provided the  
15 licensed home medical equipment provider authorizes release  
16 of, and the agency receives the report of, the accrediting  
17 organization; or

18           (2)(b) A copy of a valid medical oxygen retail  
19 establishment permit issued by the Department of Health,  
20 pursuant to chapter 499.

21           Section 151. Section 400.935, Florida Statutes, is  
22 amended to read:

23           400.935 Rules establishing minimum standards.--The  
24 agency shall adopt, publish, and enforce rules to implement  
25 this part and ss. 408.801-408.819, which must provide  
26 reasonable and fair minimum standards relating to:

27           (1) The qualifications and minimum training  
28 requirements of all home medical equipment provider personnel.

29           ~~(2) License application and renewal.~~

30           ~~(3) License and inspection fees.~~

31           (2)(4) Financial ability to operate.

1           ~~(3)(5)~~ The administration of the home medical  
2 equipment provider.

3           ~~(4)(6)~~ Procedures for maintaining patient records.

4           ~~(5)(7)~~ Ensuring that the home medical equipment and  
5 services provided by a home medical equipment provider are in  
6 accordance with the plan of treatment established for each  
7 patient, when provided as a part of a plan of treatment.

8           ~~(6)(8)~~ Contractual arrangements for the provision of  
9 home medical equipment and services by providers not employed  
10 by the home medical equipment provider providing for the  
11 consumer's needs.

12           ~~(7)(9)~~ Physical location and zoning requirements.

13           ~~(8)(10)~~ Home medical equipment requiring home medical  
14 equipment services.

15           Section 152. Section 400.95, subsection (2) of section  
16 400.953, subsection (4) of section 400.955, and section  
17 400.956, Florida Statutes, are repealed.

18           Section 153. Subsection (5) of section 400.960,  
19 Florida Statutes, is amended to read:

20           400.960 Definitions.--As used in this part, the term:

21           (5) "Client" means any person receiving services in an  
22 intermediate care facility for the developmentally disabled  
23 ~~determined by the department to be eligible for developmental~~  
24 ~~services.~~

25           Section 154. Section 400.962, Florida Statutes, is  
26 amended to read:

27           400.962 License required; license application.--

28           (1) The requirements of ss. 408.801-408.819 apply to  
29 the provision of services that necessitate licensure pursuant  
30 to this part and ss. 408.801-408.819 and to entities licensed  
31 by or applying for such licensure from the Agency for Health

1 Care Administration pursuant to this part.~~It is unlawful to~~  
2 ~~operate an intermediate care facility for the developmentally~~  
3 ~~disabled without a license.~~

4 (2) Separate licenses are required for facilities  
5 maintained on separate premises even if operated under the  
6 same management. However, a separate license is not required  
7 for separate buildings on the same grounds.

8 ~~(3) The basic license fee collected shall be deposited~~  
9 ~~in the Health Care Trust Fund, established for carrying out~~  
10 ~~the purposes of this chapter.~~

11 ~~(4) The license must be conspicuously displayed inside~~  
12 ~~the facility.~~

13 ~~(5) A license is valid only in the hands of the~~  
14 ~~individual, firm, partnership, association, or corporation to~~  
15 ~~whom it is issued. A license is not valid for any premises~~  
16 ~~other than those for which it was originally issued and may~~  
17 ~~not be sold, assigned, or otherwise transferred, voluntarily~~  
18 ~~or involuntarily.~~

19 ~~(6) An application for a license shall be made to the~~  
20 ~~agency on forms furnished by it and must be accompanied by the~~  
21 ~~appropriate license fee.~~

22 ~~(7) The application must be under oath and must~~  
23 ~~contain the following:~~

24 ~~(a) The name, address, and social security number of~~  
25 ~~the applicant if an individual; if the applicant is a firm,~~  
26 ~~partnership, or association, its name, address, and employer~~  
27 ~~identification number (EIN), and the name and address of every~~  
28 ~~member; if the applicant is a corporation, its name, address,~~  
29 ~~and employer identification number (EIN), and the name and~~  
30 ~~address of its director and officers and of each person having~~  
31

1 ~~at least a 5 percent interest in the corporation; and the name~~  
2 ~~by which the facility is to be known.~~

3 ~~(b) The name of any person whose name is required on~~  
4 ~~the application under paragraph (a) and who owns at least a 10~~  
5 ~~percent interest in any professional service, firm,~~  
6 ~~association, partnership, or corporation providing goods,~~  
7 ~~leases, or services to the facility for which the application~~  
8 ~~is made, and the name and address of the professional service,~~  
9 ~~firm, association, partnership, or corporation in which such~~  
10 ~~interest is held.~~

11 ~~(c) The location of the facility for which a license~~  
12 ~~is sought and an indication that such location conforms to the~~  
13 ~~local zoning ordinances.~~

14 ~~(d) The name of the persons under whose management or~~  
15 ~~supervision the facility will be operated.~~

16 ~~(e) The total number of beds.~~

17 (3)~~(8)~~ The applicant must demonstrate that sufficient  
18 numbers of staff, qualified by training or experience, will be  
19 employed to properly care for the type and number of residents  
20 who will reside in the facility.

21 ~~(9) The applicant must submit evidence that~~  
22 ~~establishes the good moral character of the applicant,~~  
23 ~~manager, supervisor, and administrator. An applicant who is an~~  
24 ~~individual or a member of a board of directors or officer of~~  
25 ~~an applicant that is a firm, partnership, association, or~~  
26 ~~corporation must not have been convicted, or found guilty,~~  
27 ~~regardless of adjudication, of a crime in any jurisdiction~~  
28 ~~which affects or may potentially affect residents in the~~  
29 ~~facility.~~

30 ~~(10)(a) Upon receipt of a completed, signed, and dated~~  
31 ~~application, the agency shall require background screening of~~

1 ~~the applicant, in accordance with the level 2 standards for~~  
2 ~~screening set forth in chapter 435. As used in this~~  
3 ~~subsection, the term "applicant" means the facility~~  
4 ~~administrator, or similarly titled individual who is~~  
5 ~~responsible for the day-to-day operation of the licensed~~  
6 ~~facility, and the facility financial officer, or similarly~~  
7 ~~titled individual who is responsible for the financial~~  
8 ~~operation of the licensed facility.~~

9 ~~(b) The agency may require background screening for a~~  
10 ~~member of the board of directors of the licensee or an officer~~  
11 ~~or an individual owning 5 percent or more of the licensee if~~  
12 ~~the agency has probable cause to believe that such individual~~  
13 ~~has been convicted of an offense prohibited under the level 2~~  
14 ~~standards for screening set forth in chapter 435.~~

15 ~~(c) Proof of compliance with the level 2 background~~  
16 ~~screening requirements of chapter 435 which has been submitted~~  
17 ~~within the previous 5 years in compliance with any other~~  
18 ~~licensure requirements under this chapter satisfies the~~  
19 ~~requirements of paragraph (a). Proof of compliance with~~  
20 ~~background screening which has been submitted within the~~  
21 ~~previous 5 years to fulfill the requirements of the Financial~~  
22 ~~Services Commission and the Office of Insurance Regulation~~  
23 ~~under chapter 651 as part of an application for a certificate~~  
24 ~~of authority to operate a continuing care retirement community~~  
25 ~~satisfies the requirements for the Department of Law~~  
26 ~~Enforcement and Federal Bureau of Investigation background~~  
27 ~~checks.~~

28 ~~(d) A provisional license may be granted to an~~  
29 ~~applicant when each individual required by this section to~~  
30 ~~undergo background screening has met the standards for the~~  
31 ~~Department of Law Enforcement background check, but the agency~~

1 ~~has not yet received background screening results from the~~  
2 ~~Federal Bureau of Investigation, or a request for a~~  
3 ~~disqualification exemption has been submitted to the agency as~~  
4 ~~set forth in chapter 435, but a response has not yet been~~  
5 ~~issued. A license may be granted to the applicant upon the~~  
6 ~~agency's receipt of a report of the results of the Federal~~  
7 ~~Bureau of Investigation background screening for each~~  
8 ~~individual required by this section to undergo background~~  
9 ~~screening which confirms that all standards have been met, or~~  
10 ~~upon the granting of a disqualification exemption by the~~  
11 ~~agency as set forth in chapter 435. Any other person who is~~  
12 ~~required to undergo level 2 background screening may serve in~~  
13 ~~his or her capacity pending the agency's receipt of the report~~  
14 ~~from the Federal Bureau of Investigation; however, the person~~  
15 ~~may not continue to serve if the report indicates any~~  
16 ~~violation of background screening standards and a~~  
17 ~~disqualification exemption has not been granted by the agency~~  
18 ~~as set forth in chapter 435.~~

19 ~~(e) Each applicant must submit to the agency, with its~~  
20 ~~application, a description and explanation of any exclusions,~~  
21 ~~permanent suspensions, or terminations of the applicant from~~  
22 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
23 ~~disclosure of ownership and control interest requirements of~~  
24 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
25 ~~this submission.~~

26 ~~(f) Each applicant must submit to the agency a~~  
27 ~~description and explanation of any conviction of an offense~~  
28 ~~prohibited under the level 2 standards of chapter 435 by a~~  
29 ~~member of the board of directors of the applicant, its~~  
30 ~~officers, or any individual owning 5 percent or more of the~~  
31 ~~applicant. This requirement does not apply to a director of a~~

1 ~~not-for-profit corporation or organization if the director~~  
2 ~~serves solely in a voluntary capacity for the corporation or~~  
3 ~~organization, does not regularly take part in the day-to-day~~  
4 ~~operational decisions of the corporation or organization,~~  
5 ~~receives no remuneration for his or her services on the~~  
6 ~~corporation's or organization's board of directors, and has no~~  
7 ~~financial interest and has no family members with a financial~~  
8 ~~interest in the corporation or organization, provided that the~~  
9 ~~director and the not-for-profit corporation or organization~~  
10 ~~include in the application a statement affirming that the~~  
11 ~~director's relationship to the corporation satisfies the~~  
12 ~~requirements of this paragraph.~~

13 ~~(g) An application for license renewal must contain~~  
14 ~~the information required under paragraphs (e) and (f).~~

15 ~~(11) The applicant must furnish satisfactory proof of~~  
16 ~~financial ability to operate and conduct the facility in~~  
17 ~~accordance with the requirements of this part and all rules~~  
18 ~~adopted under this part, and the agency shall establish~~  
19 ~~standards for this purpose.~~

20 Section 155. Sections 400.963 and 400.965, Florida  
21 Statutes, are repealed.

22 Section 156. Section 400.967, Florida Statutes, is  
23 amended to read:

24 400.967 Rules and classification of deficiencies.--

25 (1) It is the intent of the Legislature that rules  
26 adopted and enforced under this part and ss. 408.801-408.819  
27 include criteria by which a reasonable and consistent quality  
28 of resident care may be ensured, the results of such resident  
29 care can be demonstrated, and safe and sanitary facilities can  
30 be provided.

31

1           (2) Pursuant to the intention of the Legislature, the  
2 agency, in consultation with the Department of Children and  
3 Family Services and the Department of Elderly Affairs, shall  
4 adopt and enforce rules to administer this part, which shall  
5 include reasonable and fair criteria governing:

6           (a) The location and construction of the facility;  
7 including fire and life safety, plumbing, heating, cooling,  
8 lighting, ventilation, and other housing conditions that will  
9 ensure the health, safety, and comfort of residents. The  
10 agency shall establish standards for facilities and equipment  
11 to increase the extent to which new facilities and a new wing  
12 or floor added to an existing facility after July 1, 2000, are  
13 structurally capable of serving as shelters only for  
14 residents, staff, and families of residents and staff, and  
15 equipped to be self-supporting during and immediately  
16 following disasters. The Agency for Health Care Administration  
17 shall work with facilities licensed under this part and report  
18 to the Governor and the Legislature by April 1, 2000, its  
19 recommendations for cost-effective renovation standards to be  
20 applied to existing facilities. In making such rules, the  
21 agency shall be guided by criteria recommended by nationally  
22 recognized, reputable professional groups and associations  
23 having knowledge concerning such subject matters. The agency  
24 shall update or revise such criteria as the need arises. All  
25 facilities must comply with those lifesafety code requirements  
26 and building code standards applicable at the time of approval  
27 of their construction plans. The agency may require  
28 alterations to a building if it determines that an existing  
29 condition constitutes a distinct hazard to life, health, or  
30 safety. The agency shall adopt fair and reasonable rules  
31 setting forth conditions under which existing facilities

1 undergoing additions, alterations, conversions, renovations,  
2 or repairs are required to comply with the most recent updated  
3 or revised standards.

4 (b) The number and qualifications of all personnel,  
5 including management, medical nursing, and other personnel,  
6 having responsibility for any part of the care given to  
7 residents.

8 (c) All sanitary conditions within the facility and  
9 its surroundings, including water supply, sewage disposal,  
10 food handling, and general hygiene, which will ensure the  
11 health and comfort of residents.

12 (d) The equipment essential to the health and welfare  
13 of the residents.

14 (e) A uniform accounting system.

15 (f) The care, treatment, and maintenance of residents  
16 and measurement of the quality and adequacy thereof.

17 (g) The preparation and annual update of a  
18 comprehensive emergency management plan. The agency shall  
19 adopt rules establishing minimum criteria for the plan after  
20 consultation with the Department of Community Affairs. At a  
21 minimum, the rules must provide for plan components that  
22 address emergency evacuation transportation; adequate  
23 sheltering arrangements; postdisaster activities, including  
24 emergency power, food, and water; postdisaster transportation;  
25 supplies; staffing; emergency equipment; individual  
26 identification of residents and transfer of records; and  
27 responding to family inquiries. The comprehensive emergency  
28 management plan is subject to review and approval by the local  
29 emergency management agency. During its review, the local  
30 emergency management agency shall ensure that the following  
31 agencies, at a minimum, are given the opportunity to review

1 the plan: the Department of Elderly Affairs, the Department of  
2 Children and Family Services, the Agency for Health Care  
3 Administration, and the Department of Community Affairs. Also,  
4 appropriate volunteer organizations must be given the  
5 opportunity to review the plan. The local emergency management  
6 agency shall complete its review within 60 days and either  
7 approve the plan or advise the facility of necessary  
8 revisions.

9 ~~(h) Each licensee shall post its license in a~~  
10 ~~prominent place that is in clear and unobstructed public view~~  
11 ~~at or near the place where residents are being admitted to the~~  
12 ~~facility.~~

13 (3) In accordance with ss. 408.801-408.819, the agency  
14 shall adopt rules to provide that, when the criteria  
15 established under this part and ss. 408.801-408.819 ~~subsection~~  
16 ~~(2)~~ are not met, such deficiencies shall be classified  
17 according to the nature of the deficiency. The agency shall  
18 indicate the classification on the face of the notice of  
19 deficiencies as follows:

20 (a) Class I deficiencies are those which the agency  
21 determines present an ~~and~~ imminent danger to the residents or  
22 guests of the facility or a substantial probability that death  
23 or serious physical harm would result therefrom. The condition  
24 or practice constituting a class I violation must be abated or  
25 eliminated immediately, unless a fixed period of time, as  
26 determined by the agency, is required for correction.  
27 Notwithstanding s. 400.121(2), a class I deficiency is subject  
28 to a civil penalty in an amount not less than \$5,000 and not  
29 exceeding \$10,000 for each deficiency. A fine may be levied  
30 notwithstanding the correction of the deficiency.

31

1           (b) Class II deficiencies are those which the agency  
2 determines have a direct or immediate relationship to the  
3 health, safety, or security of the facility residents, other  
4 than class I deficiencies. A class II deficiency is subject to  
5 a civil penalty in an amount not less than \$1,000 and not  
6 exceeding \$5,000 for each deficiency. A citation for a class  
7 II deficiency shall specify the time within which the  
8 deficiency must be corrected. If a class II deficiency is  
9 corrected within the time specified, no civil penalty shall be  
10 imposed, unless it is a repeated offense.

11           (c) Class III deficiencies are those which the agency  
12 determines to have an indirect or potential relationship to  
13 the health, safety, or security of the facility residents,  
14 other than class I or class II deficiencies. A class III  
15 deficiency is subject to a civil penalty of not less than \$500  
16 and not exceeding \$1,000 for each deficiency. A citation for a  
17 class III deficiency shall specify the time within which the  
18 deficiency must be corrected. If a class III deficiency is  
19 corrected within the time specified, no civil penalty shall be  
20 imposed, unless it is a repeated offense.

21           ~~(4) Civil penalties paid by any licensee under~~  
22 ~~subsection (3) shall be deposited in the Health Care Trust~~  
23 ~~Fund and expended as provided in s. 400.063.~~

24           (4)~~(5)~~ The agency shall approve or disapprove the  
25 plans and specifications within 60 days after receipt of the  
26 final plans and specifications. The agency may be granted one  
27 15-day extension for the review period, if the secretary of  
28 the agency so approves. If the agency fails to act within the  
29 specified time, it is deemed to have approved the plans and  
30 specifications. When the agency disapproves plans and  
31 specifications, it must set forth in writing the reasons for

1 disapproval. Conferences and consultations may be provided as  
2 necessary.

3       (5)~~(6)~~ The agency may charge an initial fee of \$2,000  
4 for review of plans and construction on all projects, no part  
5 of which is refundable. The agency may also collect a fee, not  
6 to exceed 1 percent of the estimated construction cost or the  
7 actual cost of review, whichever is less, for the portion of  
8 the review which encompasses initial review through the  
9 initial revised construction document review. The agency may  
10 collect its actual costs on all subsequent portions of the  
11 review and construction inspections. Initial fee payment must  
12 accompany the initial submission of plans and specifications.  
13 Any subsequent payment that is due is payable upon receipt of  
14 the invoice from the agency. Notwithstanding any other  
15 provision of law, all money received by the agency under this  
16 section shall be deemed to be trust funds, to be held and  
17 applied solely for the operations required under this section.

18       Section 157. Section 400.968, Florida Statutes, is  
19 amended to read:

20       400.968 Right of entry; ~~protection of health, safety,~~  
21 ~~and welfare.~~--

22       ~~(1)~~ Any designated officer or employee of the agency,  
23 of the state, or of the local fire marshal may enter  
24 unannounced the premises of any facility licensed under this  
25 part in order to determine the state of compliance with this  
26 part and the rules or standards in force under this part. The  
27 right of entry and inspection also extends to any premises  
28 that the agency has reason to believe are being operated or  
29 maintained as a facility without a license; but such an entry  
30 or inspection may not be made without the permission of the  
31 owner or person in charge of the facility unless a warrant

1 that authorizes the entry is first obtained from the circuit  
2 court. The warrant requirement extends only to a facility that  
3 the agency has reason to believe is being operated or  
4 maintained as a facility without a license. An application for  
5 a license or renewal thereof which is made under this section  
6 constitutes permission for, and acquiescence in, any entry or  
7 inspection of the premises for which the license is sought, in  
8 order to facilitate verification of the information submitted  
9 in connection with the application; to discover, investigate,  
10 and determine the existence of abuse or neglect; or to elicit,  
11 receive, respond to, and resolve complaints. A current valid  
12 license constitutes unconditional permission for, and  
13 acquiescence in, any entry or inspection of the premises by  
14 authorized personnel. The agency retains the right of entry  
15 and inspection of facilities that have had a license revoked  
16 or suspended within the previous 24 months, to ensure that the  
17 facility is not operating unlawfully. However, before the  
18 facility is entered, a statement of probable cause must be  
19 filed with the director of the agency, who must approve or  
20 disapprove the action within 48 hours.

21 ~~(2) The agency may institute injunctive proceedings in~~  
22 ~~a court of competent jurisdiction for temporary or permanent~~  
23 ~~relief to:~~

24 ~~(a) Enforce this section or any minimum standard,~~  
25 ~~rule, or order issued pursuant thereto if the agency's effort~~  
26 ~~to correct a violation through administrative fines has failed~~  
27 ~~or when the violation materially affects the health, safety,~~  
28 ~~or welfare of residents; or~~

29 ~~(b) Terminate the operation of a facility if a~~  
30 ~~violation of this section or of any standard or rule adopted~~

31

1 ~~pursuant thereto exists which materially affects the health,~~  
2 ~~safety, or welfare of residents.~~

3  
4 ~~The Legislature recognizes that, in some instances, action is~~  
5 ~~necessary to protect residents of facilities from immediately~~  
6 ~~life-threatening situations. If it appears by competent~~  
7 ~~evidence or a sworn, substantiated affidavit that a temporary~~  
8 ~~injunction should issue, the court, pending the determination~~  
9 ~~on final hearing, shall enjoin operation of the facility.~~

10 ~~(3) The agency may impose an immediate moratorium on~~  
11 ~~admissions to a facility when the agency determines that any~~  
12 ~~condition in the facility presents a threat to the health,~~  
13 ~~safety, or welfare of the residents in the facility. If a~~  
14 ~~facility's license is denied, revoked, or suspended, the~~  
15 ~~facility may be subject to the immediate imposition of a~~  
16 ~~moratorium on admissions to run concurrently with licensure~~  
17 ~~denial, revocation, or suspension.~~

18 Section 158. Subsection (1) of section 400.969,  
19 Florida Statutes, is amended to read:

20 400.969 Violation of part; penalties.--

21 (1) In accordance with ss. 408.801-408.819, and except  
22 as provided in s. 400.967(3), a violation of any provision of  
23 this part, ss. 408.801-408.819, or applicable rules adopted by  
24 ~~the agency under this part~~ is punishable by payment of an  
25 administrative or civil penalty not to exceed \$5,000.

26 Section 159. Section 400.980, Florida Statutes, is  
27 amended to read:

28 400.980 Health care services pools.--

29 (1) As used in this section, the term:

30 (a) "Agency" means the Agency for Health Care  
31 Administration.

1 (b) "Health care services pool" means any person,  
2 firm, corporation, partnership, or association engaged for  
3 hire in the business of providing temporary employment in  
4 health care facilities, residential facilities, and agencies  
5 for licensed, certified, or trained health care personnel  
6 including, without limitation, nursing assistants, nurses'  
7 aides, and orderlies. However, the term does not include  
8 nursing registries, a facility licensed under chapter 400, a  
9 health care services pool established within a health care  
10 facility to provide services only within the confines of such  
11 facility, or any individual contractor directly providing  
12 temporary services to a health care facility without use or  
13 benefit of a contracting agent.

14 (2) The requirements of ss. 408.801-408.819 apply to  
15 the provision of services that necessitate licensure or  
16 registration pursuant to this part and ss.408.801-408.819 and  
17 to entities registered by or applying for such registration  
18 from the Agency for Health Care Administration pursuant to  
19 this part; however, an applicant for licensure is exempt from  
20 s. 408.810(6)-(10).~~Each person who operates a health care~~  
21 ~~services pool must register each separate business location~~  
22 ~~with the agency.~~The agency shall adopt rules and provide  
23 forms required for such registration and shall impose a  
24 registration fee in an amount sufficient to cover the cost of  
25 administering this section. In addition, the registrant must  
26 provide the agency with any change of information contained on  
27 the original registration application within 14 days prior to  
28 the change. ~~The agency may inspect the offices of any health~~  
29 ~~care services pool at any reasonable time for the purpose of~~  
30 ~~determining compliance with this section or the rules adopted~~  
31 ~~under this section.~~

1           ~~(3) Each application for registration must include:~~

2           ~~(a) The name and address of any person who has an~~  
3 ~~ownership interest in the business, and, in the case of a~~  
4 ~~corporate owner, copies of the articles of incorporation,~~  
5 ~~bylaws, and names and addresses of all officers and directors~~  
6 ~~of the corporation.~~

7           ~~(b) Any other information required by the agency.~~

8           (3)(4) ~~Each applicant for registration must comply~~  
9 ~~with the following requirements:~~

10           ~~(a) Upon receipt of a completed, signed, and dated~~  
11 ~~application, the agency shall require background screening, in~~  
12 ~~accordance with the level 1 standards for screening set forth~~  
13 ~~in chapter 435, of every individual who will have contact with~~  
14 ~~patients. The agency shall require background screening of the~~  
15 ~~managing employee or other similarly titled individual who is~~  
16 ~~responsible for the operation of the entity, and of the~~  
17 ~~financial officer or other similarly titled individual who is~~  
18 ~~responsible for the financial operation of the entity,~~  
19 ~~including billings for services in accordance with the level 2~~  
20 ~~standards for background screening as set forth in chapter~~  
21 ~~435.~~

22           ~~(b) The agency may require background screening of any~~  
23 ~~other individual who is affiliated with the applicant if the~~  
24 ~~agency has a reasonable basis for believing that he or she has~~  
25 ~~been convicted of a crime or has committed any other offense~~  
26 ~~prohibited under the level 2 standards for screening set forth~~  
27 ~~in chapter 435.~~

28           ~~(c) Proof of compliance with the level 2 background~~  
29 ~~screening requirements of chapter 435 which has been submitted~~  
30 ~~within the previous 5 years in compliance with any other~~

31

1 ~~health care or assisted living licensure requirements of this~~  
2 ~~state is acceptable in fulfillment of paragraph (a).~~

3 ~~(d) A provisional registration may be granted to an~~  
4 ~~applicant when each individual required by this section to~~  
5 ~~undergo background screening has met the standards for the~~  
6 ~~Department of Law Enforcement background check but the agency~~  
7 ~~has not yet received background screening results from the~~  
8 ~~Federal Bureau of Investigation. A standard registration may~~  
9 ~~be granted to the applicant upon the agency's receipt of a~~  
10 ~~report of the results of the Federal Bureau of Investigation~~  
11 ~~background screening for each individual required by this~~  
12 ~~section to undergo background screening which confirms that~~  
13 ~~all standards have been met, or upon the granting of a~~  
14 ~~disqualification exemption by the agency as set forth in~~  
15 ~~chapter 435. Any other person who is required to undergo level~~  
16 ~~2 background screening may serve in his or her capacity~~  
17 ~~pending the agency's receipt of the report from the Federal~~  
18 ~~Bureau of Investigation. However, the person may not continue~~  
19 ~~to serve if the report indicates any violation of background~~  
20 ~~screening standards and if a disqualification exemption has~~  
21 ~~not been requested of and granted by the agency as set forth~~  
22 ~~in chapter 435.~~

23 ~~(e) Each applicant must submit to the agency, with its~~  
24 ~~application, a description and explanation of any exclusions,~~  
25 ~~permanent suspensions, or terminations of the applicant from~~  
26 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
27 ~~the requirements for disclosure of ownership and controlling~~  
28 ~~interests under the Medicaid or Medicare programs may be~~  
29 ~~accepted in lieu of this submission.~~

30 ~~(f) Each applicant must submit to the agency a~~  
31 ~~description and explanation of any conviction of an offense~~

1 ~~prohibited under the level 2 standards of chapter 435 which~~  
2 ~~was committed by a member of the board of directors of the~~  
3 ~~applicant, its officers, or any individual owning 5 percent or~~  
4 ~~more of the applicant. This requirement does not apply to a~~  
5 ~~director of a not-for-profit corporation or organization who~~  
6 ~~serves solely in a voluntary capacity for the corporation or~~  
7 ~~organization, does not regularly take part in the day-to-day~~  
8 ~~operational decisions of the corporation or organization,~~  
9 ~~receives no remuneration for his or her services on the~~  
10 ~~corporation's or organization's board of directors, and has no~~  
11 ~~financial interest and no family members having a financial~~  
12 ~~interest in the corporation or organization, if the director~~  
13 ~~and the not-for-profit corporation or organization include in~~  
14 ~~the application a statement affirming that the director's~~  
15 ~~relationship to the corporation satisfies the requirements of~~  
16 ~~this paragraph.~~

17 ~~(g) A registration may not be granted to an applicant~~  
18 ~~if the applicant or managing employee has been found guilty~~  
19 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
20 ~~contendere or guilty to, any offense prohibited under the~~  
21 ~~level 2 standards for screening set forth in chapter 435,~~  
22 ~~unless an exemption from disqualification has been granted by~~  
23 ~~the agency as set forth in chapter 435.~~

24 ~~(h) Failure to provide all required documentation~~  
25 ~~within 30 days after a written request from the agency will~~  
26 ~~result in denial of the application for registration.~~

27 ~~(i) The agency must take final action on an~~  
28 ~~application for registration within 60 days after receipt of~~  
29 ~~all required documentation.~~

30 ~~(j) The agency may deny, revoke, or suspend the~~  
31 ~~registration of any applicant or registrant who:~~

1           ~~1. Has falsely represented a material fact in the~~  
2 ~~application required by paragraph (e) or paragraph (f), or has~~  
3 ~~omitted any material fact from the application required by~~  
4 ~~paragraph (e) or paragraph (f); or~~

5           ~~2. Has had prior action taken against the applicant~~  
6 ~~under the Medicaid or Medicare program as set forth in~~  
7 ~~paragraph (e).~~

8           ~~3. Fails to comply with this section or applicable~~  
9 ~~rules.~~

10           ~~4. Commits an intentional, reckless, or negligent act~~  
11 ~~that materially affects the health or safety of a person~~  
12 ~~receiving services.~~

13           (4)(5) It is a misdemeanor of the first degree,  
14 punishable under s. 775.082 or s. 775.083, for any person  
15 willfully, knowingly, or intentionally to:

16           (a) Fail, by false statement, misrepresentation,  
17 impersonation, or other fraudulent means, to disclose in any  
18 application for voluntary or paid employment a material fact  
19 used in making a determination as to an applicant's  
20 qualifications to be a contractor under this section;

21           (b) Operate or attempt to operate an entity registered  
22 under this part with persons who do not meet the minimum  
23 standards of chapter 435 as contained in this section; or

24           (c) Use information from the criminal records obtained  
25 under this section for any purpose other than screening an  
26 applicant for temporary employment as specified in this  
27 section, or release such information to any other person for  
28 any purpose other than screening for employment under this  
29 section.

30           (5)(6) It is a felony of the third degree, punishable  
31 under s. 775.082, s. 775.083, or s. 775.084, for any person

1 willfully, knowingly, or intentionally to use information from  
2 the juvenile records of a person obtained under this section  
3 for any purpose other than screening for employment under this  
4 section.

5 ~~(7) It is unlawful for a person to offer or advertise~~  
6 ~~services, as defined by rule, to the public without obtaining~~  
7 ~~a certificate of registration from the Agency for Health Care~~  
8 ~~Administration. It is unlawful for any holder of a certificate~~  
9 ~~of registration to advertise or hold out to the public that he~~  
10 ~~or she holds a certificate of registration for other than that~~  
11 ~~for which he or she actually holds a certificate of~~  
12 ~~registration. Any person who violates this subsection is~~  
13 ~~subject to injunctive proceedings under s. 400.515.~~

14 ~~(8) Each registration shall be for a period of 2~~  
15 ~~years. The application for renewal must be received by the~~  
16 ~~agency at least 30 days before the expiration date of the~~  
17 ~~registration. An application for a new registration is~~  
18 ~~required within 30 days prior to the sale of a controlling~~  
19 ~~interest in a health care services pool.~~

20 (6)~~(9)~~ A health care services pool may not require an  
21 employee to recruit new employees from persons employed at a  
22 health care facility to which the health care services pool  
23 employee is assigned. Nor shall a health care facility to  
24 which employees of a health care services pool are assigned  
25 recruit new employees from the health care services pool.

26 (7)~~(10)~~ A health care services pool shall document  
27 that each temporary employee provided to a health care  
28 facility has met the licensing, certification, training, or  
29 continuing education requirements, as established by the  
30 appropriate regulatory agency, for the position in which he or  
31 she will be working.

1           (8)~~(11)~~ When referring persons for temporary  
2 employment in health care facilities, a health care services  
3 pool shall comply with all pertinent state and federal laws,  
4 rules, and regulations relating to health, background  
5 screening, and other qualifications required of persons  
6 working in a facility of that type.

7           (9)~~(12)~~(a) As a condition of registration and prior to  
8 the issuance or renewal of a certificate of registration, a  
9 health care services pool applicant must prove financial  
10 responsibility to pay claims, and costs ancillary thereto,  
11 arising out of the rendering of services or failure to render  
12 services by the pool or by its employees in the course of  
13 their employment with the pool. The agency shall promulgate  
14 rules establishing minimum financial responsibility coverage  
15 amounts which shall be adequate to pay potential claims and  
16 costs ancillary thereto.

17           (b) Each health care services pool shall give written  
18 notification to the agency within 20 days after any change in  
19 the method of assuring financial responsibility or upon  
20 cancellation or nonrenewal of professional liability  
21 insurance. Unless the pool demonstrates that it is otherwise  
22 in compliance with the requirements of this section, the  
23 agency shall suspend the registration of the pool pursuant to  
24 ss. 120.569 and 120.57. Any suspension under this section  
25 shall remain in effect until the pool demonstrates compliance  
26 with the requirements of this section.

27           (c) Proof of financial responsibility must be  
28 demonstrated to the satisfaction of the agency, through one of  
29 the following methods:  
30  
31

- 1           1. Establishing and maintaining an escrow account  
2 consisting of cash or assets eligible for deposit in  
3 accordance with s. 625.52;
- 4           2. Obtaining and maintaining an unexpired irrevocable  
5 letter of credit established pursuant to chapter 675. Such  
6 letters of credit shall be nontransferable and nonassignable  
7 and shall be issued by any bank or savings association  
8 organized and existing under the laws of this state or any  
9 bank or savings association organized under the laws of the  
10 United States that has its principal place of business in this  
11 state or has a branch office which is authorized under the  
12 laws of this state or of the United States to receive deposits  
13 in this state; or
- 14           3. Obtaining and maintaining professional liability  
15 coverage from one of the following:
- 16           a. An authorized insurer as defined under s. 624.09;
- 17           b. An eligible surplus lines insurer as defined under  
18 s. 626.918(2);
- 19           c. A risk retention group or purchasing group as  
20 defined under s. 627.942; or
- 21           d. A plan of self-insurance as provided in s. 627.357.
- 22           (d) If financial responsibility requirements are met  
23 by maintaining an escrow account or letter of credit, as  
24 provided in this section, upon the entry of an adverse final  
25 judgment arising from a medical malpractice arbitration award  
26 from a claim of medical malpractice either in contract or  
27 tort, or from noncompliance with the terms of a settlement  
28 agreement arising from a claim of medical malpractice either  
29 in contract or tort, the financial institution holding the  
30 escrow account or the letter of credit shall pay directly to  
31 the claimant the entire amount of the judgment together with

1 all accrued interest or the amount maintained in the escrow  
2 account or letter of credit as required by this section,  
3 whichever is less, within 60 days after the date such judgment  
4 became final and subject to execution, unless otherwise  
5 mutually agreed to in writing by the parties. If timely  
6 payment is not made, the agency shall suspend the registration  
7 of the pool pursuant to procedures set forth by the agency  
8 through rule. Nothing in this paragraph shall abrogate a  
9 judgment debtor's obligation to satisfy the entire amount of  
10 any judgment.

11 (e) Each health care services pool carrying  
12 claims-made coverage must demonstrate proof of extended  
13 reporting coverage through either tail or nose coverage, in  
14 the event the policy is canceled, replaced, or not renewed.  
15 Such extended coverage shall provide coverage for incidents  
16 that occurred during the claims-made policy period but were  
17 reported after the policy period.

18 (f) The financial responsibility requirements of this  
19 section shall apply to claims for incidents that occur on or  
20 after January 1, 1991, or the initial date of registration in  
21 this state, whichever is later.

22 (g) Meeting the financial responsibility requirements  
23 of this section must be established at the time of issuance or  
24 renewal of a certificate of registration.

25 ~~(10)(13)~~ The agency shall adopt rules to implement  
26 this section and ss. 408.801-408.819, including rules  
27 providing for the establishment of:

28 (a) Minimum standards for the operation and  
29 administration of health care personnel pools, including  
30 procedures for recordkeeping and personnel.

31

1           (b) In accordance with ss. 408.801-408.819, fines for  
2 the violation of this part, ss. 408.801-408.819, or applicable  
3 rules section in an amount not to exceed \$2,500 ~~and suspension~~  
4 ~~or revocation of registration.~~

5           ~~(c) Disciplinary sanctions for failure to comply with~~  
6 ~~this section or the rules adopted under this section.~~

7           Section 160. Subsection (2) of section 400.9905,  
8 Florida Statutes, is repealed.

9           Section 161. Section 400.991, Florida Statutes, is  
10 amended to read:

11           400.991 License requirements; background screenings;  
12 prohibitions.--

13           (1) The requirements of ss. 408.801-408.819 apply to  
14 the provision of services that necessitate licensure pursuant  
15 to this part and ss.408.801-408.819 and to entities licensed  
16 by or applying for such licensure from the Agency for Health  
17 Care Administration pursuant to this part; however, an  
18 applicant for licensure is exempt from s. 408.810(6), (7), and  
19 ~~(10). Each clinic, as defined in s. 400.9905, must be licensed~~  
20 ~~and shall at all times maintain a valid license with the~~  
21 ~~agency.~~ Each clinic location shall be licensed separately  
22 regardless of whether the clinic is operated under the same  
23 business name or management as another clinic. Mobile clinics  
24 must provide to the agency, at least quarterly, their  
25 projected street locations to enable the agency to locate and  
26 inspect such clinics.

27           (2) The initial clinic license application shall be  
28 filed with the agency by all clinics, as defined in s.  
29 400.9905, on or before March 1, 2004. ~~A clinic license must be~~  
30 ~~renewed biennially.~~

31

1           (3) Applicants that submit an application on or before  
2 March 1, 2004, which meets all requirements for initial  
3 licensure as specified in this section shall receive a  
4 temporary license until the completion of an initial  
5 inspection verifying that the applicant meets all requirements  
6 in rules authorized by s. 400.9925. However, a clinic engaged  
7 in magnetic resonance imaging services may not receive a  
8 temporary license unless it presents evidence satisfactory to  
9 the agency that such clinic is making a good faith effort and  
10 substantial progress in seeking accreditation required under  
11 s. 400.9935.

12           ~~(4) Application for an initial clinic license or for~~  
13 ~~renewal of an existing license shall be notarized on forms~~  
14 ~~furnished by the agency and must be accompanied by the~~  
15 ~~appropriate license fee as provided in s. 400.9925. The agency~~  
16 ~~shall take final action on an initial license application~~  
17 ~~within 60 days after receipt of all required documentation.~~

18           (4)(5) The application shall contain information that  
19 includes, but need not be limited to, information pertaining  
20 to the name, residence and business address, phone number,  
21 social security number, and license number of the medical or  
22 clinic director, of the licensed medical providers employed or  
23 under contract with the clinic, ~~and of each person who,~~  
24 ~~directly or indirectly, owns or controls 5 percent or more of~~  
25 ~~an interest in the clinic, or general partners in limited~~  
26 ~~liability partnerships.~~

27           (5)(6) The applicant must file with the application  
28 satisfactory proof that the clinic is in compliance with this  
29 part and applicable rules, including:  
30  
31

1 (a) A listing of services to be provided either  
2 directly by the applicant or through contractual arrangements  
3 with existing providers;

4 (b) The number and discipline of each professional  
5 staff member to be employed; and

6 ~~(c) Proof of financial ability to operate. An~~  
7 ~~applicant must demonstrate financial ability to operate a~~  
8 ~~clinic by submitting a balance sheet and an income and expense~~  
9 ~~statement for the first year of operation which provide~~  
10 ~~evidence of the applicant's having sufficient assets, credit,~~  
11 ~~and projected revenues to cover liabilities and expenses. The~~  
12 ~~applicant shall have demonstrated financial ability to operate~~  
13 ~~if the applicant's assets, credit, and projected revenues meet~~  
14 ~~or exceed projected liabilities and expenses. All documents~~  
15 ~~required under this subsection must be prepared in accordance~~  
16 ~~with generally accepted accounting principles, may be in a~~  
17 ~~compilation form, and the financial statement must be signed~~  
18 ~~by a certified public accountant. As an alternative to~~  
19 ~~submitting proof of financial ability to operate as required~~  
20 ~~in s. 408.810(8) a balance sheet and an income and expense~~  
21 ~~statement for the first year of operation, the applicant may~~  
22 ~~file a surety bond of at least \$500,000 which guarantees that~~  
23 ~~the clinic will act in full conformity with all legal~~  
24 ~~requirements for operating a clinic, payable to the agency.~~  
25 ~~The agency may adopt rules to specify related requirements for~~  
26 ~~such surety bond.~~

27 (6)(7) Each medical provider at the clinic is subject  
28 to the background screening requirements of s. 408.809. Each  
29 ~~applicant for licensure shall comply with the following~~  
30 ~~requirements:~~

31

1           ~~(a) As used in this subsection, the term "applicant"~~  
2 ~~means individuals owning or controlling, directly or~~  
3 ~~indirectly, 5 percent or more of an interest in a clinic; the~~  
4 ~~medical or clinic director, or a similarly titled person who~~  
5 ~~is responsible for the day-to-day operation of the licensed~~  
6 ~~clinic; the financial officer or similarly titled individual~~  
7 ~~who is responsible for the financial operation of the clinic;~~  
8 ~~and licensed medical providers at the clinic.~~

9           ~~(b) Upon receipt of a completed, signed, and dated~~  
10 ~~application, the agency shall require background screening of~~  
11 ~~the applicant, in accordance with the level 2 standards for~~  
12 ~~screening set forth in chapter 435. Proof of compliance with~~  
13 ~~the level 2 background screening requirements of chapter 435~~  
14 ~~which has been submitted within the previous 5 years in~~  
15 ~~compliance with any other health care licensure requirements~~  
16 ~~of this state is acceptable in fulfillment of this paragraph.~~

17           ~~(c) Each applicant must submit to the agency, with the~~  
18 ~~application, a description and explanation of any exclusions,~~  
19 ~~permanent suspensions, or terminations of an applicant from~~  
20 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
21 ~~the requirements for disclosure of ownership and control~~  
22 ~~interest under the Medicaid or Medicare programs may be~~  
23 ~~accepted in lieu of this submission. The description and~~  
24 ~~explanation may indicate whether such exclusions, suspensions,~~  
25 ~~or terminations were voluntary or not voluntary on the part of~~  
26 ~~the applicant.~~

27           ~~(d) A license may not be granted to a clinic if the~~  
28 ~~applicant has been found guilty of, regardless of~~  
29 ~~adjudication, or has entered a plea of nolo contendere or~~  
30 ~~guilty to, any offense prohibited under the level 2 standards~~  
31 ~~for screening set forth in chapter 435, or a violation of~~

1 ~~insurance fraud under s. 817.234, within the past 5 years. If~~  
2 ~~the applicant has been convicted of an offense prohibited~~  
3 ~~under the level 2 standards or insurance fraud in any~~  
4 ~~jurisdiction, the applicant must show that his or her civil~~  
5 ~~rights have been restored prior to submitting an application.~~

6 ~~(e) The agency may deny or revoke licensure if the~~  
7 ~~applicant has falsely represented any material fact or omitted~~  
8 ~~any material fact from the application required by this part.~~

9 ~~(8) Requested information omitted from an application~~  
10 ~~for licensure, license renewal, or transfer of ownership must~~  
11 ~~be filed with the agency within 21 days after receipt of the~~  
12 ~~agency's request for omitted information, or the application~~  
13 ~~shall be deemed incomplete and shall be withdrawn from further~~  
14 ~~consideration.~~

15 ~~(9) The failure to file a timely renewal application~~  
16 ~~shall result in a late fee charged to the facility in an~~  
17 ~~amount equal to 50 percent of the current license fee.~~

18 Section 162. Section 400.9915, Florida Statutes, is  
19 amended to read:

20 400.9915 Clinic inspections; ~~emergency suspension~~  
21 ~~costs.--~~

22 ~~(1) Any authorized officer or employee of the agency~~  
23 ~~shall make inspections of the clinic as part of the initial~~  
24 ~~license application or renewal application. The application~~  
25 ~~for a clinic license issued under this part or for a renewal~~  
26 ~~license constitutes permission for an appropriate agency~~  
27 ~~inspection to verify the information submitted on or in~~  
28 ~~connection with the application or renewal.~~

29 ~~(2) An authorized officer or employee of the agency~~  
30 ~~may make unannounced inspections of clinics licensed pursuant~~  
31 ~~to this part as are necessary to determine that the clinic is~~

1 ~~in compliance with this part and with applicable rules. A~~  
2 ~~licensed clinic shall allow full and complete access to the~~  
3 ~~premises and to billing records or information to any~~  
4 ~~representative of the agency who makes an inspection to~~  
5 ~~determine compliance with this part and with applicable rules.~~

6 ~~(1)(3) Failure by a clinic licensed under this part to~~  
7 ~~allow full and complete access to the premises and to billing~~  
8 ~~records or information to any representative of the agency who~~  
9 ~~makes a request to inspect the clinic to determine compliance~~  
10 ~~with this part or failure by a clinic to employ a qualified~~  
11 ~~medical director or clinic director constitutes a ground for a~~  
12 ~~moratorium under s. 408.814 emergency suspension of the~~  
13 ~~license by the agency pursuant to s. 120.60(6).~~

14 ~~(2)(4) In addition to any administrative fines~~  
15 ~~imposed, the agency may assess a fee equal to the cost of~~  
16 ~~conducting a complaint investigation.~~

17 Section 163. Section 400.992, Florida Statutes, is  
18 repealed.

19 Section 164. Subsections (1) and (3) of section  
20 400.9925, Florida Statutes, are amended to read:

21 400.9925 Rulemaking authority; license fees.--

22 (1) The agency shall adopt rules necessary to  
23 administer the clinic administration, regulation, and  
24 licensure program, including rules pursuant to ss.  
25 408.801-408.819 establishing the specific licensure  
26 requirements, procedures, forms, and fees. It shall adopt  
27 rules establishing a procedure for the biennial renewal of  
28 licenses. The agency may issue initial licenses for less than  
29 the full 2-year period by charging a prorated licensure fee  
30 and specifying a different renewal date than would otherwise  
31 be required for biennial licensure. The rules shall specify

1 the expiration dates of licenses, the process of tracking  
2 compliance with financial responsibility requirements, and any  
3 other conditions of renewal required by law or rule.

4       (3) In accordance with s. 408.805, an applicant or  
5 licensee shall pay a fee for each license application  
6 submitted under this part and ss. 408.801-408.819. The amount  
7 of the fee shall be established by rule and may not exceed  
8 \$2,000 per biennium.~~License application and renewal fees must~~  
9 ~~be reasonably calculated by the agency to cover its costs in~~  
10 ~~carrying out its responsibilities under this part, including~~  
11 ~~the cost of licensure, inspection, and regulation of clinics,~~  
12 ~~and must be of such amount that the total fees collected do~~  
13 ~~not exceed the cost of administering and enforcing compliance~~  
14 ~~with this part. Clinic licensure fees are nonrefundable and~~  
15 ~~may not exceed \$2,000. The agency shall adjust the license fee~~  
16 ~~annually by not more than the change in the Consumer Price~~  
17 ~~Index based on the 12 months immediately preceding the~~  
18 ~~increase. All fees collected under this part must be deposited~~  
19 ~~in the Health Care Trust Fund for the administration of this~~  
20 ~~part.~~

21       Section 165. Section 400.993, Florida Statutes, is  
22 amended to read:

23       400.993 Reporting of unlicensed clinics;~~penalties;~~  
24 ~~finer; verification of licensure status.--~~

25       (1) ~~It is unlawful to own, operate, or maintain a~~  
26 ~~clinic without obtaining a license under this part.~~

27       (2) ~~Any person who owns, operates, or maintains an~~  
28 ~~unlicensed clinic commits a felony of the third degree,~~  
29 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~  
30 ~~775.084. Each day of continued operation is a separate~~  
31 ~~offense.~~

1           ~~(3) Any person found guilty of violating subsection~~  
2 ~~(2) a second or subsequent time commits a felony of the second~~  
3 ~~degree, punishable as provided under s. 775.082, s. 775.083,~~  
4 ~~or s. 775.084. Each day of continued operation is a separate~~  
5 ~~offense.~~

6           ~~(4) Any person who owns, operates, or maintains an~~  
7 ~~unlicensed clinic due to a change in this part or a~~  
8 ~~modification in agency rules within 6 months after the~~  
9 ~~effective date of such change or modification and who, within~~  
10 ~~10 working days after receiving notification from the agency,~~  
11 ~~fails to cease operation or apply for a license under this~~  
12 ~~part commits a felony of the third degree, punishable as~~  
13 ~~provided in s. 775.082, s. 775.083, or s. 775.084. Each day of~~  
14 ~~continued operation is a separate offense.~~

15           ~~(5) Any clinic that fails to cease operation after~~  
16 ~~agency notification may be fined for each day of noncompliance~~  
17 ~~pursuant to this part.~~

18           ~~(6) When a person has an interest in more than one~~  
19 ~~clinic, and fails to obtain a license for any one of these~~  
20 ~~clinics, the agency may revoke the license, impose a~~  
21 ~~moratorium, or impose a fine pursuant to this part on any or~~  
22 ~~all of the licensed clinics until such time as the unlicensed~~  
23 ~~clinic is licensed or ceases operation.~~

24           ~~(7) Any person aware of the operation of an unlicensed~~  
25 ~~clinic must report that facility to the agency.~~

26           ~~(8) In addition to the requirements of ss.~~  
27 ~~408.801-408.819, any health care provider who is aware of the~~  
28 ~~operation of an unlicensed clinic shall report that facility~~  
29 ~~to the agency. Failure to report a clinic that the provider~~  
30 ~~knows or has reasonable cause to suspect is unlicensed shall~~  
31 ~~be reported to the provider's licensing board.~~

1           ~~(9) The agency may not issue a license to a clinic~~  
2 ~~that has any unpaid fines assessed under this part.~~

3           Section 166. Section 400.9935, Florida Statutes, is  
4 amended to read:

5           400.9935 Clinic responsibilities.--

6           (1) Each clinic shall appoint a medical director or  
7 clinic director who shall agree in writing to accept legal  
8 responsibility for the following activities on behalf of the  
9 clinic. The medical director or the clinic director shall:

10           (a) Have signs identifying the medical director or  
11 clinic director posted in a conspicuous location within the  
12 clinic readily visible to all patients.

13           (b) Ensure that all practitioners providing health  
14 care services or supplies to patients maintain a current  
15 active and unencumbered Florida license.

16           (c) Review any patient referral contracts or  
17 agreements executed by the clinic.

18           (d) Ensure that all health care practitioners at the  
19 clinic have active appropriate certification or licensure for  
20 the level of care being provided.

21           (e) Serve as the clinic records owner as defined in s.  
22 456.057.

23           (f) Ensure compliance with the recordkeeping, office  
24 surgery, and adverse incident reporting requirements of  
25 chapter 456, the respective practice acts, and rules adopted  
26 under this part and ss. 408.801-408.819.

27           (g) Conduct systematic reviews of clinic billings to  
28 ensure that the billings are not fraudulent or unlawful. Upon  
29 discovery of an unlawful charge, the medical director or  
30 clinic director shall take immediate corrective action.

31

1           ~~(2) Any business that becomes a clinic after~~  
2 ~~commencing operations must, within 5 days after becoming a~~  
3 ~~clinic, file a license application under this part and shall~~  
4 ~~be subject to all provisions of this part applicable to a~~  
5 ~~clinic.~~

6           (2)~~(3)~~ Any contract to serve as a medical director or  
7 a clinic director entered into or renewed by a physician or a  
8 licensed health care practitioner in violation of this part is  
9 void as contrary to public policy. This subsection shall apply  
10 to contracts entered into or renewed on or after March 1,  
11 2004.

12           (3)~~(4)~~ All charges or reimbursement claims made by or  
13 on behalf of a clinic that is required to be licensed under  
14 this part, but that is not so licensed, or that is otherwise  
15 operating in violation of this part, are unlawful charges, and  
16 therefore are noncompensable and unenforceable.

17           (4)~~(5)~~ Any person establishing, operating, or managing  
18 an unlicensed clinic otherwise required to be licensed under  
19 this part, or any person who knowingly files a false or  
20 misleading license application or license renewal application,  
21 or false or misleading information related to such application  
22 or department rule, commits a felony of the third degree,  
23 punishable as provided in s. 775.082, s. 775.083, or s.  
24 775.084.

25           (5)~~(6)~~ Any licensed health care provider who violates  
26 this part is subject to discipline in accordance with this  
27 chapter and his or her respective practice act.

28           ~~(7) The agency may fine, or suspend or revoke the~~  
29 ~~license of, any clinic licensed under this part for operating~~  
30 ~~in violation of the requirements of this part or the rules~~  
31 ~~adopted by the agency.~~

1           ~~(8) The agency shall investigate allegations of~~  
2 ~~noncompliance with this part and the rules adopted under this~~  
3 ~~part.~~

4           (6)~~(9)~~ Any person or entity providing health care  
5 services which is not a clinic, as defined under s. 400.9905,  
6 may voluntarily apply for a certificate of exemption from  
7 licensure under its exempt status with the agency on a form  
8 that sets forth its name or names and addresses, a statement  
9 of the reasons why it cannot be defined as a clinic, and other  
10 information deemed necessary by the agency.

11           ~~(10) The clinic shall display its license in a~~  
12 ~~conspicuous location within the clinic readily visible to all~~  
13 ~~patients.~~

14           (7)~~(11)~~(a) Each clinic engaged in magnetic resonance  
15 imaging services must be accredited by the Joint Commission on  
16 Accreditation of Healthcare Organizations, the American  
17 College of Radiology, or the Accreditation Association for  
18 Ambulatory Health Care, within 1 year after licensure.  
19 However, a clinic may request a single, 6-month extension if  
20 it provides evidence to the agency establishing that, for good  
21 cause shown, such clinic can not be accredited within 1 year  
22 after licensure, and that such accreditation will be completed  
23 within the 6-month extension. After obtaining accreditation as  
24 required by this subsection, each such clinic must maintain  
25 accreditation as a condition of renewal of its license.

26           (b) The agency may disallow the application of any  
27 entity formed for the purpose of avoiding compliance with the  
28 accreditation provisions of this subsection and whose  
29 principals were previously principals of an entity that was  
30 unable to meet the accreditation requirements within the  
31

1 specified timeframes. The agency may adopt rules as to the  
2 accreditation of magnetic resonance imaging clinics.

3 (8)~~(12)~~ The agency shall give full faith and credit  
4 pertaining to any past variance and waiver granted to a  
5 magnetic resonance imaging clinic from rule 64-2002, Florida  
6 Administrative Code, by the Department of Health, until  
7 September 2004. After that date, such clinic must request a  
8 variance and waiver from the agency under s. 120.542.

9 Section 167. Sections 400.994 and 400.9945, Florida  
10 Statutes, are repealed.

11 Section 168. Section 400.995, Florida Statutes, is  
12 amended to read:

13 400.995 ~~Agency~~ Administrative fines ~~penalties~~.--

14 (1) The agency may impose administrative penalties  
15 against clinics of up to \$5,000 per violation for violations  
16 of the requirements of this part. In determining if a penalty  
17 is to be imposed and in fixing the amount of the fine, the  
18 agency shall consider the following factors:

19 (a) The gravity of the violation, including the  
20 probability that death or serious physical or emotional harm  
21 to a patient will result or has resulted, the severity of the  
22 action or potential harm, and the extent to which the  
23 provisions of the applicable laws or rules were violated.

24 (b) Actions taken by the owner, medical director, or  
25 clinic director to correct violations.

26 (c) Any previous violations.

27 (d) The financial benefit to the clinic of committing  
28 or continuing the violation.

29 ~~(2) Each day of continuing violation after the date~~  
30 ~~fixed for termination of the violation, as ordered by the~~

31

1 ~~agency, constitutes an additional, separate, and distinct~~  
2 ~~violation.~~

3       (2)~~(3)~~ Any action taken to correct a violation shall  
4 be documented in writing by the owner, medical director, or  
5 clinic director of the clinic and verified through followup  
6 visits by agency personnel. The agency may impose a fine and,  
7 in the case of an owner-operated clinic, revoke or deny a  
8 clinic's license when a clinic medical director or clinic  
9 director fraudulently misrepresents actions taken to correct a  
10 violation.

11       ~~(4) For fines that are upheld following administrative~~  
12 ~~or judicial review, the violator shall pay the fine, plus~~  
13 ~~interest at the rate as specified in s. 55.03, for each day~~  
14 ~~beyond the date set by the agency for payment of the fine.~~

15       ~~(5) Any unlicensed clinic that continues to operate~~  
16 ~~after agency notification is subject to a \$1,000 fine per day.~~

17       (3)~~(6)~~ Any licensed clinic whose owner, medical  
18 director, or clinic director concurrently operates an  
19 unlicensed clinic shall be subject to an administrative fine  
20 of \$5,000 per day.

21       ~~(7) Any clinic whose owner fails to apply for a~~  
22 ~~change of ownership license in accordance with s. 400.992 and~~  
23 ~~operates the clinic under the new ownership is subject to a~~  
24 ~~fine of \$5,000.~~

25       (4)~~(8)~~ The agency, as an alternative to or in  
26 conjunction with an administrative action against a clinic for  
27 violations of this part, ss. 408.801-408.819, and adopted  
28 rules, shall make a reasonable attempt to discuss each  
29 violation and recommended corrective action with the owner,  
30 medical director, or clinic director of the clinic, prior to  
31 written notification. The agency, instead of fixing a period

1 within which the clinic shall enter into compliance with  
2 standards, may request a plan of corrective action from the  
3 clinic which demonstrates a good faith effort to remedy each  
4 violation by a specific date, subject to the approval of the  
5 agency.

6 ~~(9) Administrative fines paid by any clinic under this~~  
7 ~~section shall be deposited into the Health Care Trust Fund.~~

8 Section 169. Section 408.831, Florida Statutes, is  
9 amended to read:

10 408.831 Denial, ~~suspension~~, or revocation of a  
11 license, registration, certificate, or application.--

12 (1) In addition to any other remedies provided by law,  
13 the agency may deny each application or ~~suspend~~ or revoke each  
14 license, registration, or certificate of entities regulated or  
15 licensed by it:

16 (a) If the applicant, licensee, registrant, or  
17 certificateholder, or, in the case of a corporation,  
18 partnership, or other business entity, if any affiliated  
19 business entity, officer, director, agent, or managing  
20 employee of that business entity or any affiliated person,  
21 partner, or shareholder having an ownership interest equal to  
22 5 percent or greater in that business entity, has failed to  
23 pay all outstanding fines, liens, or overpayments assessed by  
24 final order of the agency or final order of the Centers for  
25 Medicare and Medicaid Services, not subject to further appeal,  
26 unless a repayment plan is approved by the agency; or

27 (b) For failure to comply with any repayment plan.

28 (2) In reviewing any application requesting a change  
29 of ownership or change of the licensee, registrant, or  
30 certificateholder, the transferor shall, prior to agency  
31 approval of the change, repay or make arrangements to repay

1 any amounts owed to the agency. Should the transferor fail to  
2 repay or make arrangements to repay the amounts owed to the  
3 agency, the issuance of a license, registration, or  
4 certificate to the transferee shall be delayed until repayment  
5 or until arrangements for repayment are made.

6 (3) This section provides standards of enforcement  
7 applicable to all entities licensed or regulated by the Agency  
8 for Health Care Administration. This section controls over any  
9 conflicting provisions of chapters 39, ~~381~~, 383, 390, 391,  
10 393, 394, 395, 400, 408, 468, 483, ~~and 641~~, and 765 or rules  
11 adopted pursuant to those chapters.

12 Section 170. Subsections (9) and (10) of section  
13 440.102, Florida Statutes, are amended to read:

14 440.102 Drug-free workplace program requirements.--The  
15 following provisions apply to a drug-free workplace program  
16 implemented pursuant to law or to rules adopted by the Agency  
17 for Health Care Administration:

18 (9) DRUG-TESTING STANDARDS FOR LABORATORIES.--

19 (a) The requirements of ss. 408.801-408.819 apply to  
20 the provision of services that necessitate licensure pursuant  
21 to this section and ss. 408.801-408.819 and to entities  
22 licensed by or applying for such licensure from the Agency for  
23 Health Care Administration pursuant to this section.

24 (b)~~(a)~~ A laboratory may analyze initial or  
25 confirmation test specimens only if:

26 1. The laboratory obtains a license under the  
27 requirements of ss. 408.801-408.819 and s. 112.0455(17). Each  
28 applicant for licensure must comply with all requirements of  
29 ss. 408.801-408.819, with the exception of s. 408.810(5)-(10).  
30 ~~is licensed and approved by the Agency for Health Care~~  
31 ~~Administration using criteria established by the United States~~

1 ~~Department of Health and Human Services as general guidelines~~  
2 ~~for modeling the state drug-testing program pursuant to this~~  
3 ~~section or the laboratory is certified by the United States~~  
4 ~~Department of Health and Human Services.~~

5           2. The laboratory has written procedures to ensure the  
6 chain of custody.

7           3. The laboratory follows proper quality control  
8 procedures, including, but not limited to:

9           a. The use of internal quality controls, including the  
10 use of samples of known concentrations which are used to check  
11 the performance and calibration of testing equipment, and  
12 periodic use of blind samples for overall accuracy.

13           b. An internal review and certification process for  
14 drug test results, conducted by a person qualified to perform  
15 that function in the testing laboratory.

16           c. Security measures implemented by the testing  
17 laboratory to preclude adulteration of specimens and drug test  
18 results.

19           d. Other necessary and proper actions taken to ensure  
20 reliable and accurate drug test results.

21           (c)~~(b)~~ A laboratory shall disclose to the medical  
22 review officer a written positive confirmed test result report  
23 within 7 working days after receipt of the sample. All  
24 laboratory reports of a drug test result must, at a minimum,  
25 state:

26           1. The name and address of the laboratory that  
27 performed the test and the positive identification of the  
28 person tested.

29           2. Positive results on confirmation tests only, or  
30 negative results, as applicable.

31

1           3. A list of the drugs for which the drug analyses  
2 were conducted.

3           4. The type of tests conducted for both initial tests  
4 and confirmation tests and the minimum cutoff levels of the  
5 tests.

6           5. Any correlation between medication reported by the  
7 employee or job applicant pursuant to subparagraph (5)(b)2.  
8 and a positive confirmed drug test result.

9  
10 A report must not disclose the presence or absence of any drug  
11 other than a specific drug and its metabolites listed pursuant  
12 to this section.

13           ~~(d)(e)~~ The laboratory shall submit to the Agency for  
14 Health Care Administration a monthly report with statistical  
15 information regarding the testing of employees and job  
16 applicants. The report must include information on the methods  
17 of analysis conducted, the drugs tested for, the number of  
18 positive and negative results for both initial tests and  
19 confirmation tests, and any other information deemed  
20 appropriate by the Agency for Health Care Administration. A  
21 monthly report must not identify specific employees or job  
22 applicants.

23           (10) RULES.--The Agency for Health Care Administration  
24 shall adopt rules pursuant to s. 112.0455, ss.  
25 408.801-408.819, and criteria established by the United States  
26 Department of Health and Human Services as general guidelines  
27 for modeling drug-free workplace laboratories ~~the state~~  
28 ~~drug-testing program~~, concerning, but not limited to:

29           (a) Standards for licensing drug-testing laboratories  
30 and denial ~~suspension~~ and revocation of such licenses.

31

1 (b) Urine, hair, blood, and other body specimens and  
2 minimum specimen amounts that are appropriate for drug  
3 testing.

4 (c) Methods of analysis and procedures to ensure  
5 reliable drug-testing results, including standards for initial  
6 tests and confirmation tests.

7 (d) Minimum cutoff detection levels for each drug or  
8 metabolites of such drug for the purposes of determining a  
9 positive test result.

10 (e) Chain-of-custody procedures to ensure proper  
11 identification, labeling, and handling of specimens tested.

12 (f) Retention, storage, and transportation procedures  
13 to ensure reliable results on confirmation tests and retests.

14 Section 171. Subsection (3) is added to section  
15 483.035, Florida Statutes, to read:

16 483.035 Clinical laboratories operated by  
17 practitioners for exclusive use; licensure and regulation.--

18 (3) The requirements of ss. 408.801-408.819 apply to  
19 the provision of services that necessitate licensure pursuant  
20 to this part and ss. 408.801-408.819 and to entities licensed  
21 by or applying for such licensure from the Agency for Health  
22 Care Administration pursuant to this part; however, an  
23 applicant for licensure is exempt from s. 408.810(5)-(10).

24 Section 172. Subsection (1) of section 483.051,  
25 Florida Statutes, is amended to read:

26 483.051 Powers and duties of the agency.--The agency  
27 shall adopt rules to implement this part, which rules must  
28 include, but are not limited to, the following:

29 (1) LICENSING; QUALIFICATIONS.--The agency shall  
30 provide for biennial licensure of all clinical laboratories  
31 meeting the requirements of this part and shall prescribe the

1 | ~~qualifications necessary for such licensure. A license issued~~  
2 | ~~for operating a clinical laboratory, unless sooner suspended~~  
3 | ~~or revoked, expires on the date set forth by the agency on the~~  
4 | ~~face of the license.~~

5 | Section 173. Section 483.061, Florida Statutes, is  
6 | amended to read:

7 | 483.061 Inspection of clinical laboratories.--

8 | (1) The agency shall ensure that each clinical  
9 | laboratory subject to this part is inspected either onsite or  
10 | offsite when deemed necessary by the agency, but at least  
11 | every 2 years, for the purpose of evaluating the operation,  
12 | supervision, and procedures of the facility to ensure  
13 | compliance with this part. Collection stations and branch  
14 | offices may be inspected either onsite or offsite, when deemed  
15 | necessary by the agency. ~~The agency may conduct or cause to be~~  
16 | ~~conducted the following announced or unannounced inspections~~  
17 | ~~at any reasonable time:~~

18 | ~~(a) An inspection conducted at the direction of the~~  
19 | ~~federal Health Care Financing Administration.~~

20 | ~~(b) A licensure inspection.~~

21 | ~~(c) A validation inspection.~~

22 | ~~(d) A complaint investigation, including a full~~  
23 | ~~licensure investigation with a review of all licensure~~  
24 | ~~standards as outlined in rule. Complaints received by the~~  
25 | ~~agency from individuals, organizations, or other sources are~~  
26 | ~~subject to review and investigation by the agency. If a~~  
27 | ~~complaint has been filed against a laboratory or if a~~  
28 | ~~laboratory has a substantial licensure deficiency, the agency~~  
29 | ~~may inspect the laboratory annually or as the agency considers~~  
30 | ~~necessary.~~

31 |

1 However, for laboratories operated under s. 483.035, biennial  
2 licensure inspections shall be scheduled so as to cause the  
3 least disruption to the practitioner's scheduled patients.

4 ~~(2) The right of entry and inspection is extended to~~  
5 ~~any premises that is maintained as a laboratory without a~~  
6 ~~license, but such entry or inspection may not be made without~~  
7 ~~the permission of the owner or person in charge of the~~  
8 ~~laboratory, unless an inspection warrant as defined in s.~~  
9 ~~933.20 is first obtained.~~

10 (2)(3) The agency may ~~shall~~ inspect an out-of-state  
11 clinical laboratory under this section at the expense of the  
12 out-of-state clinical laboratory to determine whether the  
13 laboratory meets the requirements of this part and ss.  
14 408.801-408.819.

15 (3)(4) The agency shall accept, in lieu of its own  
16 periodic inspections for licensure, the survey of or  
17 inspection by private accrediting organizations that perform  
18 inspections of clinical laboratories accredited by such  
19 organizations, including postinspection activities required by  
20 the agency.

21 (a) The agency shall accept inspections performed by  
22 such organizations if the accreditation is not provisional, if  
23 such organizations perform postinspection activities required  
24 by the agency and provide the agency with all necessary  
25 inspection and postinspection reports and information  
26 necessary for enforcement, if such organizations apply  
27 standards equal to or exceeding standards established and  
28 approved by the agency, and if such accrediting organizations  
29 are approved by the federal Health Care Financing  
30 Administration to perform such inspections.

31

1 (b) The agency may conduct complaint investigations  
2 made against laboratories inspected by accrediting  
3 organizations.

4 (c) The agency may conduct sample validation  
5 inspections of laboratories inspected by accrediting  
6 organizations to evaluate the accreditation process used by an  
7 accrediting organization.

8 (d) The agency may conduct a full inspection if an  
9 accrediting survey has not been conducted within the previous  
10 24 months, and the laboratory must pay the appropriate  
11 inspection fee under s. 483.172.

12 (e) The agency shall develop, and adopt, by rule,  
13 criteria for accepting inspection and postinspection reports  
14 of accrediting organizations in lieu of conducting a state  
15 licensure inspection.

16 Section 174. Section 483.091, Florida Statutes, is  
17 amended to read:

18 483.091 Clinical laboratory license.--~~A person may not~~  
19 ~~conduct, maintain, or operate a clinical laboratory in this~~  
20 ~~state, except a laboratory that is exempt under s. 483.031,~~  
21 ~~unless the clinical laboratory has obtained a license from the~~  
22 ~~agency.~~A clinical laboratory may not send a specimen drawn  
23 within this state to any clinical laboratory outside the state  
24 for examination unless the out-of-state laboratory has  
25 obtained a license from the agency. A license is valid only  
26 for the person or persons to whom it is issued and may not be  
27 sold, assigned, or transferred, voluntarily or involuntarily,  
28 and is not valid for any premises other than those for which  
29 the license is issued. However, A new license may be secured  
30 for a the new location before the actual change, if the  
31 contemplated change complies with this part and the rules

1 adopted under this part. ~~Application for a new clinical~~  
2 ~~laboratory license must be made 60 days before a change in the~~  
3 ~~ownership of the clinical laboratory.~~

4 Section 175. Section 483.101, Florida Statutes, is  
5 amended to read:

6 483.101 Application for clinical laboratory license.--

7 ~~(1) An application for a clinical laboratory license~~  
8 ~~must be made under oath by the owner or director of the~~  
9 ~~clinical laboratory or by the public official responsible for~~  
10 ~~operating a state, municipal, or county clinical laboratory or~~  
11 ~~institution that contains a clinical laboratory, upon forms~~  
12 ~~provided by the agency.~~

13 ~~(2) Each applicant for licensure must comply with the~~  
14 ~~following requirements:~~

15 ~~(a) Upon receipt of a completed, signed, and dated~~  
16 ~~application, the agency shall require background screening, in~~  
17 ~~accordance with the level 2 standards for screening set forth~~  
18 ~~in chapter 435, of the managing director or other similarly~~  
19 ~~titled individual who is responsible for the daily operation~~  
20 ~~of the laboratory and of the financial officer, or other~~  
21 ~~similarly titled individual who is responsible for the~~  
22 ~~financial operation of the laboratory, including billings for~~  
23 ~~patient services. The applicant must comply with the~~  
24 ~~procedures for level 2 background screening as set forth in~~  
25 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

26 ~~(b) The agency may require background screening of any~~  
27 ~~other individual who is an applicant if the agency has~~  
28 ~~probable cause to believe that he or she has been convicted of~~  
29 ~~a crime or has committed any other offense prohibited under~~  
30 ~~the level 2 standards for screening set forth in chapter 435.~~

31

1           ~~(c) Proof of compliance with the level 2 background~~  
2 ~~screening requirements of chapter 435 which has been submitted~~  
3 ~~within the previous 5 years in compliance with any other~~  
4 ~~health care licensure requirements of this state is acceptable~~  
5 ~~in fulfillment of the requirements of paragraph (a).~~

6           ~~(d) A provisional license may be granted to an~~  
7 ~~applicant when each individual required by this section to~~  
8 ~~undergo background screening has met the standards for the~~  
9 ~~Department of Law Enforcement background check but the agency~~  
10 ~~has not yet received background screening results from the~~  
11 ~~Federal Bureau of Investigation, or a request for a~~  
12 ~~disqualification exemption has been submitted to the agency as~~  
13 ~~set forth in chapter 435 but a response has not yet been~~  
14 ~~issued. A license may be granted to the applicant upon the~~  
15 ~~agency's receipt of a report of the results of the Federal~~  
16 ~~Bureau of Investigation background screening for each~~  
17 ~~individual required by this section to undergo background~~  
18 ~~screening which confirms that all standards have been met, or~~  
19 ~~upon the granting of a disqualification exemption by the~~  
20 ~~agency as set forth in chapter 435. Any other person who is~~  
21 ~~required to undergo level 2 background screening may serve in~~  
22 ~~his or her capacity pending the agency's receipt of the report~~  
23 ~~from the Federal Bureau of Investigation. However, the person~~  
24 ~~may not continue to serve if the report indicates any~~  
25 ~~violation of background screening standards and a~~  
26 ~~disqualification exemption has not been requested of and~~  
27 ~~granted by the agency as set forth in chapter 435.~~

28           ~~(e) Each applicant must submit to the agency, with its~~  
29 ~~application, a description and explanation of any exclusions,~~  
30 ~~permanent suspensions, or terminations of the applicant from~~  
31 ~~the Medicare or Medicaid programs. Proof of compliance with~~

1 ~~the requirements for disclosure of ownership and control~~  
2 ~~interests under the Medicaid or Medicare programs may be~~  
3 ~~accepted in lieu of this submission.~~

4 ~~(f) Each applicant must submit to the agency a~~  
5 ~~description and explanation of any conviction of an offense~~  
6 ~~prohibited under the level 2 standards of chapter 435 by a~~  
7 ~~member of the board of directors of the applicant, its~~  
8 ~~officers, or any individual owning 5 percent or more of the~~  
9 ~~applicant. This requirement does not apply to a director of a~~  
10 ~~not-for-profit corporation or organization if the director~~  
11 ~~serves solely in a voluntary capacity for the corporation or~~  
12 ~~organization, does not regularly take part in the day-to-day~~  
13 ~~operational decisions of the corporation or organization,~~  
14 ~~receives no remuneration for his or her services on the~~  
15 ~~corporation or organization's board of directors, and has no~~  
16 ~~financial interest and has no family members with a financial~~  
17 ~~interest in the corporation or organization, provided that the~~  
18 ~~director and the not-for-profit corporation or organization~~  
19 ~~include in the application a statement affirming that the~~  
20 ~~director's relationship to the corporation satisfies the~~  
21 ~~requirements of this paragraph.~~

22 ~~(g) A license may not be granted to an applicant if~~  
23 ~~the applicant or managing employee has been found guilty of,~~  
24 ~~regardless of adjudication, or has entered a plea of nolo~~  
25 ~~contendere or guilty to, any offense prohibited under the~~  
26 ~~level 2 standards for screening set forth in chapter 435,~~  
27 ~~unless an exemption from disqualification has been granted by~~  
28 ~~the agency as set forth in chapter 435.~~

29 ~~(h) The agency may deny or revoke licensure if the~~  
30 ~~applicant:~~

31

1           ~~1. Has falsely represented a material fact in the~~  
2 ~~application required by paragraph (e) or paragraph (f), or has~~  
3 ~~omitted any material fact from the application required by~~  
4 ~~paragraph (e) or paragraph (f); or~~

5           ~~2. Has had prior action taken against the applicant~~  
6 ~~under the Medicaid or Medicare program as set forth in~~  
7 ~~paragraph (e).~~

8           ~~(i) An application for license renewal must contain~~  
9 ~~the information required under paragraphs (e) and (f).~~

10          ~~(3) A license must be issued authorizing the~~  
11 ~~performance of one or more clinical laboratory procedures or~~  
12 ~~one or more tests on each specialty or subspecialty. A~~  
13 ~~separate license is required of all laboratories maintained on~~  
14 ~~separate premises even if the laboratories are operated under~~  
15 ~~the same management. Upon receipt of a request for an~~  
16 ~~application for a clinical laboratory license, the agency~~  
17 ~~shall provide to the applicant a copy of the rules relating to~~  
18 ~~licensure and operations applicable to the laboratory for~~  
19 ~~which licensure is sought.~~

20           Section 176. Section 483.111, Florida Statutes, is  
21 amended to read:

22           483.111 Limitations on licensure.--A license may be  
23 issued to a clinical laboratory to perform only those clinical  
24 laboratory procedures and tests that are within the  
25 specialties or subspecialties in which the clinical laboratory  
26 personnel are qualified. A license may not be issued unless  
27 the agency determines that the clinical laboratory is  
28 adequately staffed and equipped to operate in conformity with  
29 the requirements of this part, ss. 408.801-408.819, and  
30 applicable ~~the rules adopted under this part.~~

31

1           Section 177. Section 483.131, Florida Statutes, is  
2 repealed.

3           Section 178. Section 483.172, Florida Statutes, is  
4 amended to read:

5           483.172 License fees.--

6           (1) In accordance with s. 408.805, an applicant or  
7 licensee shall pay a fee for each license application  
8 submitted under this part and ss. 408.801-408.819.~~The agency~~  
9 ~~shall collect fees for all licenses issued under this part.~~  
10 ~~Each fee is due at the time of application and must be payable~~  
11 ~~to the agency to be deposited in the Health Care Trust Fund~~  
12 ~~administered by the agency.~~

13           (2) The biennial license fee schedule is as follows,  
14 unless modified by rule:

15           (a) If a laboratory performs not more than 2,000 tests  
16 annually, the fee is \$400.

17           (b) If a laboratory performs not more than 3  
18 categories of procedures with a total annual volume of more  
19 than 2,000 but no more than 10,000 tests, the license fee is  
20 \$965.

21           (c) If a laboratory performs at least 4 categories of  
22 procedures with a total annual volume of not more than 10,000  
23 tests, the license fee is \$1,294.

24           (d) If a laboratory performs not more than 3  
25 categories of procedures with a total annual volume of more  
26 than 10,000 but not more than 25,000 tests, the license fee is  
27 \$1,592.

28           (e) If a laboratory performs at least 4 categories of  
29 procedures with a total annual volume of more than 10,000 but  
30 not more than 25,000 tests, the license fee is \$2,103.

31

1 (f) If a laboratory performs a total of more than  
2 25,000 but not more than 50,000 tests annually, the license  
3 fee is \$2,364.

4 (g) If a laboratory performs a total of more than  
5 50,000 but not more than 75,000 tests annually, the license  
6 fee is \$2,625.

7 (h) If a laboratory performs a total of more than  
8 75,000 but not more than 100,000 tests annually, the license  
9 fee is \$2,886.

10 (i) If a laboratory performs a total of more than  
11 100,000 but not more than 500,000 tests annually, the license  
12 fee is \$3,397.

13 (j) If a laboratory performs a total of more than  
14 500,000 but not more than 1 million tests annually, the  
15 license fee is \$3,658.

16 (k) If a laboratory performs a total of more than 1  
17 million tests annually, the license fee is \$3,919.

18 (3) The agency shall assess a biennial fee of \$100 for  
19 a certificate of exemption and a \$100 license fee for  
20 facilities surveyed by an approved accrediting organization.

21 Section 179. Section 483.201, Florida Statutes, is  
22 amended to read:

23 483.201 Grounds for disciplinary action against  
24 clinical laboratories.--In addition to the requirements of ss.  
25 408.801-408.819,the following acts constitute grounds for  
26 which a disciplinary action specified in s. 483.221 may be  
27 taken against a clinical laboratory:

28 ~~(1) Making a fraudulent statement on an application~~  
29 ~~for a clinical laboratory license or any other document~~  
30 ~~required by the agency.~~

31

1           ~~(1)(2)~~ Permitting unauthorized persons to perform  
2 technical procedures or to issue reports.

3           ~~(2)(3)~~ Demonstrating incompetence or making consistent  
4 errors in the performance of clinical laboratory examinations  
5 and procedures or erroneous reporting.

6           ~~(3)(4)~~ Performing a test and rendering a report  
7 thereon to a person not authorized by law to receive such  
8 services.

9           ~~(4)(5)~~ Knowingly having professional connection with  
10 or knowingly lending the use of the name of the licensed  
11 clinical laboratory or its director to an unlicensed clinical  
12 laboratory.

13           ~~(5)(6)~~ Violating or aiding and abetting in the  
14 violation of any provision of this part or the rules adopted  
15 under this part.

16           ~~(6)(7)~~ Failing to file any report required by the  
17 provisions of this part or the rules adopted under this part.

18           ~~(7)(8)~~ Reporting a test result for a clinical specimen  
19 if the test was not performed on the clinical specimen.

20           ~~(8)(9)~~ Performing and reporting tests in a specialty  
21 or subspecialty in which the laboratory is not licensed.

22           ~~(9)(10)~~ Knowingly advertising false services or  
23 credentials.

24           ~~(10)(11)~~ Failing to correct deficiencies within the  
25 time required by the agency.

26           Section 180. Section 483.221, Florida Statutes, is  
27 amended to read:

28           483.221 Administrative fines ~~penalties~~.--

29           ~~(1)(a)~~ In accordance with ss. 408.801-408.819, the  
30 agency may ~~deny, suspend, revoke, annul, limit, or deny~~  
31 ~~renewal of a license or~~ impose an administrative fine, not to

1 exceed \$1,000 per violation, for the violation of any  
2 provision of this part or rules adopted under this part. ~~Each~~  
3 ~~day of violation constitutes a separate violation and is~~  
4 ~~subject to a separate fine.~~

5 (2)~~(b)~~ In determining the penalty to be imposed for a  
6 violation, as provided in subsection (1)~~paragraph (a)~~, the  
7 following factors must be considered:

8 (a)~~1.~~ The severity of the violation, including the  
9 probability that death or serious harm to the health or safety  
10 of any person will result or has resulted; the severity of the  
11 actual or potential harm; and the extent to which the  
12 provisions of this part were violated.

13 (b)~~2.~~ Actions taken by the licensee to correct the  
14 violation or to remedy complaints.

15 (c)~~3.~~ Any previous violation by the licensee.

16 (d)~~4.~~ The financial benefit to the licensee of  
17 committing or continuing the violation.

18 ~~(c) All amounts collected under this section must be~~  
19 ~~deposited into the Health Care Trust Fund administered by the~~  
20 ~~agency.~~

21 ~~(2) The agency may issue an emergency order~~  
22 ~~immediately suspending, revoking, annulling, or limiting a~~  
23 ~~license if it determines that any condition in the licensed~~  
24 ~~facility presents a clear and present danger to public health~~  
25 ~~or safety.~~

26 Section 181. Section 483.23, Florida Statutes, is  
27 amended to read:

28 483.23 Offenses; criminal penalties.--

29 (1)(a) It is unlawful for any person to:

30 1. ~~Operate, maintain, direct, or engage in the~~  
31 ~~business of operating a clinical laboratory unless she or he~~

1 ~~has obtained a clinical laboratory license from the agency or~~  
2 ~~is exempt under s. 483.031.~~

3 1.2. Conduct, maintain, or operate a clinical  
4 laboratory, other than an exempt laboratory or a laboratory  
5 operated under s. 483.035, unless the clinical laboratory is  
6 under the direct and responsible supervision and direction of  
7 a person licensed under part III of this chapter.

8 2.3. Allow any person other than an individual  
9 licensed under part III of this chapter to perform clinical  
10 laboratory procedures, except in the operation of a laboratory  
11 exempt under s. 483.031 or a laboratory operated under s.  
12 483.035.

13 3.4. Violate or aid and abet in the violation of any  
14 provision of this part or the rules adopted under this part.

15 (b) The performance of any act specified in paragraph  
16 (a) constitutes a misdemeanor of the second degree, punishable  
17 as provided in s. 775.082 or s. 775.083.

18 (2) Any use or attempted use of a forged license under  
19 this part or part IV ~~III~~ of this chapter constitutes the crime  
20 of forgery.

21 Section 182. Section 483.25, Florida Statutes, is  
22 repealed.

23 Section 183. Section 483.291, Florida Statutes, is  
24 amended to read:

25 483.291 Powers and duties of the agency; rules.--The  
26 agency shall adopt rules to implement this part and ss.  
27 408.801-408.819, which rules must include the following:

28 (1) LICENSING STANDARDS.--The agency ~~shall license all~~  
29 ~~multiphasic health testing centers meeting the requirements of~~  
30 ~~this part and shall prescribe standards necessary for~~  
31 licensure.

1           (2) FEES.--In accordance with s. 408.805, an applicant  
2 or licensee shall pay a fee for each license application  
3 submitted under this part and ss. 408.801-408.819.~~The agency~~  
4 ~~shall establish annual fees, which shall be reasonable in~~  
5 ~~amount, for licensing of centers. The fees must be sufficient~~  
6 ~~in amount to cover the cost of licensing and inspecting~~  
7 ~~centers.~~

8           (a) ~~The annual licensure fee is due at the time of~~  
9 ~~application and is payable to the agency to be deposited in~~  
10 ~~the Health Care Trust Fund administered by the agency. The~~  
11 ~~license fee must be not less than~~~~\$600~~\$300 ~~or more than~~  
12 ~~\$2,000 per biennium~~\$1,000.

13           (b) ~~The fee for late filing of an application for~~  
14 ~~license renewal is \$200 and is in addition to the licensure~~  
15 ~~fee due for renewing the license.~~

16           (3) ~~ANNUAL LICENSING.--The agency shall provide for~~  
17 ~~annual licensing of centers. Any center that fails to pay the~~  
18 ~~proper fee or otherwise fails to qualify by the date of~~  
19 ~~expiration of its license is delinquent, and its license is~~  
20 ~~automatically canceled without notice or further proceeding.~~  
21 ~~Upon cancellation of its license under this subsection, a~~  
22 ~~center may have its license reinstated only upon application~~  
23 ~~and qualification as provided for initial applicants and upon~~  
24 ~~payment of all delinquent fees.~~

25           (3)(4) ~~STANDARDS OF PERFORMANCE.--The agency shall~~  
26 ~~prescribe standards for the performance of health testing~~  
27 ~~procedures.~~

28           (4)(5) ~~CONSTRUCTION OF CENTERS.--The agency may adopt~~  
29 ~~rules to ensure that centers comply with all local, county,~~  
30 ~~state, and federal standards for the construction, renovation,~~  
31 ~~maintenance, or repair of centers, which standards must ensure~~

1 the conduct and operation of the centers in a manner that will  
2 protect the public health.

3 (5)~~(6)~~ SAFETY AND SANITARY CONDITIONS WITHIN THE  
4 CENTER AND ITS SURROUNDINGS.--The agency shall establish  
5 standards relating to safety and sanitary conditions within  
6 the center and its surroundings, including water supply;  
7 sewage; the handling of specimens; identification,  
8 segregation, and separation of biohazardous waste as required  
9 by s. 381.0098; storage of chemicals; workspace; firesafety;  
10 and general measures, which standards must ensure the  
11 protection of the public health. The agency shall determine  
12 compliance by a multiphasic health testing center with the  
13 requirements of s. 381.0098 by verifying that the center has  
14 obtained all required permits.

15 (6)~~(7)~~ EQUIPMENT.--The agency shall establish minimum  
16 standards for center equipment essential to the proper conduct  
17 and operation of the center.

18 (7)~~(8)~~ PERSONNEL.--The agency shall prescribe minimum  
19 qualifications for center personnel. A center may employ as a  
20 medical assistant a person who has at least one of the  
21 following qualifications:

22 (a) Prior experience of not less than 6 months as a  
23 medical assistant in the office of a licensed medical doctor  
24 or osteopathic physician or in a hospital, an ambulatory  
25 surgical center, a home health agency, or a health maintenance  
26 organization.

27 (b) Certification and registration by the American  
28 Medical Technologists Association or other similar  
29 professional association approved by the agency.

30  
31

1 (c) Prior employment as a medical assistant in a  
2 licensed center for at least 6 consecutive months at some time  
3 during the preceding 2 years.

4 Section 184. Section 483.294, Florida Statutes, is  
5 amended to read:

6 483.294 Inspection of centers.--The agency shall, at  
7 least once annually, inspect the premises and operations of  
8 all centers subject to licensure under this part, ~~without~~  
9 ~~prior notice to the centers, for the purpose of studying and~~  
10 ~~evaluating the operation, supervision, and procedures of such~~  
11 ~~facilities, to determine their compliance with agency~~  
12 ~~standards and to determine their effect upon the health and~~  
13 ~~safety of the people of this state.~~

14 Section 185. Section 483.30, Florida Statutes, is  
15 amended to read:

16 483.30 Licensing of centers.--

17 (1) The requirements of ss. 408.801-408.819 apply to  
18 the provision of services that necessitate licensure pursuant  
19 to this part and ss. 408.801-408.819 and to entities licensed  
20 by or applying for such licensure from the Agency for Health  
21 Care Administration pursuant to this part; however, an  
22 applicant for licensure is exempt from s. 408.810(5)-(10). A  
23 ~~person may not conduct, maintain, or operate a multiphasic~~  
24 ~~health testing center in this state without obtaining a~~  
25 ~~multiphasic health testing center license from the agency.~~  
26 ~~The license is valid only for the person or persons to whom it~~  
27 ~~is issued and may not be sold, assigned, or transferred,~~  
28 ~~voluntarily or involuntarily.~~A license is not valid for any  
29 premises other than the center for which it is issued.  
30 However, a new license may be secured for the new location for  
31 a fixed center before the actual change, if the contemplated

1 change is in compliance with this part and the rules adopted  
2 under this part. ~~A center must be relicensed if a change of~~  
3 ~~ownership occurs. Application for relicensure must be made 60~~  
4 ~~days before the change of ownership.~~

5 ~~(2) Each applicant for licensure must comply with the~~  
6 ~~following requirements:~~

7 ~~(a) Upon receipt of a completed, signed, and dated~~  
8 ~~application, the agency shall require background screening, in~~  
9 ~~accordance with the level 2 standards for screening set forth~~  
10 ~~in chapter 435, of the managing employee, or other similarly~~  
11 ~~titled individual who is responsible for the daily operation~~  
12 ~~of the center, and of the financial officer, or other~~  
13 ~~similarly titled individual who is responsible for the~~  
14 ~~financial operation of the center, including billings for~~  
15 ~~patient services. The applicant must comply with the~~  
16 ~~procedures for level 2 background screening as set forth in~~  
17 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

18 ~~(b) The agency may require background screening of any~~  
19 ~~other individual who is an applicant if the agency has~~  
20 ~~probable cause to believe that he or she has been convicted of~~  
21 ~~a crime or has committed any other offense prohibited under~~  
22 ~~the level 2 standards for screening set forth in chapter 435.~~

23 ~~(c) Proof of compliance with the level 2 background~~  
24 ~~screening requirements of chapter 435 which has been submitted~~  
25 ~~within the previous 5 years in compliance with any other~~  
26 ~~health care licensure requirements of this state is acceptable~~  
27 ~~in fulfillment of the requirements of paragraph (a).~~

28 ~~(d) A provisional license may be granted to an~~  
29 ~~applicant when each individual required by this section to~~  
30 ~~undergo background screening has met the standards for the~~  
31 ~~Department of Law Enforcement background check, but the agency~~

1 ~~has not yet received background screening results from the~~  
2 ~~Federal Bureau of Investigation, or a request for a~~  
3 ~~disqualification exemption has been submitted to the agency as~~  
4 ~~set forth in chapter 435 but a response has not yet been~~  
5 ~~issued. A license may be granted to the applicant upon the~~  
6 ~~agency's receipt of a report of the results of the Federal~~  
7 ~~Bureau of Investigation background screening for each~~  
8 ~~individual required by this section to undergo background~~  
9 ~~screening which confirms that all standards have been met, or~~  
10 ~~upon the granting of a disqualification exemption by the~~  
11 ~~agency as set forth in chapter 435. Any other person who is~~  
12 ~~required to undergo level 2 background screening may serve in~~  
13 ~~his or her capacity pending the agency's receipt of the report~~  
14 ~~from the Federal Bureau of Investigation. However, the person~~  
15 ~~may not continue to serve if the report indicates any~~  
16 ~~violation of background screening standards and a~~  
17 ~~disqualification exemption has not been requested of and~~  
18 ~~granted by the agency as set forth in chapter 435.~~

19 ~~(e) Each applicant must submit to the agency, with its~~  
20 ~~application, a description and explanation of any exclusions,~~  
21 ~~permanent suspensions, or terminations of the applicant from~~  
22 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
23 ~~the requirements for disclosure of ownership and control~~  
24 ~~interests under the Medicaid or Medicare programs may be~~  
25 ~~accepted in lieu of this submission.~~

26 ~~(f) Each applicant must submit to the agency a~~  
27 ~~description and explanation of any conviction of an offense~~  
28 ~~prohibited under the level 2 standards of chapter 435 by a~~  
29 ~~member of the board of directors of the applicant, its~~  
30 ~~officers, or any individual owning 5 percent or more of the~~  
31 ~~applicant. This requirement does not apply to a director of a~~

1 ~~not-for-profit corporation or organization if the director~~  
2 ~~serves solely in a voluntary capacity for the corporation or~~  
3 ~~organization, does not regularly take part in the day-to-day~~  
4 ~~operational decisions of the corporation or organization,~~  
5 ~~receives no remuneration for his or her services on the~~  
6 ~~corporation or organization's board of directors, and has no~~  
7 ~~financial interest and has no family members with a financial~~  
8 ~~interest in the corporation or organization, provided that the~~  
9 ~~director and the not-for-profit corporation or organization~~  
10 ~~include in the application a statement affirming that the~~  
11 ~~director's relationship to the corporation satisfies the~~  
12 ~~requirements of this paragraph.~~

13 ~~(g) A license may not be granted to an applicant if~~  
14 ~~the applicant or managing employee has been found guilty of,~~  
15 ~~regardless of adjudication, or has entered a plea of nolo~~  
16 ~~contendere or guilty to, any offense prohibited under the~~  
17 ~~level 2 standards for screening set forth in chapter 435,~~  
18 ~~unless an exemption from disqualification has been granted by~~  
19 ~~the agency as set forth in chapter 435.~~

20 ~~(h) The agency may deny or revoke licensure if the~~  
21 ~~applicant:~~

22 ~~1. Has falsely represented a material fact in the~~  
23 ~~application required by paragraph (e) or paragraph (f), or has~~  
24 ~~omitted any material fact from the application required by~~  
25 ~~paragraph (e) or paragraph (f); or~~

26 ~~2. Has had prior action taken against the applicant~~  
27 ~~under the Medicaid or Medicare program as set forth in~~  
28 ~~paragraph (e).~~

29 ~~(i) An application for license renewal must contain~~  
30 ~~the information required under paragraphs (e) and (f).~~

31

1           Section 186. Section 483.302, Florida Statutes, is  
2 amended to read:

3           483.302 Application for license.--

4           ~~(1) Application for a license as required by s. 483.30~~  
5 ~~must be made to the agency on forms furnished by it and must~~  
6 ~~be accompanied by the appropriate license fee.~~

7           ~~(2)~~ The application for a license must shall contain:

8           (1)(a) A determination as to whether the facility will  
9 be fixed or mobile and the location for a fixed facility.

10           ~~(b) The name and address of the owner if an~~  
11 ~~individual; if the owner is a firm, partnership, or~~  
12 ~~association, the name and address of every member thereof; if~~  
13 ~~the owner is a corporation, its name and address and the name~~  
14 ~~and address of its medical director and officers and of each~~  
15 ~~person having at least a 10 percent interest in the~~  
16 ~~corporation.~~

17           (2)(c) The name of any person ~~whose name is required~~  
18 ~~on the application under the provisions of paragraph (b) and~~  
19 ~~who owns at least a 10 percent interest in any professional~~  
20 ~~service, firm, association, partnership, or corporation~~  
21 ~~providing goods, leases, or services to the center for which~~  
22 ~~the application is made, and the name and address of the~~  
23 ~~professional service, firm, association, partnership, or~~  
24 ~~corporation in which such interest is held.~~

25           ~~(d) The name by which the facility is to be known.~~

26           (3)(e) The name, address, and Florida physician's  
27 license number of the medical director.

28           Section 187. Section 483.311 and subsection (1) of  
29 section 483.317, Florida Statutes, are repealed.

30           Section 188. Section 483.32, Florida Statutes, is  
31 amended to read:

1           483.32 Administrative  fines  ~~penalties~~.--  
2           (1)~~(a)~~ The agency may  ~~deny, suspend, revoke, annul,~~  
3  ~~limit, or deny renewal of a license or~~ impose an  
4 administrative fine, not to exceed \$500 per violation, for the  
5 violation of any provision of this part,  ss. 408.801-408.819,  
6 or  applicable  ~~rules adopted under this part. Each day of~~  
7  ~~violation constitutes a separate violation and is subject to a~~  
8  ~~separate fine.~~  
9            (2)~~(b)~~ In determining the amount of the fine to be  
10 levied for a violation, as provided in paragraph (a), the  
11 following factors shall be considered:  
12            (a)~~1.~~ The severity of the violation, including the  
13 probability that death or serious harm to the health or safety  
14 of any person will result or has resulted; the severity of the  
15 actual or potential harm; and the extent to which the  
16 provisions of this part were violated.  
17            (b)~~2.~~ Actions taken by the licensee to correct the  
18 violation or to remedy complaints.  
19            (c)~~3.~~ Any previous violation by the licensee.  
20            (d)~~4.~~ The financial benefit to the licensee of  
21 committing or continuing the violation.  
22            (c) ~~All amounts collected under this section must be~~  
23  ~~deposited into the Health Care Trust Fund administered by the~~  
24  ~~agency.~~  
25            (2) ~~The agency may issue an emergency order~~  
26  ~~immediately suspending, revoking, annulling, or limiting a~~  
27  ~~license when it determines that any condition in the licensed~~  
28  ~~facility presents a clear and present danger to public health~~  
29  ~~and safety.~~  
30           Section 189.  Subsection (1) of section 483.322 and  
31  section 483.328, Florida Statutes, are repealed.

