

By the Committee on Health Regulation; and Senator Gaetz

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1                   A bill to be entitled  
2           An act relating to health care; repealing s.  
3           112.0455(10) (e), F.S., relating to a prohibition  
4           against applying the Drug-Free Workplace Act  
5           retroactively; amending ss. 154.11, 395.3038, 400.925,  
6           400.9935, 408.05, 440.13, 627.645, 627.668, 627.669,  
7           627.736, 641.495, and 766.1015, F.S.; changing  
8           references to the Joint Commission on the  
9           Accreditation of Healthcare Organizations to the  
10          "Joint Commission"; amending s. 318.21, F.S.;  
11          requiring that a specified percentage of fines  
12          collected from certain civil penalties levied by  
13          county courts for traffic infractions be deposited  
14          into the Brain and Spinal Cord Injury Rehabilitation  
15          Trust Fund within the Department of Health for use for  
16          Medicaid recipients who have spinal cord injuries;  
17          amending s. 381.06014, F.S.; defining the term  
18          "volunteer donor"; requiring that certain blood  
19          establishments disclose specified information on the  
20          Internet; repealing s. 383.325, F.S., relating to  
21          records of licensed birth center facilities; amending  
22          s. 394.741 F.S.; changing references to the Council on  
23          Accreditation for Children and Family Services to the  
24          "Council on Accreditation"; amending s. 394.4787,  
25          F.S.; conforming a cross-reference; amending s.  
26          395.002, F.S.; redefining the term "accrediting  
27          organizations" as it relates to hospital licensure and  
28          regulation; deleting definitions of the terms "initial  
29          denial determination," "private review agent,"

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30 "utilization review," and "utilization review plan" as  
31 they relate to hospital licensure and regulation;  
32 amending s. 395.003, F.S.; deleting an obsolete  
33 provision; conforming a cross-reference; amending s.  
34 395.0193, F.S.; requiring the Division of Medical  
35 Quality Assurance within the Department of Health  
36 rather than the Agency for Health Care Administration  
37 to review certain peer review reports and disciplinary  
38 actions; amending s. 395.1023, F.S.; requiring a  
39 licensed facility to adopt a protocol to designate a  
40 physician to act as a liaison between the Department  
41 of Children and Family Services, rather than the  
42 Department of Health, and the licensed facility in  
43 cases involving suspected child abuse; amending s.  
44 395.1041, F.S., relating to emergency services;  
45 deleting obsolete provisions; repealing s. 395.1046,  
46 F.S., relating to the investigation of complaints  
47 regarding hospitals; amending s. 395.1055, F.S.;

48 requiring the agency to adopt rules that ensure that  
49 licensed facility beds conform to certain standards as  
50 specified by the agency, the Florida Building Code,  
51 and the Florida Fire Prevention Code; amending s.  
52 395.10972, F.S.; changing a reference to the Florida  
53 Society of Healthcare Risk Management to the "Florida  
54 Society for Healthcare Risk Management and Patient  
55 Safety"; amending s. 395.2050, F.S.; providing that  
56 the federal Centers for Medicare and Medicaid  
57 Services, rather than the federal Health Care  
58 Financing Administration, designates organ procurement

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59 organizations; amending s. 395.3036, F.S.; correcting  
60 a cross-reference; repealing s. 395.3037, F.S.;

61 deleting obsolete definitions; amending s. 395.602,  
62 F.S.; revising the definition of a "rural hospital" as  
63 it relates to hospital licensure and regulation;

64 amending s. 400.021, F.S.; revising the definition of  
65 a "geriatric outpatient clinic" with regard to  
66 staffing; amending s. 400.0239, F.S.; deleting an  
67 obsolete provision; amending s. 400.0255, F.S.;

68 correcting an obsolete cross-reference to  
69 administrative rules; amending s. 400.063, F.S.;

70 removing an obsolete provision; amending s. 400.071,  
71 F.S.; revising the requirements for an application for  
72 a license to operate a nursing home facility; amending  
73 s. 400.0712, F.S.; deleting a provision related to the  
74 issuance of an inactive license to a nursing home;

75 amending s. 400.111, F.S.; specifying that the  
76 required disclosure of a financial or ownership  
77 interest is contingent upon a request by the agency;

78 amending s. 400.1183, F.S.; requiring nursing home  
79 facilities to maintain records of grievances for  
80 agency inspection; deleting a requirement that a  
81 facility report the number of grievances handled  
82 during the prior licensure period; amending s.  
83 400.141, F.S.; conforming a cross-reference; deleting  
84 the requirement that a facility submit to the agency  
85 information regarding a management company with which  
86 it has entered into an agreement; specifying a fine  
87 for a nursing facility's failure to impose an

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88 admissions moratorium if it has failed to comply with  
89 state minimum-staffing requirements; deleting the  
90 requirement for a facility to report to the agency any  
91 filing of bankruptcy protection, divestiture, or  
92 corporate reorganization; amending s. 400.142, F.S.;  
93 removing obsolete provisions requiring the agency to  
94 adopt certain rules; repealing s. 400.147(10), F.S.,  
95 relating to a requirement that a nursing home report  
96 any notice of a filing of a claim for a violation of a  
97 resident's rights or a claim of negligence; repealing  
98 s. 400.148, F.S., relating to the Medicaid "Up-or-Out"  
99 Quality of Care Contract Management Program; amending  
100 s. 400.19, F.S.; authorizing the agency to verify the  
101 correction of certain violations without reinspection,  
102 even when they are related to resident rights or  
103 resident care, after an unannounced inspection of a  
104 nursing home; repealing s. 400.195, F.S., relating to  
105 reporting requirements; deleting obsolete provisions;  
106 amending s. 400.23, F.S.; changing a reference to the  
107 Division of Children's Medical Services to the  
108 "Division of Children's Medical Services Network";  
109 deleting an obsolete provision; amending s. 400.275,  
110 F.S.; deleting a requirement that the agency ensure  
111 that a newly hired nursing home surveyor is assigned  
112 full time to a licensed nursing home to observe  
113 facility operations; amending ss. 400.484, 400.967,  
114 and 429.71, F.S.; redesignating class I, II, III, and  
115 IV deficiencies as class I, II, III, and IV  
116 "violations"; amending s. 400.606, F.S.; eliminating a

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117 requirement that the plan for the delivery of home,  
118 residential, and homelike inpatient hospice services  
119 for terminally ill patients and their families include  
120 projected annual operating costs; amending s. 400.607,  
121 F.S.; revising the grounds under which the agency may  
122 take administrative action against a hospice; amending  
123 s. 400.915, F.S.; correcting an obsolete cross-  
124 reference to administrative rules; amending s.  
125 400.931, F.S.; deleting a provision allowing an  
126 applicant for a license to be a home medical equipment  
127 provider to submit a surety bond to the agency;  
128 amending s. 400.932, F.S.; revising the grounds under  
129 which the agency may take administrative action  
130 against a home medical equipment provider; amending s.  
131 400.933, F.S.; prohibiting a home medical equipment  
132 provider from providing a survey or inspection of an  
133 accrediting organization in lieu of periodic agency  
134 inspection if the provider's licensure is conditional;  
135 amending s. 400.953, F.S.; deleting a requirement that  
136 the general manager of a home medical equipment  
137 provider annually sign an affidavit regarding the  
138 background screening of personnel; providing  
139 requirements for submission of the affidavit; amending  
140 s. 400.9905, F.S.; specifying that certain licensure  
141 requirements do not apply to certain orthotic,  
142 prosthetic, pediatric cardiology, or perinatology  
143 clinical facilities; redefining the term "portable  
144 service or equipment provider" as it relates to the  
145 Health Care Clinic Act; amending s. 400.991, F.S.;

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146 conforming a provision to changes made by the act;  
147 revising application requirements to show proof of  
148 financial ability to operate a health care clinic;  
149 amending s. 408.034, F.S.; prohibiting the agency from  
150 issuing a license to a health care facility that  
151 applies for a license to operate an intermediate care  
152 facility for developmentally disabled persons under  
153 certain circumstances; amending s. 408.036, F.S.,  
154 relating to certificates of need; conforming a  
155 provision to changes made by the act; amending s.  
156 408.043, F.S.; requiring a freestanding facility or a  
157 part of the facility that is the inpatient hospice  
158 care component of a hospice to obtain a certificate of  
159 need, regardless of whether it is primarily engaged in  
160 providing inpatient care and related services;  
161 amending s. 408.061, F.S.; revising requirements for  
162 the reporting of certified data elements by health  
163 care facilities; amending s. 408.10, F.S.; authorizing  
164 the agency to provide staffing for a toll-free phone  
165 number for the purpose of handling consumer complaints  
166 regarding a health care facility; repealing s.  
167 408.802(11), F.S., relating to the applicability of  
168 the Health Care Licensing Procedures Act to private  
169 review agents; amending s. 408.804, F.S.; providing a  
170 criminal penalty for altering, defacing, or falsifying  
171 a license certificate of certain health care  
172 providers; providing civil penalties for displaying an  
173 altered, defaced, or falsified license certificate;  
174 amending s. 408.806, F.S.; requiring the agency to

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175 provide a courtesy notice to a licensee regarding the  
176 expiration of a licensee's license; providing that  
177 failure of the agency to provide the courtesy notice  
178 or failure of the licensee to receive the notice does  
179 not excuse the licensee from timely renewing its  
180 license; providing that payment of the late fee is  
181 required for a later application; amending s. 408.810,  
182 F.S.; revising the requirements for obtaining and  
183 maintaining a license for certain health care  
184 providers and those who own a controlling interest in  
185 a health care provider; amending s. 408.813, F.S.;

186 authorizing the agency to impose administrative fines  
187 for unclassified violations and identifying some of  
188 those violations; amending s. 408.815, F.S.;

189 authorizing the agency to extend the expiration date  
190 of a license for the purpose of the safe and orderly  
191 discharge of clients; authorizing the agency to impose  
192 conditions on the extension; amending s. 409.906,  
193 F.S.; requiring the agency, in consultation with the  
194 Department of Elderly Affairs, to phase out the adult  
195 day health care waiver program; requiring adult day  
196 health care waiver providers, in consultation with  
197 resource centers for the aged, to assist in the  
198 transition of enrollees from the waiver program;

199 repealing s. 409.221(4)(k), F.S., relating to the  
200 responsibility of the agency, the Department of  
201 Elderly Affairs, the Department of Health, the  
202 Department of Children and Family Services, and the  
203 Agency for Persons with Disabilities to review and

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204 assess the implementation of the consumer-directed  
205 care program and the agency's responsibility to submit  
206 a report to the Legislature; repealing s.  
207 409.912(15)(e), (f), and (g), F.S., relating to a  
208 requirement that the Agency for Health Care  
209 Administration submit a report to the Legislature  
210 regarding the operation of the CARES program; amending  
211 s. 429.07, F.S.; deleting the requirement for an  
212 assisted living facility to obtain an additional  
213 license in order to provide limited nursing services;  
214 deleting the requirement for the Agency for Health  
215 Care Administration to conduct quarterly monitoring  
216 visits of facilities that hold a license to provide  
217 extended congregate care services; deleting the  
218 requirement for the Department of Elderly Affairs to  
219 report annually on the status of and recommendations  
220 related to extended congregate care; deleting the  
221 requirement for the Agency for Health Care  
222 Administration to conduct monitoring visits at least  
223 twice a year to facilities providing limited nursing  
224 services; increasing the licensure fees and the  
225 maximum fee required for a standard license;  
226 increasing the licensure fees for the extended  
227 congregate care license; eliminating the license fee  
228 for the limited nursing services license; transferring  
229 from another provision of law the requirement that a  
230 biennial survey of an assisted living facility include  
231 specific actions to determine whether the facility is  
232 adequately protecting residents' rights; providing

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233 that an assisted living facility that has been cited  
234 for certain violations is subject to monitoring  
235 visits; requiring a registered nurse to participate in  
236 certain monitoring visits; amending s. 429.11, F.S.;  
237 deleting a provision authorizing issuance of a  
238 provisional license to operate as an assisted living  
239 facility; repealing s. 429.12(2), F.S., relating to  
240 the sale or transfer of ownership of an assisted  
241 living facility; amending s. 429.14, F.S.; authorizing  
242 the agency to provide to the Division of Hotels and  
243 Restaurants of the Department of Business and  
244 Professional Regulation, by electronic means or  
245 through the agency's website, information regarding  
246 the denial, suspension, or revocation of a license;  
247 amending s. 429.17, F.S.; deleting provisions related  
248 to the limited nursing services license; revising the  
249 requirements for a conditional license to operate an  
250 assisted living facility; amending s. 429.19, F.S.;  
251 clarifying that a monitoring fee may be assessed in  
252 addition to an administrative fine; repealing s.  
253 429.23(5), F.S., relating to a requirement that each  
254 assisted living facility submit a report to the agency  
255 regarding liability claims filed against it; amending  
256 s. 429.255, F.S.; eliminating provisions authorizing  
257 the use of volunteers to provide certain health-care-  
258 related services in assisted living facilities;  
259 authorizing assisted living facilities to provide  
260 limited nursing services; requiring an assisted living  
261 facility to be responsible for certain recordkeeping

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262 and staff to be trained to monitor residents receiving  
263 certain health-care-related services; repealing s.  
264 429.28(3), F.S., relating to a requirement for a  
265 biennial survey of an assisted living facility, to  
266 conform to changes made by the act; amending s.  
267 429.35, F.S.; authorizing the agency to provide to the  
268 local ombudsman council, electronically or through the  
269 agency's website, information regarding the results of  
270 an inspection; amending s. 429.41, F.S., relating to  
271 rulemaking; conforming provisions to changes made by  
272 the act; amending s. 429.53, F.S.; requiring the  
273 agency, rather than the agency's area offices of  
274 licensure and certification, to provide consultation  
275 to certain persons and licensees regarding assisted  
276 living facilities; redefining the term "consultation"  
277 as it relates to assisted living facilities; amending  
278 s. 429.54, F.S.; requiring licensed assisted living  
279 facilities to electronically report certain data  
280 semiannually to the Agency for Health Care  
281 Administration in accordance with rules adopted by the  
282 Department of Elderly Affairs; amending s. 429.65,  
283 F.S.; redefining the term "adult family-care home" as  
284 it relates to the Adult Family-Care Home Act;  
285 repealing s. 429.901(5), F.S.; relating to the  
286 definition of the term "multiple or repeated  
287 violations"; repealing s. 429.911(2)(a), F.S.;  
288 deleting a ground for agency action against an adult  
289 day care center; amending s. 429.915, F.S.; revising  
290 requirements for a conditional license to operate an

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291 adult day care center; amending s. 430.80, F.S.;

292 conforming a cross-reference; amending s. 483.201,

293 F.S.; providing for disciplinary action against

294 clinical laboratories failing to disclose specified

295 information on the Internet; providing a maximum

296 annual administrative fine that may be imposed

297 annually against certain clinical laboratories for

298 failure to comply with such disclosure requirement;

299 amending s. 483.294, F.S.; requiring the agency to

300 biennially, rather than at least annually, inspect the

301 premises and operations of multiphasic health testing

302 centers; amending s. 499.003, F.S.; revising the

303 definition of the term "health care entity" to clarify

304 that a blood establishment may be a health care entity

305 and engage in certain activities; amending s. 499.005,

306 F.S.; clarifying provisions prohibiting the

307 unauthorized wholesale distribution of a prescription

308 drug that was purchased by a hospital or other health

309 care entity, to conform to changes made by the act;

310 amending s. 499.01, F.S.; exempting certain blood

311 establishments from the requirements to be permitted

312 as a prescription drug manufacturer and register

313 products; requiring that certain blood establishments

314 obtain a restricted prescription drug distributor

315 permit under specified conditions; limiting the

316 prescription drugs that a blood establishment may

317 distribute under the restricted prescription drug

318 distributor permit; authorizing the Department of

319 Health to adopt rules; providing effective dates.

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

322

323 Section 1. Paragraph (e) of subsection (10) of section  
324 112.0455, Florida Statutes, is repealed.

325 Section 2. Paragraph (n) of subsection (1) of section  
326 154.11, Florida Statutes, is amended to read:

327 154.11 Powers of board of trustees.—

328 (1) The board of trustees of each public health trust shall  
329 be deemed to exercise a public and essential governmental  
330 function of both the state and the county and in furtherance  
331 thereof it shall, subject to limitation by the governing body of  
332 the county in which such board is located, have all of the  
333 powers necessary or convenient to carry out the operation and  
334 governance of designated health care facilities, including, but  
335 without limiting the generality of, the foregoing:

336 (n) To make original appointments of ~~appoint originally~~ the  
337 staff of physicians to practice in any designated facility owned  
338 or operated by the board and to approve the bylaws and rules ~~to~~  
339 ~~be~~ adopted by the medical staff of any designated facility owned  
340 and operated by the board. Such governing regulations must ~~to~~  
341 be in accordance with the standards of the Joint Commission and  
342 must ~~on the Accreditation of Hospitals which~~ provide, among  
343 other things, for the method of appointing additional staff  
344 members and for the removal of staff members.

345 Section 3. Subsection (15) of section 318.21, Florida  
346 Statutes, is amended to read:

347 318.21 Disposition of civil penalties by county courts.—All  
348 civil penalties received by a county court pursuant to the

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349 provisions of this chapter shall be distributed and paid monthly  
350 as follows:

351 (15) Of the additional fine assessed under s. 318.18(3)(e)  
352 for a violation of s. 316.1893, 50 percent of the moneys  
353 received from the fines shall be remitted to the Department of  
354 Revenue and deposited into the Brain and Spinal Cord Injury  
355 Trust Fund within the Department of Health and shall be  
356 appropriated to the Department of Health Agency for Health Care  
357 Administration as general revenue to ~~provide an enhanced~~  
358 ~~Medicaid payment to nursing homes that~~ serve adult Medicaid  
359 recipients with brain and spinal cord injuries that are  
360 medically complex and that are technologically and respiratory  
361 dependent. The remaining 50 percent of the moneys received from  
362 the enhanced fine imposed under s. 318.18(3)(e) shall be  
363 remitted to the Department of Revenue and deposited into the  
364 Department of Health Administrative Trust Fund to provide  
365 financial support to certified trauma centers in the counties  
366 where enhanced penalty zones are established to ensure the  
367 availability and accessibility of trauma services. Funds  
368 deposited into the Administrative Trust Fund under this  
369 subsection shall be allocated as follows:

370 (a) Fifty percent shall be allocated equally among all  
371 Level I, Level II, and pediatric trauma centers in recognition  
372 of readiness costs for maintaining trauma services.

373 (b) Fifty percent shall be allocated among Level I, Level  
374 II, and pediatric trauma centers based on each center's relative  
375 volume of trauma cases as reported in the Department of Health  
376 Trauma Registry.

377 Section 4. Section 381.06014, Florida Statutes, is amended

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378 to read:

379 381.06014 Blood establishments.—

380 (1) As used in this section, the term:

381 (a) "Blood establishment" means any person, entity, or  
382 organization, operating within the state, which examines an  
383 individual for the purpose of blood donation or which collects,  
384 processes, stores, tests, or distributes blood or blood  
385 components collected from the human body for the purpose of  
386 transfusion, for any other medical purpose, or for the  
387 production of any biological product.

388 (b) "Volunteer donor" means a person who does not receive  
389 remuneration, other than an incentive, for a blood donation  
390 intended for transfusion, and the product container of the  
391 donation from the person qualifies for labeling with the  
392 statement "volunteer donor" under 21 C.F.R. 606.121.

393 (2) Any blood establishment operating in the state may not  
394 conduct any activity defined in subsection (1) unless that blood  
395 establishment is operated in a manner consistent with the  
396 provisions of Title 21 parts 211 and 600-640, Code of Federal  
397 Regulations.

398 (3) Any blood establishment determined to be operating in  
399 the state in a manner not consistent with the provisions of  
400 Title 21 parts 211 and 600-640, Code of Federal Regulations, and  
401 in a manner that constitutes a danger to the health or well-  
402 being of donors or recipients as evidenced by the federal Food  
403 and Drug Administration's inspection reports and the revocation  
404 of the blood establishment's license or registration shall be in  
405 violation of this chapter and shall immediately cease all  
406 operations in the state.

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407 (4) The operation of a blood establishment in a manner not  
408 consistent with the provisions of Title 21 parts 211 and 600-  
409 640, Code of Federal Regulations, and in a manner that  
410 constitutes a danger to the health or well-being of blood donors  
411 or recipients as evidenced by the federal Food and Drug  
412 Administration's inspection process is declared a nuisance and  
413 inimical to the public health, welfare, and safety. The Agency  
414 for Health Care Administration or any state attorney may bring  
415 an action for an injunction to restrain such operations or  
416 enjoin the future operation of the blood establishment.

417 (5) A blood establishment that collects blood or blood  
418 components from volunteer donors must disclose on the Internet  
419 information to educate and inform donors and the public about  
420 the blood establishment's activities. A hospital that collects  
421 blood or blood components from volunteer donors for its own use  
422 or for health care providers that are part of its business  
423 entity is exempt from the disclosure requirements in this  
424 subsection. The information required to be disclosed under this  
425 subsection may be cumulative for all blood establishments within  
426 a business entity. Disciplinary action against the blood  
427 establishment's clinical laboratory license may be taken as  
428 provided in s. 483.201 for a blood establishment that is  
429 required to disclose but fails to disclose on its website all of  
430 the following information:

431 (a) A description of the steps involved in collecting,  
432 processing, and distributing volunteer donations, presented in a  
433 manner appropriate for the donating public.

434 (b) By March 1 of each year, the number of units of blood  
435 components, identified by component, which were:

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436 1. Produced by the blood establishment during the preceding  
437 calendar year;

438 2. Obtained from other sources during the preceding  
439 calendar year;

440 3. Distributed during the preceding year to health care  
441 providers located outside this state. However, if the blood  
442 establishment collects donations in a county outside this state,  
443 distributions to health care providers in that county shall be  
444 excluded. Such information shall be aggregated by health care  
445 providers located within the United States and its territories  
446 or outside the United States and its territories; and

447 4. Distributed to entities that are not health care  
448 providers during the preceding year. Such information shall be  
449 aggregated by purchasers located within the United States and  
450 its territories or outside the United States and its  
451 territories;

452  
453 For purposes of this paragraph, the components that must be  
454 reported include whole blood, red blood cells, leukoreduced red  
455 blood cells, fresh frozen plasma or the equivalent, recovered  
456 plasma, platelets, and cryoprecipitated antihemophilic factor.

457 (c) The blood establishment's conflict-of-interest policy,  
458 policy concerning related-party transactions, whistleblower  
459 policy, and policy for determining executive compensation. If a  
460 change to any of these documents occurs, the revised document  
461 must be available on the blood establishment's website by the  
462 following March 1.

463 (d)1. The most recent 3 years of the Return of Organization  
464 Exempt from Income Tax, Internal Revenue Service Form 990, if

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465 the business entity for the blood establishment is eligible to  
466 file such return. The Form 990 must be available on the blood  
467 establishment's website within 30 calendar days after filing it  
468 with the Internal Revenue Service; or

469 2. If the business entity for the blood establishment is  
470 not eligible to file the Form 990 return, a balance sheet,  
471 income statement, statement of changes in cash flow, and the  
472 expression of an opinion thereon by an independent certified  
473 public accountant who audited or reviewed such financial  
474 statements. Such documents must be available on the blood  
475 establishment's website within 120 days after the end of the  
476 blood establishment's fiscal year and must remain on the blood  
477 establishment's website for at least 36 months.

478 Section 5. Section 383.325, Florida Statutes, is repealed.

479 Section 6. Subsection (2) of section 394.741, Florida  
480 Statutes, is amended to read:

481 394.741 Accreditation requirements for providers of  
482 behavioral health care services.—

483 (2) Notwithstanding any ~~provision of~~ law to the contrary,  
484 accreditation shall be accepted by the agency and department in  
485 lieu of the agency's and department's facility licensure onsite  
486 review requirements and shall be accepted as a substitute for  
487 the department's administrative and program monitoring  
488 requirements, except as required by subsections (3) and (4),  
489 for:

490 (a) Any organization from which the department purchases  
491 behavioral health care services that is accredited by the Joint  
492 Commission ~~on Accreditation of Healthcare Organizations~~ or the  
493 Council on Accreditation ~~for Children and Family Services~~, or

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494 has those services that are being purchased by the department  
 495 accredited by CARF—the Rehabilitation Accreditation Commission.

496 (b) Any mental health facility licensed by the agency or  
 497 any substance abuse component licensed by the department that is  
 498 accredited by the Joint Commission ~~on Accreditation of~~  
 499 ~~Healthcare Organizations~~, CARF—the Rehabilitation Accreditation  
 500 Commission, or the Council on Accreditation ~~of Children and~~  
 501 ~~Family Services~~.

502 (c) Any network of providers from which the department or  
 503 the agency purchases behavioral health care services accredited  
 504 by the Joint Commission ~~on Accreditation of Healthcare~~  
 505 ~~Organizations~~, CARF—the Rehabilitation Accreditation Commission,  
 506 the Council on Accreditation ~~of Children and Family Services~~, or  
 507 the National Committee for Quality Assurance. A provider  
 508 organization that, ~~which~~ is part of an accredited network, is  
 509 afforded the same rights under this part.

510 Section 7. Subsection (7) of section 394.4787, Florida  
 511 Statutes, is amended to read:

512 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and  
 513 394.4789.—As used in this section and ss. 394.4786, 394.4788,  
 514 and 394.4789:

515 (7) "Specialty psychiatric hospital" means a hospital  
 516 licensed by the agency pursuant to s. 395.002(26) ~~s. 395.002(28)~~  
 517 and part II of chapter 408 as a specialty psychiatric hospital.

518 Section 8. Section 395.002, Florida Statutes, is amended to  
 519 read:

520 395.002 Definitions.—As used in this chapter the term:

521 (1) "Accrediting organizations" means nationally recognized  
 522 or approved accrediting organizations whose standards

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523 incorporate comparable licensure requirements as determined by  
524 the agency ~~the Joint Commission on Accreditation of Healthcare~~  
525 ~~Organizations, the American Osteopathic Association, the~~  
526 ~~Commission on Accreditation of Rehabilitation Facilities, and~~  
527 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

528 (2) "Agency" means the Agency for Health Care  
529 Administration.

530 (3) "Ambulatory surgical center" or "mobile surgical  
531 facility" means a facility that has as its ~~the~~ primary purpose  
532 the provision of ~~which is to provide~~ elective surgical care, in  
533 which the patient is admitted to and discharged from the ~~such~~  
534 facility within the same working day and is not permitted to  
535 stay overnight, and which is not part of a hospital. However, a  
536 facility existing for the primary purpose of performing  
537 terminations of pregnancy, an office maintained by a physician  
538 for the practice of medicine, or an office maintained for the  
539 practice of dentistry shall not be construed to be an ambulatory  
540 surgical center, provided that any facility or office that ~~which~~  
541 is certified or seeks certification as a Medicare ambulatory  
542 surgical center shall be licensed as an ambulatory surgical  
543 center pursuant to s. 395.003. Any structure or vehicle in which  
544 a physician maintains an office and practices surgery, and which  
545 can appear to the public to be a mobile office because the  
546 structure or vehicle operates at more than one address, shall be  
547 construed to be a mobile surgical facility.

548 (4) "Biomedical waste" means any solid or liquid waste as  
549 defined in s. 381.0098(2)(a).

550 (5) "Clinical privileges" means the privileges granted to a  
551 physician or other licensed health care practitioner to render

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552 patient care services in a hospital, but does not include the  
553 privilege of admitting patients.

554 (6) "Department" means the Department of Health.

555 (7) "Director" means any member of the official board of  
556 directors as reported in the organization's annual corporate  
557 report to the Florida Department of State, or, if no such report  
558 is made, any member of the operating board of directors. The  
559 term excludes members of separate, restricted boards that serve  
560 only in an advisory capacity to the operating board.

561 (8) "Emergency medical condition" means:

562 (a) A medical condition manifesting itself by acute  
563 symptoms of sufficient severity, which may include severe pain,  
564 such that the absence of immediate medical attention could  
565 reasonably be expected to result in any of the following:

566 1. Serious jeopardy to patient health, including a pregnant  
567 woman or fetus.

568 2. Serious impairment to bodily functions.

569 3. Serious dysfunction of any bodily organ or part.

570 (b) With respect to a pregnant woman:

571 1. That there is inadequate time to effect safe transfer to  
572 another hospital prior to delivery;

573 2. That a transfer may pose a threat to the health and  
574 safety of the patient or fetus; or

575 3. That there is evidence of the onset and persistence of  
576 uterine contractions or rupture of the membranes.

577 (9) "Emergency services and care" means medical screening,  
578 examination, and evaluation by a physician, or, to the extent  
579 permitted by applicable law, by other appropriate personnel  
580 under the supervision of a physician, to determine if an

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581 emergency medical condition exists and, if it does, the care,  
582 treatment, or surgery by a physician necessary to relieve or  
583 eliminate the emergency medical condition, within the service  
584 capability of the facility.

585 (10) "General hospital" means any facility that ~~which~~ meets  
586 the provisions of subsection (12) and which regularly makes its  
587 facilities and services available to the general population.

588 (11) "Governmental unit" means the state or any county,  
589 municipality, or other political subdivision, or any department,  
590 division, board, or other agency of any of the foregoing.

591 (12) "Hospital" means any establishment that:

592 (a) Offers services more intensive than those required for  
593 room, board, personal services, and general nursing care, and  
594 offers facilities and beds for use beyond 24 hours by  
595 individuals requiring diagnosis, treatment, or care for illness,  
596 injury, deformity, infirmity, abnormality, disease, or  
597 pregnancy; and

598 (b) Regularly makes available at least clinical laboratory  
599 services, diagnostic X-ray services, and treatment facilities  
600 for surgery or obstetrical care, or other definitive medical  
601 treatment of similar extent, except that a critical access  
602 hospital, as defined in s. 408.07, shall not be required to make  
603 available treatment facilities for surgery, obstetrical care, or  
604 similar services as long as it maintains its critical access  
605 hospital designation and shall be required to make such  
606 facilities available only if it ceases to be designated as a  
607 critical access hospital.

608  
609 However, ~~the provisions of~~ this chapter does ~~do~~ not apply to any

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610 institution conducted by or for the adherents of any well-  
611 recognized church or religious denomination that depends  
612 exclusively upon prayer or spiritual means to heal, care for, or  
613 treat any person. For purposes of local zoning matters, the term  
614 "hospital" includes a medical office building located on the  
615 same premises as a hospital facility, provided the land on which  
616 the medical office building is constructed is zoned for use as a  
617 hospital; provided the premises were zoned for hospital purposes  
618 on January 1, 1992.

619 (13) "Hospital bed" means a hospital accommodation that  
620 ~~which~~ is ready for immediate occupancy, or is capable of being  
621 made ready for occupancy within 48 hours, excluding provision of  
622 staffing, and which conforms to minimum space, equipment, and  
623 furnishings standards as specified by rule of the agency for the  
624 provision of services specified in this section to a single  
625 patient.

626 ~~(14) "Initial denial determination" means a determination~~  
627 ~~by a private review agent that the health care services~~  
628 ~~furnished or proposed to be furnished to a patient are~~  
629 ~~inappropriate, not medically necessary, or not reasonable.~~

630 (14) ~~(15)~~ "Intensive residential treatment programs for  
631 children and adolescents" means a specialty hospital accredited  
632 by an accrediting organization as defined in subsection (1)  
633 which provides 24-hour care and which has the primary functions  
634 of diagnosis and treatment of patients under the age of 18  
635 having psychiatric disorders in order to restore such patients  
636 to an optimal level of functioning.

637 (15) ~~(16)~~ "Licensed facility" means a hospital, ambulatory  
638 surgical center, or mobile surgical facility licensed in

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639 accordance with this chapter.

640 (16)~~(17)~~ "Lifesafety" means the control and prevention of  
641 fire and other life-threatening conditions on a premises for the  
642 purpose of preserving human life.

643 (17)~~(18)~~ "Managing employee" means the administrator or  
644 other similarly titled individual who is responsible for the  
645 daily operation of the facility.

646 (18)~~(19)~~ "Medical staff" means physicians licensed under  
647 chapter 458 or chapter 459 with privileges in a licensed  
648 facility, as well as other licensed health care practitioners  
649 with clinical privileges as approved by a licensed facility's  
650 governing board.

651 (19)~~(20)~~ "Medically necessary transfer" means a transfer  
652 made necessary because the patient is in immediate need of  
653 treatment for an emergency medical condition for which the  
654 facility lacks service capability or is at service capacity.

655 (20)~~(21)~~ "Mobile surgical facility" is a mobile facility in  
656 which licensed health care professionals provide elective  
657 surgical care under contract with the Department of Corrections  
658 or a private correctional facility operating pursuant to chapter  
659 957 and in which inmate patients are admitted to and discharged  
660 from said facility within the same working day and are not  
661 permitted to stay overnight. However, mobile surgical facilities  
662 may only provide health care services to the inmate patients of  
663 the Department of Corrections, or inmate patients of a private  
664 correctional facility operating pursuant to chapter 957, and not  
665 to the general public.

666 (21)~~(22)~~ "Person" means any individual, partnership,  
667 corporation, association, or governmental unit.

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668       (22)~~(23)~~ "Premises" means those buildings, beds, and  
669 equipment located at the address of the licensed facility and  
670 all other buildings, beds, and equipment for the provision of  
671 hospital, ambulatory surgical, or mobile surgical care located  
672 in such reasonable proximity to the address of the licensed  
673 facility as to appear to the public to be under the dominion and  
674 control of the licensee. For any licensee that is a teaching  
675 hospital as defined in s. 408.07(45), reasonable proximity  
676 includes any buildings, beds, services, programs, and equipment  
677 under the dominion and control of the licensee that are located  
678 at a site with a main address that is within 1 mile of the main  
679 address of the licensed facility; and all such buildings, beds,  
680 and equipment may, at the request of a licensee or applicant, be  
681 included on the facility license as a single premises.

682       ~~(24) "Private review agent" means any person or entity~~  
683 ~~which performs utilization review services for third-party~~  
684 ~~payors on a contractual basis for outpatient or inpatient~~  
685 ~~services. However, the term shall not include full-time~~  
686 ~~employees, personnel, or staff of health insurers, health~~  
687 ~~maintenance organizations, or hospitals, or wholly owned~~  
688 ~~subsidiaries thereof or affiliates under common ownership, when~~  
689 ~~performing utilization review for their respective hospitals,~~  
690 ~~health maintenance organizations, or insureds of the same~~  
691 ~~insurance group. For this purpose, health insurers, health~~  
692 ~~maintenance organizations, and hospitals, or wholly owned~~  
693 ~~subsidiaries thereof or affiliates under common ownership,~~  
694 ~~include such entities engaged as administrators of self-~~  
695 ~~insurance as defined in s. 624.031.~~

696       (23)~~(25)~~ "Service capability" means all services offered by

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697 the facility where identification of services offered is  
698 evidenced by the appearance of the service in a patient's  
699 medical record or itemized bill.

700 (24)~~(26)~~ "At service capacity" means the temporary  
701 inability of a hospital to provide a service that ~~which~~ is  
702 within the service capability of the hospital, due to maximum  
703 use of the service at the time of the request for the service.

704 (25)~~(27)~~ "Specialty bed" means a bed, other than a general  
705 bed, designated on the face of the hospital license for a  
706 dedicated use.

707 (26)~~(28)~~ "Specialty hospital" means any facility that ~~which~~  
708 meets the provisions of subsection (12), ~~and which~~ regularly  
709 makes available either:

710 (a) The range of medical services offered by general  
711 hospitals, but restricted to a defined age or gender group of  
712 the population;

713 (b) A restricted range of services appropriate to the  
714 diagnosis, care, and treatment of patients with specific  
715 categories of medical or psychiatric illnesses or disorders; or

716 (c) Intensive residential treatment programs for children  
717 and adolescents as defined in subsection (15).

718 (27)~~(29)~~ "Stabilized" means, with respect to an emergency  
719 medical condition, that no material deterioration of the  
720 condition is likely, within reasonable medical probability, to  
721 result from the transfer of the patient from a hospital.

722 ~~(30) "Utilization review" means a system for reviewing the~~  
723 ~~medical necessity or appropriateness in the allocation of health~~  
724 ~~care resources of hospital services given or proposed to be~~  
725 ~~given to a patient or group of patients.~~

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726 ~~(31) "Utilization review plan" means a description of the~~  
727 ~~policies and procedures governing utilization review activities~~  
728 ~~performed by a private review agent.~~

729 ~~(28)~~(32) "Validation inspection" means an inspection of the  
730 premises of a licensed facility by the agency to assess whether  
731 a review by an accrediting organization has adequately evaluated  
732 the licensed facility according to minimum state standards.

733 Section 9. Subsection (1) and paragraph (b) of subsection  
734 (2) of section 395.003, Florida Statutes, are amended to read:  
735 395.003 Licensure; denial, suspension, and revocation.—

736 (1) (a) The requirements of part II of chapter 408 apply to  
737 the provision of services that require licensure pursuant to ss.  
738 395.001-395.1065 and part II of chapter 408 and to entities  
739 licensed by or applying for such licensure from the Agency for  
740 Health Care Administration pursuant to ss. 395.001-395.1065. A  
741 license issued by the agency is required in order to operate a  
742 hospital, ambulatory surgical center, or mobile surgical  
743 facility in this state.

744 (b)1. It is unlawful for a person to use or advertise to  
745 the public, in any way or by any medium whatsoever, any facility  
746 as a "hospital," "ambulatory surgical center," or "mobile  
747 surgical facility" unless such facility has first secured a  
748 license under the provisions of this part.

749 2. This part does not apply to veterinary hospitals or to  
750 commercial business establishments using the word "hospital,"  
751 "ambulatory surgical center," or "mobile surgical facility" as a  
752 part of a trade name if no treatment of human beings is  
753 performed on the premises of such establishments.

754 ~~(c) Until July 1, 2006, additional emergency departments~~

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755 ~~located off the premises of licensed hospitals may not be~~  
756 ~~authorized by the agency.~~

757 (2)

758 (b) The agency shall, at the request of a licensee that is  
759 a teaching hospital as defined in s. 408.07(45), issue a single  
760 license to a licensee for facilities that have been previously  
761 licensed as separate premises, provided such separately licensed  
762 facilities, taken together, constitute the same premises as  
763 defined in s. 395.002(22) ~~s. 395.002(23)~~. Such license for the  
764 single premises shall include all of the beds, services, and  
765 programs that were previously included on the licenses for the  
766 separate premises. The granting of a single license under this  
767 paragraph shall not in any manner reduce the number of beds,  
768 services, or programs operated by the licensee.

769 Section 10. Paragraph (e) of subsection (2) and subsection  
770 (4) of section 395.0193, Florida Statutes, are amended to read:

771 395.0193 Licensed facilities; peer review; disciplinary  
772 powers; agency or partnership with physicians.—

773 (2) Each licensed facility, as a condition of licensure,  
774 shall provide for peer review of physicians who deliver health  
775 care services at the facility. Each licensed facility shall  
776 develop written, binding procedures by which such peer review  
777 shall be conducted. Such procedures shall include:

778 (e) Recording of agendas and minutes that ~~which~~ do not  
779 contain confidential material, for review by the Division of  
780 Medical Quality Assurance of the department ~~Health Quality~~  
781 ~~Assurance of the agency.~~

782 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
783 actions taken under subsection (3) shall be reported in writing

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784 to the Division of Medical Quality Assurance of the department  
785 ~~Health Quality Assurance of the agency~~ within 30 working days  
786 after its initial occurrence, regardless of the pendency of  
787 appeals to the governing board of the hospital. The notification  
788 shall identify the disciplined practitioner, the action taken,  
789 and the reason for such action. All final disciplinary actions  
790 taken under subsection (3), if different from those ~~which were~~  
791 reported to the department agency within 30 days after the  
792 initial occurrence, shall be reported within 10 working days to  
793 the Division of Medical Quality Assurance of the department  
794 ~~Health Quality Assurance of the agency~~ in writing and shall  
795 specify the disciplinary action taken and the specific grounds  
796 therefor. The division shall review each report and determine  
797 whether it potentially involved conduct by the licensee that is  
798 subject to disciplinary action, in which case s. 456.073 shall  
799 apply. The reports are not subject to inspection under s.  
800 119.07(1) even if the division's investigation results in a  
801 finding of probable cause.

802 Section 11. Section 395.1023, Florida Statutes, is amended  
803 to read:

804 395.1023 Child abuse and neglect cases; duties.—Each  
805 licensed facility shall adopt a protocol that, at a minimum,  
806 requires the facility to:

807 (1) Incorporate a facility policy that every staff member  
808 has an affirmative duty to report, pursuant to chapter 39, any  
809 actual or suspected case of child abuse, abandonment, or  
810 neglect; and

811 (2) In any case involving suspected child abuse,  
812 abandonment, or neglect, designate, at the request of the

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813 Department of Children and Family Services ~~department~~, a staff  
814 physician to act as a liaison between the hospital and the  
815 Department of Children and Family Services office that ~~which~~ is  
816 investigating the suspected abuse, abandonment, or neglect, and  
817 the child protection team, as defined in s. 39.01, when the case  
818 is referred to such a team.

819  
820 Each general hospital and appropriate specialty hospital shall  
821 comply with the provisions of this section and shall notify the  
822 agency and the Department of Children and Family Services  
823 ~~department~~ of its compliance by sending a copy of its policy to  
824 the agency and the Department of Children and Family Services  
825 ~~department~~ as required by rule. The failure by a general  
826 hospital or appropriate specialty hospital to comply shall be  
827 punished by a fine not exceeding \$1,000, to be fixed, imposed,  
828 and collected by the agency. Each day in violation is considered  
829 a separate offense.

830 Section 12. Subsection (2) and paragraph (d) of subsection  
831 (3) of section 395.1041, Florida Statutes, are amended to read:

832 395.1041 Access to emergency services and care.—

833 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency  
834 shall establish and maintain an inventory of hospitals with  
835 emergency services. The inventory shall list all services within  
836 the service capability of the hospital, and such services shall  
837 appear on the face of the hospital license. Each hospital having  
838 emergency services shall notify the agency of its service  
839 capability in the manner and form prescribed by the agency. The  
840 agency shall use the inventory to assist emergency medical  
841 services providers and others in locating appropriate emergency

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842 medical care. The inventory shall also be made available to the  
843 general public. ~~On or before August 1, 1992, the agency shall~~  
844 ~~request that each hospital identify the services which are~~  
845 ~~within its service capability. On or before November 1, 1992,~~  
846 ~~the agency shall notify each hospital of the service capability~~  
847 ~~to be included in the inventory. The hospital has 15 days from~~  
848 ~~the date of receipt to respond to the notice. By December 1,~~  
849 ~~1992, the agency shall publish a final inventory.~~ Each hospital  
850 shall reaffirm its service capability when its license is  
851 renewed and shall notify the agency of the addition of a new  
852 service or the termination of a service prior to a change in its  
853 service capability.

854 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
855 FACILITY OR HEALTH CARE PERSONNEL.—

856 (d)1. Every hospital shall ensure the provision of services  
857 within the service capability of the hospital, at all times,  
858 either directly or indirectly through an arrangement with  
859 another hospital, through an arrangement with one or more  
860 physicians, or as otherwise made through prior arrangements. A  
861 hospital may enter into an agreement with another hospital for  
862 purposes of meeting its service capability requirement, and  
863 appropriate compensation or other reasonable conditions may be  
864 negotiated for these backup services.

865 2. If any arrangement requires the provision of emergency  
866 medical transportation, such arrangement must be made in  
867 consultation with the applicable provider and may not require  
868 the emergency medical service provider to provide transportation  
869 that is outside the routine service area of that provider or in  
870 a manner that impairs the ability of the emergency medical

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871 service provider to timely respond to prehospital emergency  
872 calls.

873 3. A hospital shall not be required to ensure service  
874 capability at all times as required in subparagraph 1. if, prior  
875 to the receiving of any patient needing such service capability,  
876 such hospital has demonstrated to the agency that it lacks the  
877 ability to ensure such capability and it has exhausted all  
878 reasonable efforts to ensure such capability through backup  
879 arrangements. In reviewing a hospital's demonstration of lack of  
880 ability to ensure service capability, the agency shall consider  
881 factors relevant to the particular case, including the  
882 following:

883 a. Number and proximity of hospitals with the same service  
884 capability.

885 b. Number, type, credentials, and privileges of  
886 specialists.

887 c. Frequency of procedures.

888 d. Size of hospital.

889 4. The agency shall publish proposed rules implementing a  
890 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~  
891 ~~1. shall become effective upon the effective date of said rules~~  
892 ~~or January 31, 1993, whichever is earlier. For a period not to~~  
893 ~~exceed 1 year from the effective date of subparagraph 1., a~~  
894 ~~hospital requesting an exemption shall be deemed to be exempt~~  
895 ~~from offering the service until the agency initially acts to~~  
896 ~~deny or grant the original request. The agency has 45 days from~~  
897 ~~the date of receipt of the request to approve or deny the~~  
898 ~~request. After the first year from the effective date of~~  
899 ~~subparagraph 1.,~~ If the agency fails to initially act within the

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900 time period, the hospital is deemed to be exempt from offering  
901 the service until the agency initially acts to deny the request.

902 Section 13. Section 395.1046, Florida Statutes, is  
903 repealed.

904 Section 14. Paragraph (e) of subsection (1) of section  
905 395.1055, Florida Statutes, is amended to read:

906 395.1055 Rules and enforcement.—

907 (1) The agency shall adopt rules pursuant to ss. 120.536(1)  
908 and 120.54 to implement the provisions of this part, which shall  
909 include reasonable and fair minimum standards for ensuring that:

910 (e) Licensed facility beds conform to minimum space,  
911 equipment, and furnishings standards as specified by the agency,  
912 the Florida Building Code, and the Florida Fire Prevention Code  
913 ~~department.~~

914 Section 15. Subsection (1) of section 395.10972, Florida  
915 Statutes, is amended to read:

916 395.10972 Health Care Risk Manager Advisory Council.—The  
917 Secretary of Health Care Administration may appoint a seven-  
918 member advisory council to advise the agency on matters  
919 pertaining to health care risk managers. The members of the  
920 council shall serve at the pleasure of the secretary. The  
921 council shall designate a chair. The council shall meet at the  
922 call of the secretary or at those times as may be required by  
923 rule of the agency. The members of the advisory council shall  
924 receive no compensation for their services, but shall be  
925 reimbursed for travel expenses as provided in s. 112.061. The  
926 council shall consist of individuals representing the following  
927 areas:

928 (1) Two shall be active health care risk managers,

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929 including one risk manager who is recommended by and a member of  
930 the Florida Society for ~~of~~ Healthcare Risk Management and  
931 Patient Safety.

932 Section 16. Subsection (3) of section 395.2050, Florida  
933 Statutes, is amended to read:

934 395.2050 Routine inquiry for organ and tissue donation;  
935 certification for procurement activities; death records review.-

936 (3) Each organ procurement organization designated by the  
937 federal Centers for Medicare and Medicaid Services ~~Health Care~~  
938 ~~Financing Administration~~ and licensed by the state shall conduct  
939 an annual death records review in the organ procurement  
940 organization's affiliated donor hospitals. The organ procurement  
941 organization shall enlist the services of every Florida licensed  
942 tissue bank and eye bank affiliated with or providing service to  
943 the donor hospital and operating in the same service area to  
944 participate in the death records review.

945 Section 17. Subsection (2) of section 395.3036, Florida  
946 Statutes, is amended to read:

947 395.3036 Confidentiality of records and meetings of  
948 corporations that lease public hospitals or other public health  
949 care facilities.-The records of a private corporation that  
950 leases a public hospital or other public health care facility  
951 are confidential and exempt from the provisions of s. 119.07(1)  
952 and s. 24(a), Art. I of the State Constitution, and the meetings  
953 of the governing board of a private corporation are exempt from  
954 s. 286.011 and s. 24(b), Art. I of the State Constitution when  
955 the public lessor complies with the public finance  
956 accountability provisions of s. 155.40(5) with respect to the  
957 transfer of any public funds to the private lessee and when the

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958 private lessee meets at least three of the five following  
959 criteria:

960 (2) The public lessor and the private lessee do not  
961 commingle any of their funds in any account maintained by either  
962 of them, other than the payment of the rent and administrative  
963 fees or the transfer of funds pursuant to subsection (5)~~(2)~~.

964 Section 18. Section 395.3037, Florida Statutes, is  
965 repealed.

966 Section 19. Subsections (1), (4), and (5) of section  
967 395.3038, Florida Statutes, are amended to read:

968 395.3038 State-listed primary stroke centers and  
969 comprehensive stroke centers; notification of hospitals.-

970 (1) The agency shall make available on its website and to  
971 the department a list of the name and address of each hospital  
972 that meets the criteria for a primary stroke center and the name  
973 and address of each hospital that meets the criteria for a  
974 comprehensive stroke center. The list of primary and  
975 comprehensive stroke centers shall include only those hospitals  
976 that attest in an affidavit submitted to the agency that the  
977 hospital meets the named criteria, or those hospitals that  
978 attest in an affidavit submitted to the agency that the hospital  
979 is certified as a primary or a comprehensive stroke center by  
980 the Joint Commission ~~on Accreditation of Healthcare~~  
981 ~~Organizations.~~

982 (4) The agency shall adopt by rule criteria for a primary  
983 stroke center which are substantially similar to the  
984 certification standards for primary stroke centers of the Joint  
985 Commission ~~on Accreditation of Healthcare Organizations.~~

986 (5) The agency shall adopt by rule criteria for a

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987 comprehensive stroke center. However, if the Joint Commission ~~on~~  
988 ~~Accreditation of Healthcare Organizations~~ establishes criteria  
989 for a comprehensive stroke center, the agency shall establish  
990 criteria for a comprehensive stroke center which are  
991 substantially similar to those criteria established by the Joint  
992 Commission ~~on Accreditation of Healthcare Organizations~~.

993 Section 20. Subsection (2) of section 395.602, Florida  
994 Statutes, is amended to read:

995 395.602 Rural hospitals.—

996 (2) DEFINITIONS.—As used in this part:

997 (a) "Emergency care hospital" means a medical facility that  
998 ~~which~~ provides:

999 1. Emergency medical treatment; and

1000 2. Inpatient care to ill or injured persons prior to their  
1001 transportation to another hospital or provides inpatient medical  
1002 care to persons needing care for a period of up to 96 hours. The  
1003 96-hour limitation on inpatient care does not apply to respite,  
1004 skilled nursing, hospice, or other nonacute care patients.

1005 (b) "Essential access community hospital" means any  
1006 facility that ~~which~~:

1007 1. Has at least 100 beds;

1008 2. Is located more than 35 miles from any other essential  
1009 access community hospital, rural referral center, or urban  
1010 hospital meeting criteria for classification as a regional  
1011 referral center;

1012 3. Is part of a network that includes rural primary care  
1013 hospitals;

1014 4. Provides emergency and medical backup services to rural  
1015 primary care hospitals in its rural health network;

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1016 5. Extends staff privileges to rural primary care hospital  
1017 physicians in its network; and

1018 6. Accepts patients transferred from rural primary care  
1019 hospitals in its network.

1020 (c) "Inactive rural hospital bed" means a licensed acute  
1021 care hospital bed, as defined in s. 395.002(13), that is  
1022 inactive in that it cannot be occupied by acute care inpatients.

1023 (d) "Rural area health education center" means an area  
1024 health education center (AHEC), as authorized by Pub. L. No. 94-  
1025 484, which provides services in a county with a population  
1026 density of no greater than 100 persons per square mile.

1027 (e) "Rural hospital" means an acute care hospital licensed  
1028 under this chapter which has, ~~having~~ 100 or fewer licensed beds  
1029 and an emergency room and, ~~which~~ is:

1030 1. The sole provider within a county with a population  
1031 density of no greater than 100 persons per square mile;

1032 2. An acute care hospital, in a county with a population  
1033 density of no greater than 100 persons per square mile, which is  
1034 at least 30 minutes of travel time, on normally traveled roads  
1035 under normal traffic conditions, from any other acute care  
1036 hospital within the same county;

1037 3. A hospital supported by a tax district or subdistrict  
1038 whose boundaries encompass a population of 100 persons or fewer  
1039 per square mile;

1040 ~~4. A hospital in a constitutional charter county with a~~  
1041 ~~population of over 1 million persons that has imposed a local~~  
1042 ~~option health service tax pursuant to law and in an area that~~  
1043 ~~was directly impacted by a catastrophic event on August 24,~~  
1044 ~~1992, for which the Governor of Florida declared a state of~~

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1045 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~  
1046 ~~serves an agricultural community with an emergency room~~  
1047 ~~utilization of no less than 20,000 visits and a Medicaid~~  
1048 ~~inpatient utilization rate greater than 15 percent;~~

1049 4.5. A hospital with a service area that has a population  
1050 of 100 persons or fewer per square mile. As used in this  
1051 subparagraph, the term "service area" means the fewest number of  
1052 zip codes that account for 75 percent of the hospital's  
1053 discharges for the most recent 5-year period, based on  
1054 information available from the hospital inpatient discharge  
1055 database in the Florida Center for Health Information and Policy  
1056 Analysis at the Agency for Health Care Administration; or

1057 5.6. A hospital designated as a critical access hospital,  
1058 as defined in s. 408.07(15).

1059  
1060 Population densities used in this paragraph must be based upon  
1061 the most recently completed United States census. A hospital  
1062 that received funds under s. 409.9116 for a quarter beginning no  
1063 later than July 1, 2002, is deemed to have been and shall  
1064 continue to be a rural hospital from that date through June 30,  
1065 2015, if the hospital continues to have 100 or fewer licensed  
1066 beds and an emergency room, ~~or meets the criteria of~~  
1067 ~~subparagraph 4.~~ An acute care hospital that has not previously  
1068 been designated as a rural hospital and that meets the criteria  
1069 of this paragraph shall be granted such designation upon  
1070 application, including supporting documentation to the Agency  
1071 for Health Care Administration.

1072 (f) "Rural primary care hospital" means any facility  
1073 meeting the criteria in paragraph (e) or s. 395.605 which

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1074 provides:

- 1075 1. Twenty-four-hour emergency medical care;
- 1076 2. Temporary inpatient care for periods of 72 hours or less
- 1077 to patients requiring stabilization before discharge or transfer
- 1078 to another hospital. The 72-hour limitation does not apply to
- 1079 respite, skilled nursing, hospice, or other nonacute care
- 1080 patients; and
- 1081 3. Has no more than six licensed acute care inpatient beds.

1082 (g) "Swing-bed" means a bed that ~~which~~ can be used

1083 interchangeably as either a hospital, skilled nursing facility

1084 (SNF), or intermediate care facility (ICF) bed pursuant to 42

1085 C.F.R. parts 405, 435, 440, 442, and 447.

1086 Section 21. Subsection (8) of section 400.021, Florida

1087 Statutes, is amended to read:

1088 400.021 Definitions.—When used in this part, unless the

1089 context otherwise requires, the term:

1090 (8) "Geriatric outpatient clinic" means a site for

1091 providing outpatient health care to persons 60 years of age or

1092 older, ~~which~~ is staffed by a registered nurse or a physician

1093 assistant, a licensed practical nurse under the direct

1094 supervision of a registered nurse, or an advanced registered

1095 nurse practitioner.

1096 Section 22. Paragraph (g) of subsection (2) of section

1097 400.0239, Florida Statutes, is amended to read:

1098 400.0239 Quality of Long-Term Care Facility Improvement

1099 Trust Fund.—

1100 (2) Expenditures from the trust fund shall be allowable for

1101 direct support of the following:

1102 (g) Other initiatives authorized by the Centers for

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1103 Medicare and Medicaid Services for the use of federal civil  
1104 monetary penalties, ~~including projects recommended through the~~  
1105 ~~Medicaid "Up or Out" Quality of Care Contract Management Program~~  
1106 ~~pursuant to s. 400.148.~~

1107 Section 23. Subsection (15) of section 400.0255, Florida  
1108 Statutes, is amended to read

1109 400.0255 Resident transfer or discharge; requirements and  
1110 procedures; hearings.-

1111 (15) (a) The department's Office of Appeals Hearings shall  
1112 conduct hearings under this section. The office shall notify the  
1113 facility of a resident's request for a hearing.

1114 (b) The department shall, by rule, establish procedures to  
1115 be used for fair hearings requested by residents. These  
1116 procedures shall be equivalent to the procedures used for fair  
1117 hearings for other Medicaid cases appearing in s. 409.285 and  
1118 applicable rules, chapter 10-2, part VI, Florida Administrative  
1119 Code. The burden of proof must be clear and convincing evidence.  
1120 A hearing decision must be rendered within 90 days after receipt  
1121 of the request for hearing.

1122 (c) If the hearing decision is favorable to the resident  
1123 who has been transferred or discharged, the resident must be  
1124 readmitted to the facility's first available bed.

1125 (d) The decision of the hearing officer shall be final. Any  
1126 aggrieved party may appeal the decision to the district court of  
1127 appeal in the appellate district where the facility is located.  
1128 Review procedures shall be conducted in accordance with the  
1129 Florida Rules of Appellate Procedure.

1130 Section 24. Subsection (2) of section 400.063, Florida  
1131 Statutes, is amended to read:

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1132 400.063 Resident protection.—

1133 (2) The agency is authorized to establish for each  
1134 facility, subject to intervention by the agency, a separate bank  
1135 account for the deposit to the credit of the agency of any  
1136 moneys received from the Health Care Trust Fund or any other  
1137 moneys received for the maintenance and care of residents in the  
1138 facility, and the agency is authorized to disburse moneys from  
1139 such account to pay obligations incurred for the purposes of  
1140 this section. The agency is authorized to requisition moneys  
1141 from the Health Care Trust Fund in advance of an actual need for  
1142 cash on the basis of an estimate by the agency of moneys to be  
1143 spent under the authority of this section. Any bank account  
1144 established under this section need not be approved in advance  
1145 of its creation as required by s. 17.58, but shall be secured by  
1146 depository insurance equal to or greater than the balance of  
1147 such account or by the pledge of collateral security ~~in~~  
1148 ~~conformance with criteria established in s. 18.11.~~ The agency  
1149 shall notify the Chief Financial Officer of any such account so  
1150 established and shall make a quarterly accounting to the Chief  
1151 Financial Officer for all moneys deposited in such account.

1152 Section 25. Subsections (1) and (5) of section 400.071,  
1153 Florida Statutes, are amended to read:

1154 400.071 Application for license.—

1155 (1) In addition to the requirements of part II of chapter  
1156 408, the application for a license shall be under oath and must  
1157 contain the following:

1158 (a) The location of the facility for which a license is  
1159 sought and an indication, as in the original application, that  
1160 such location conforms to the local zoning ordinances.

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1161       ~~(b) A signed affidavit disclosing any financial or~~  
1162 ~~ownership interest that a controlling interest as defined in~~  
1163 ~~part II of chapter 408 has held in the last 5 years in any~~  
1164 ~~entity licensed by this state or any other state to provide~~  
1165 ~~health or residential care which has closed voluntarily or~~  
1166 ~~involuntarily; has filed for bankruptcy; has had a receiver~~  
1167 ~~appointed; has had a license denied, suspended, or revoked; or~~  
1168 ~~has had an injunction issued against it which was initiated by a~~  
1169 ~~regulatory agency. The affidavit must disclose the reason any~~  
1170 ~~such entity was closed, whether voluntarily or involuntarily.~~

1171       ~~(c) The total number of beds and the total number of~~  
1172 ~~Medicare and Medicaid certified beds.~~

1173       (b)~~(d)~~ Information relating to the applicant and employees  
1174 which the agency requires by rule. The applicant must  
1175 demonstrate that sufficient numbers of qualified staff, by  
1176 training or experience, will be employed to properly care for  
1177 the type and number of residents who will reside in the  
1178 facility.

1179       (c)~~(e)~~ Copies of any civil verdict or judgment involving  
1180 the applicant rendered within the 10 years preceding the  
1181 application, relating to medical negligence, violation of  
1182 residents' rights, or wrongful death. As a condition of  
1183 licensure, the licensee agrees to provide to the agency copies  
1184 of any new verdict or judgment involving the applicant, relating  
1185 to such matters, within 30 days after filing with the clerk of  
1186 the court. The information required in this paragraph shall be  
1187 maintained in the facility's licensure file and in an agency  
1188 database that ~~which~~ is available as a public record.

1189       (5) As a condition of licensure, each facility must

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1190 establish and ~~submit with its application~~ a plan for quality  
1191 assurance and for conducting risk management.

1192 Section 26. Section 400.0712, Florida Statutes, is amended  
1193 to read:

1194 400.0712 Application for inactive license.-

1195 ~~(1) As specified in this section, the agency may issue an~~  
1196 ~~inactive license to a nursing home facility for all or a portion~~  
1197 ~~of its beds. Any request by a licensee that a nursing home or~~  
1198 ~~portion of a nursing home become inactive must be submitted to~~  
1199 ~~the agency in the approved format. The facility may not initiate~~  
1200 ~~any suspension of services, notify residents, or initiate~~  
1201 ~~inactivity before receiving approval from the agency; and a~~  
1202 ~~licensee that violates this provision may not be issued an~~  
1203 ~~inactive license.~~

1204 (1)(2) In addition to the authority granted in part II of  
1205 chapter 408, the agency may issue an inactive license to a  
1206 nursing home that chooses to use an unoccupied contiguous  
1207 portion of the facility for an alternative use to meet the needs  
1208 of elderly persons through the use of less restrictive, less  
1209 institutional services.

1210 (a) An inactive license issued under this subsection may be  
1211 granted for a period not to exceed the current licensure  
1212 expiration date but may be renewed by the agency at the time of  
1213 licensure renewal.

1214 (b) A request to extend the inactive license must be  
1215 submitted to the agency in the approved format and approved by  
1216 the agency in writing.

1217 (c) Nursing homes that receive an inactive license to  
1218 provide alternative services shall not receive preference for

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1219 participation in the Assisted Living for the Elderly Medicaid  
1220 waiver.

1221 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.  
1222 120.536(1) and 120.54 necessary to administer ~~implement~~ this  
1223 section.

1224 Section 27. Section 400.111, Florida Statutes, is amended  
1225 to read:

1226 400.111 Disclosure of controlling interest.—In addition to  
1227 the requirements of part II of chapter 408, when requested by  
1228 the agency, the licensee shall submit a signed affidavit  
1229 disclosing any financial or ownership interest that a  
1230 controlling interest has held within the last 5 years in any  
1231 entity licensed by the state or any other state to provide  
1232 health or residential care if that ~~which~~ entity has closed  
1233 voluntarily or involuntarily; has filed for bankruptcy; has had  
1234 a receiver appointed; has had a license denied, suspended, or  
1235 revoked; or has had an injunction issued against it which was  
1236 initiated by a regulatory agency. The affidavit must disclose  
1237 the reason such entity was closed, whether voluntarily or  
1238 involuntarily.

1239 Section 28. Section 400.1183, Florida Statutes, is amended  
1240 to read:

1241 400.1183 Resident grievance procedures.—

1242 (1) Every nursing home must have a grievance procedure  
1243 available to its residents and their families. The grievance  
1244 procedure must include:

1245 (a) An explanation of how to pursue redress of a grievance.

1246 (b) The names, job titles, and telephone numbers of the  
1247 employees responsible for implementing the facility's grievance

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1248 procedure. The list must include the address and the toll-free  
1249 telephone numbers of the ombudsman and the agency.

1250 (c) A simple description of the process through which a  
1251 resident may, at any time, contact the toll-free telephone  
1252 hotline of the ombudsman or the agency to report the unresolved  
1253 grievance.

1254 (d) A procedure for providing assistance to residents who  
1255 cannot prepare a written grievance without help.

1256 (2) Each facility shall maintain records of all grievances  
1257 for agency inspection and ~~shall report to the agency at the time~~  
1258 ~~of relicensure the total number of grievances handled during the~~  
1259 ~~prior licensure period, a categorization of the cases underlying~~  
1260 ~~the grievances, and the final disposition of the grievances.~~

1261 (3) Each facility must respond to the grievance within a  
1262 reasonable time after its submission.

1263 (4) The agency may investigate any grievance at any time.

1264 Section 29. Section 400.141, Florida Statutes, is amended  
1265 to read:

1266 400.141 Administration and management of nursing home  
1267 facilities.—

1268 (1) Every licensed facility shall comply with all  
1269 applicable standards and rules of the agency and shall:

1270 (a) Be under the administrative direction and charge of a  
1271 licensed administrator.

1272 (b) Appoint a medical director licensed pursuant to chapter  
1273 458 or chapter 459. The agency may establish by rule more  
1274 specific criteria for the appointment of a medical director.

1275 (c) Have available the regular, consultative, and emergency  
1276 services of physicians licensed by the state.

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1277 (d) Provide for resident use of a community pharmacy as  
1278 specified in s. 400.022(1)(q). Any other law to the contrary  
1279 notwithstanding, a registered pharmacist licensed in Florida,  
1280 that is under contract with a facility licensed under this  
1281 chapter or chapter 429, shall repackage a nursing facility  
1282 resident's bulk prescription medication that ~~which~~ has been  
1283 packaged by another pharmacist licensed in any state in the  
1284 United States into a unit dose system compatible with the system  
1285 used by the nursing facility, if the pharmacist is requested to  
1286 offer such service. In order to be eligible for the repackaging,  
1287 a resident or the resident's spouse must receive prescription  
1288 medication benefits provided through a former employer as part  
1289 of his or her retirement benefits, a qualified pension plan as  
1290 specified in s. 4972 of the Internal Revenue Code, a federal  
1291 retirement program as specified under 5 C.F.R. s. 831, or a  
1292 long-term care policy as defined in s. 627.9404(1). A pharmacist  
1293 who correctly repackages and relabels the medication and the  
1294 nursing facility that ~~which~~ correctly administers such  
1295 repackaged medication under this paragraph may not be held  
1296 liable in any civil or administrative action arising from the  
1297 repackaging. In order to be eligible for the repackaging, a  
1298 nursing facility resident for whom the medication is to be  
1299 repackaged shall sign an informed consent form provided by the  
1300 facility which includes an explanation of the repackaging  
1301 process and which notifies the resident of the immunities from  
1302 liability provided in this paragraph. A pharmacist who  
1303 repackages and relabels prescription medications, as authorized  
1304 under this paragraph, may charge a reasonable fee for costs  
1305 resulting from the implementation of this provision.

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1306 (e) Provide for the access of the facility residents to  
1307 dental and other health-related services, recreational services,  
1308 rehabilitative services, and social work services appropriate to  
1309 their needs and conditions and not directly furnished by the  
1310 licensee. When a geriatric outpatient nurse clinic is conducted  
1311 in accordance with rules adopted by the agency, outpatients  
1312 attending such clinic shall not be counted as part of the  
1313 general resident population of the nursing home facility, nor  
1314 shall the nursing staff of the geriatric outpatient clinic be  
1315 counted as part of the nursing staff of the facility, until the  
1316 outpatient clinic load exceeds 15 a day.

1317 (f) Be allowed and encouraged by the agency to provide  
1318 other needed services under certain conditions. If the facility  
1319 has a standard licensure status, and has had no class I or class  
1320 II violations ~~deficiencies~~ during the past 2 years or has been  
1321 awarded a Gold Seal under the program established in s. 400.235,  
1322 it may be encouraged by the agency to provide services,  
1323 including, but not limited to, respite and adult day services  
1324 that, ~~which~~ enable individuals to move in and out of the  
1325 facility. A facility is not subject to any additional licensure  
1326 requirements for providing these services. Respite care may be  
1327 offered to persons in need of short-term or temporary nursing  
1328 home services. Respite care must be provided in accordance with  
1329 this part and rules adopted by the agency. However, the agency  
1330 shall, by rule, adopt modified requirements for resident  
1331 assessment, resident care plans, resident contracts, physician  
1332 orders, and other provisions, as appropriate, for short-term or  
1333 temporary nursing home services. The agency shall allow for  
1334 shared programming and staff in a facility that ~~which~~ meets

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1335 minimum standards and offers services pursuant to this  
1336 paragraph, but, if the facility is cited for deficiencies in  
1337 patient care, may require additional staff and programs  
1338 appropriate to the needs of service recipients. A person who  
1339 receives respite care may not be counted as a resident of the  
1340 facility for purposes of the facility's licensed capacity unless  
1341 that person receives 24-hour respite care. A person receiving  
1342 either respite care for 24 hours or longer or adult day services  
1343 must be included when calculating minimum staffing for the  
1344 facility. Any costs and revenues generated by a nursing home  
1345 facility from nonresidential programs or services shall be  
1346 excluded from the calculations of Medicaid per diems for nursing  
1347 home institutional care reimbursement.

1348 (g) If the facility has a standard license or is a Gold  
1349 Seal facility, exceeds the minimum required hours of licensed  
1350 nursing and certified nursing assistant direct care per resident  
1351 per day, and is part of a continuing care facility licensed  
1352 under chapter 651 or a retirement community that offers other  
1353 services pursuant to part III of this chapter or part I or part  
1354 III of chapter 429 on a single campus, be allowed to share  
1355 programming and staff. At the time of inspection and in the  
1356 semiannual report required pursuant to paragraph (o), a  
1357 continuing care facility or retirement community that uses this  
1358 option must demonstrate through staffing records that minimum  
1359 staffing requirements for the facility were met. Licensed nurses  
1360 and certified nursing assistants who work in the nursing home  
1361 facility may be used to provide services elsewhere on campus if  
1362 the facility exceeds the minimum number of direct care hours  
1363 required per resident per day and the total number of residents

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1364 receiving direct care services from a licensed nurse or a  
1365 certified nursing assistant does not cause the facility to  
1366 violate the staffing ratios required under s. 400.23(3)(a).  
1367 Compliance with the minimum staffing ratios shall be based on  
1368 total number of residents receiving direct care services,  
1369 regardless of where they reside on campus. If the facility  
1370 receives a conditional license, it may not share staff until the  
1371 conditional license status ends. This paragraph does not  
1372 restrict the agency's authority under federal or state law to  
1373 require additional staff if a facility is cited for deficiencies  
1374 in care which are caused by an insufficient number of certified  
1375 nursing assistants or licensed nurses. The agency may adopt  
1376 rules for the documentation necessary to determine compliance  
1377 with this provision.

1378 (h) Maintain the facility premises and equipment and  
1379 conduct its operations in a safe and sanitary manner.

1380 (i) If the licensee furnishes food service, provide a  
1381 wholesome and nourishing diet sufficient to meet generally  
1382 accepted standards of proper nutrition for its residents and  
1383 provide such therapeutic diets as may be prescribed by attending  
1384 physicians. In making rules to implement this paragraph, the  
1385 agency shall be guided by standards recommended by nationally  
1386 recognized professional groups and associations with knowledge  
1387 of dietetics.

1388 (j) Keep full records of resident admissions and  
1389 discharges; medical and general health status, including medical  
1390 records, personal and social history, and identity and address  
1391 of next of kin or other persons who may have responsibility for  
1392 the affairs of the residents; and individual resident care plans

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1393 including, but not limited to, prescribed services, service  
1394 frequency and duration, and service goals. The records shall be  
1395 open to inspection by the agency.

1396 (k) Keep such fiscal records of its operations and  
1397 conditions as may be necessary to provide information pursuant  
1398 to this part.

1399 (l) Furnish copies of personnel records for employees  
1400 affiliated with such facility, to any other facility licensed by  
1401 this state requesting this information pursuant to this part.  
1402 Such information contained in the records may include, but is  
1403 not limited to, disciplinary matters and any reason for  
1404 termination. Any facility releasing such records pursuant to  
1405 this part shall be considered to be acting in good faith and may  
1406 not be held liable for information contained in such records,  
1407 absent a showing that the facility maliciously falsified such  
1408 records.

1409 (m) Publicly display a poster provided by the agency  
1410 containing the names, addresses, and telephone numbers for the  
1411 state's abuse hotline, the State Long-Term Care Ombudsman, the  
1412 Agency for Health Care Administration consumer hotline, the  
1413 Advocacy Center for Persons with Disabilities, the Florida  
1414 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,  
1415 with a clear description of the assistance to be expected from  
1416 each.

1417 ~~(n) Submit to the agency the information specified in s.~~  
1418 ~~400.071(1)(b) for a management company within 30 days after the~~  
1419 ~~effective date of the management agreement.~~

1420 (n)~~(e)~~1. Submit semiannually to the agency, or more  
1421 frequently if requested by the agency, information regarding

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1422 facility staff-to-resident ratios, staff turnover, and staff  
1423 stability, including information regarding certified nursing  
1424 assistants, licensed nurses, the director of nursing, and the  
1425 facility administrator. For purposes of this reporting:

1426 a. Staff-to-resident ratios must be reported in the  
1427 categories specified in s. 400.23(3)(a) and applicable rules.  
1428 The ratio must be reported as an average for the most recent  
1429 calendar quarter.

1430 b. Staff turnover must be reported for the most recent 12-  
1431 month period ending on the last workday of the most recent  
1432 calendar quarter prior to the date the information is submitted.  
1433 The turnover rate must be computed quarterly, with the annual  
1434 rate being the cumulative sum of the quarterly rates. The  
1435 turnover rate is the total number of terminations or separations  
1436 experienced during the quarter, excluding any employee  
1437 terminated during a probationary period of 3 months or less,  
1438 divided by the total number of staff employed at the end of the  
1439 period for which the rate is computed, and expressed as a  
1440 percentage.

1441 c. The formula for determining staff stability is the total  
1442 number of employees who ~~that~~ have been employed for more than 12  
1443 months, divided by the total number of employees employed at the  
1444 end of the most recent calendar quarter, and expressed as a  
1445 percentage.

1446 d. A nursing facility that has failed to comply with state  
1447 minimum-staffing requirements for 2 consecutive days is  
1448 prohibited from accepting new admissions until the facility has  
1449 achieved the minimum-staffing requirements for a period of 6  
1450 consecutive days. For the purposes of this sub-subparagraph, any

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1451 person who was a resident of the facility and was absent from  
1452 the facility for the purpose of receiving medical care at a  
1453 separate location or was on a leave of absence is not considered  
1454 a new admission. Failure to impose such an admissions moratorium  
1455 constitutes a class II violation, and the agency shall fine the  
1456 nursing facility \$1,000 for such violation ~~deficiency.~~

1457 e. A nursing facility that ~~which~~ does not have a  
1458 conditional license may be cited for failure to comply with the  
1459 standards in s. 400.23(3)(a)1.a. only if it has failed to meet  
1460 those standards on 2 consecutive days or if it has failed to  
1461 meet at least 97 percent of those standards on any one day.

1462 f. A facility that ~~which~~ has a conditional license must be  
1463 in compliance with the standards in s. 400.23(3)(a) at all  
1464 times.

1465 2. This paragraph does not limit the agency's ability to  
1466 impose a deficiency or take other actions if a facility does not  
1467 have enough staff to meet the residents' needs.

1468 (o) ~~(p)~~ Notify a licensed physician when a resident exhibits  
1469 signs of dementia or cognitive impairment or has a change of  
1470 condition in order to rule out the presence of an underlying  
1471 physiological condition that may be contributing to such  
1472 dementia or impairment. The notification must occur within 30  
1473 days after the acknowledgment of such signs by facility staff.  
1474 If an underlying condition is determined to exist, the facility  
1475 shall arrange, with the appropriate health care provider, the  
1476 necessary care and services to treat the condition.

1477 (p) ~~(e)~~ If the facility implements a dining and hospitality  
1478 attendant program, ensure that the program is developed and  
1479 implemented under the supervision of the facility director of

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1480 nursing. A licensed nurse, licensed speech or occupational  
1481 therapist, or a registered dietitian must conduct training of  
1482 dining and hospitality attendants. A person employed by a  
1483 facility as a dining and hospitality attendant must perform  
1484 tasks under the direct supervision of a licensed nurse.

1485 ~~(r) Report to the agency any filing for bankruptcy~~  
1486 ~~protection by the facility or its parent corporation,~~  
1487 ~~divestiture or spin-off of its assets, or corporate~~  
1488 ~~reorganization within 30 days after the completion of such~~  
1489 ~~activity.~~

1490 (q)~~(s)~~ Maintain general and professional liability  
1491 insurance coverage that is in force at all times. In lieu of  
1492 general and professional liability insurance coverage, a state-  
1493 designated teaching nursing home and its affiliated assisted  
1494 living facilities created under s. 430.80 may demonstrate proof  
1495 of financial responsibility as provided in s. 430.80(3)(h).

1496 (r)~~(t)~~ Maintain in the medical record for each resident a  
1497 daily chart of certified nursing assistant services provided to  
1498 the resident. The certified nursing assistant who is caring for  
1499 the resident must complete this record by the end of his or her  
1500 shift. This record must indicate assistance with activities of  
1501 daily living, assistance with eating, and assistance with  
1502 drinking, and must record each offering of nutrition and  
1503 hydration for those residents whose plan of care or assessment  
1504 indicates a risk for malnutrition or dehydration.

1505 (s)~~(u)~~ Before November 30 of each year, subject to the  
1506 availability of an adequate supply of the necessary vaccine,  
1507 provide for immunizations against influenza viruses to all its  
1508 consenting residents in accordance with the recommendations of

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1509 the United States Centers for Disease Control and Prevention,  
1510 subject to exemptions for medical contraindications and  
1511 religious or personal beliefs. Subject to these exemptions, any  
1512 consenting person who becomes a resident of the facility after  
1513 November 30 but before March 31 of the following year must be  
1514 immunized within 5 working days after becoming a resident.  
1515 Immunization shall not be provided to any resident who provides  
1516 documentation that he or she has been immunized as required by  
1517 this paragraph. This paragraph does not prohibit a resident from  
1518 receiving the immunization from his or her personal physician if  
1519 he or she so chooses. A resident who chooses to receive the  
1520 immunization from his or her personal physician shall provide  
1521 proof of immunization to the facility. The agency may adopt and  
1522 enforce any rules necessary to comply with or administer  
1523 ~~implement~~ this paragraph ~~subsection~~.

1524 (t) ~~(v)~~ Assess all residents for eligibility for  
1525 pneumococcal polysaccharide vaccination (PPV) and vaccinate  
1526 residents when indicated within 60 days after the effective date  
1527 of this act in accordance with the recommendations of the United  
1528 States Centers for Disease Control and Prevention, subject to  
1529 exemptions for medical contraindications and religious or  
1530 personal beliefs. Residents admitted after the effective date of  
1531 this act shall be assessed within 5 working days of admission  
1532 and, when indicated, vaccinated within 60 days in accordance  
1533 with the recommendations of the United States Centers for  
1534 Disease Control and Prevention, subject to exemptions for  
1535 medical contraindications and religious or personal beliefs.  
1536 Immunization shall not be provided to any resident who provides  
1537 documentation that he or she has been immunized as required by

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1538 this paragraph. This paragraph does not prohibit a resident from  
1539 receiving the immunization from his or her personal physician if  
1540 he or she so chooses. A resident who chooses to receive the  
1541 immunization from his or her personal physician shall provide  
1542 proof of immunization to the facility. The agency may adopt and  
1543 enforce any rules necessary to comply with or administer  
1544 ~~implement~~ this paragraph.

1545 (u)~~(w)~~ Annually encourage and promote to its employees the  
1546 benefits associated with immunizations against influenza viruses  
1547 in accordance with the recommendations of the United States  
1548 Centers for Disease Control and Prevention. The agency may adopt  
1549 and enforce any rules necessary to comply with or administer  
1550 ~~implement~~ this paragraph.

1551 (2) Facilities that have been awarded a Gold Seal under the  
1552 program established in s. 400.235 may develop a plan to provide  
1553 certified nursing assistant training as prescribed by federal  
1554 regulations and state rules and may apply to the agency for  
1555 approval of their program.

1556 Section 30. Subsection (3) of section 400.142, Florida  
1557 Statutes, is amended to read:

1558 400.142 Emergency medication kits; orders not to  
1559 resuscitate.—

1560 (3) Facility staff may withhold or withdraw cardiopulmonary  
1561 resuscitation if presented with an order not to resuscitate  
1562 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~  
1563 ~~providing for the implementation of such orders.~~ Facility staff  
1564 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution  
1565 or civil liability, nor be considered to have engaged in  
1566 negligent or unprofessional conduct, for withholding or

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1567 withdrawing cardiopulmonary resuscitation pursuant to such an  
1568 order and rules adopted by the agency. The absence of an order  
1569 not to resuscitate executed pursuant to s. 401.45 does not  
1570 preclude a physician from withholding or withdrawing  
1571 cardiopulmonary resuscitation as otherwise permitted by law.

1572 Section 31. Subsection (10) of section 400.147, Florida  
1573 Statutes, is repealed.

1574 Section 32. Section 400.148, Florida Statutes, is repealed.

1575 Section 33. Subsection (3) of section 400.19, Florida  
1576 Statutes, is amended to read:

1577 400.19 Right of entry and inspection.—

1578 (3) The agency shall every 15 months conduct at least one  
1579 unannounced inspection to determine compliance by the licensee  
1580 with statutes, and with rules adopted ~~promulgated~~ under the  
1581 provisions of those statutes, governing minimum standards of  
1582 construction, quality and adequacy of care, and rights of  
1583 residents. The survey shall be conducted every 6 months for the  
1584 next 2-year period if the facility has been cited for a class I  
1585 deficiency, has been cited for two or more class II violations  
1586 ~~deficiencies~~ arising from separate surveys or investigations  
1587 within a 60-day period, or has had three or more substantiated  
1588 complaints within a 6-month period, each resulting in at least  
1589 one class I or class II deficiency. In addition to any other  
1590 fees or fines in this part, the agency shall assess a fine for  
1591 each facility that is subject to the 6-month survey cycle. The  
1592 fine for the 2-year period shall be \$6,000, one-half to be paid  
1593 at the completion of each survey. The agency may adjust this  
1594 fine by the change in the Consumer Price Index, based on the 12  
1595 months immediately preceding the increase, to cover the cost of

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1596 the additional surveys. The agency shall verify through  
1597 subsequent inspection that any deficiency identified during  
1598 inspection is corrected. However, the agency may verify the  
1599 correction of a class III or class IV violation ~~deficiency~~  
1600 ~~unrelated to resident rights or resident care~~ without  
1601 reinspecting the facility if adequate written documentation has  
1602 been received from the facility, which provides assurance that  
1603 the deficiency has been corrected. The giving or causing to be  
1604 given of advance notice of such unannounced inspections by an  
1605 employee of the agency to any unauthorized person shall  
1606 constitute cause for suspension of not fewer than 5 working days  
1607 according to the provisions of chapter 110.

1608 Section 34. Section 400.195, Florida Statutes, is repealed.

1609 Section 35. Subsection (5) of section 400.23, Florida  
1610 Statutes, is amended to read:

1611 400.23 Rules; evaluation and deficiencies; licensure  
1612 status.—

1613 (5) The agency, in collaboration with the Division of  
1614 Children's Medical Services Network of the Department of Health,  
1615 ~~must, no later than December 31, 1993,~~ adopt rules for minimum  
1616 standards of care for persons under 21 years of age who reside  
1617 in nursing home facilities. The rules must include a methodology  
1618 for reviewing a nursing home facility under ss. 408.031-408.045  
1619 which serves only persons under 21 years of age. A facility may  
1620 be exempt from these standards for specific persons between 18  
1621 and 21 years of age, if the person's physician agrees that  
1622 minimum standards of care based on age are not necessary.

1623 Section 36. Subsection (1) of section 400.275, Florida  
1624 Statutes, is amended to read:

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1625 400.275 Agency duties.—

1626 (1) ~~The agency shall ensure that each newly hired nursing~~  
1627 ~~home surveyor, as a part of basic training, is assigned full-~~  
1628 ~~time to a licensed nursing home for at least 2 days within a 7-~~  
1629 ~~day period to observe facility operations outside of the survey~~  
1630 ~~process before the surveyor begins survey responsibilities. Such~~  
1631 ~~observations may not be the sole basis of a deficiency citation~~  
1632 ~~against the facility.~~ The agency may not assign an individual to  
1633 be a member of a survey team for purposes of a survey,  
1634 evaluation, or consultation visit at a nursing home facility in  
1635 which the surveyor was an employee within the preceding 5 years.

1636 Section 37. Section 400.484, Florida Statutes, is amended  
1637 to read:

1638 400.484 Right of inspection; violations ~~deficiencies~~;  
1639 fines.—

1640 (1) In addition to the requirements of s. 408.811, the  
1641 agency may make such inspections and investigations as are  
1642 necessary in order to determine the state of compliance with  
1643 this part, part II of chapter 408, and applicable rules.

1644 (2) The agency shall impose fines for various classes of  
1645 violations ~~deficiencies~~ in accordance with the following  
1646 schedule:

1647 (a) A class I violation is defined in s. 408.813. ~~A class I~~  
1648 ~~deficiency is any act, omission, or practice that results in a~~  
1649 ~~patient's death, disablement, or permanent injury, or places a~~  
1650 ~~patient at imminent risk of death, disablement, or permanent~~  
1651 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency  
1652 shall impose an administrative fine in the amount of \$15,000 for  
1653 each occurrence and each day that the violation ~~deficiency~~

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1654 exists.

1655 (b) A class II violation is defined in s. 408.813. ~~A class~~  
1656 ~~II deficiency is any act, omission, or practice that has a~~  
1657 ~~direct adverse effect on the health, safety, or security of a~~  
1658 ~~patient.~~ Upon finding a class II violation deficiency, the  
1659 agency shall impose an administrative fine in the amount of  
1660 \$5,000 for each occurrence and each day that the violation  
1661 ~~deficiency~~ exists.

1662 (c) A class III violation is defined in s. 408.813. ~~A class~~  
1663 ~~III deficiency is any act, omission, or practice that has an~~  
1664 ~~indirect, adverse effect on the health, safety, or security of a~~  
1665 ~~patient.~~ Upon finding an uncorrected or repeated class III  
1666 violation deficiency, the agency shall impose an administrative  
1667 fine not to exceed \$1,000 for each occurrence and each day that  
1668 the uncorrected or repeated violation ~~deficiency~~ exists.

1669 (d) A class IV violation is defined in s. 408.813. ~~A class~~  
1670 ~~IV deficiency is any act, omission, or practice related to~~  
1671 ~~required reports, forms, or documents which does not have the~~  
1672 ~~potential of negatively affecting patients. These violations are~~  
1673 ~~of a type that the agency determines do not threaten the health,~~  
1674 ~~safety, or security of patients.~~ Upon finding an uncorrected or  
1675 repeated class IV violation deficiency, the agency shall impose  
1676 an administrative fine not to exceed \$500 for each occurrence  
1677 and each day that the uncorrected or repeated violation  
1678 ~~deficiency~~ exists.

1679 (3) In addition to any other penalties imposed pursuant to  
1680 this section or part, the agency may assess costs related to an  
1681 investigation that results in a successful prosecution,  
1682 excluding costs associated with an attorney's time.

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1683 Section 38. Subsections (1) and (4) of section 400.606,  
1684 Florida Statutes, are amended to read:

1685 400.606 License; application; renewal; conditional license  
1686 or permit; certificate of need.—

1687 (1) In addition to the requirements of part II of chapter  
1688 408, the initial application and change of ownership application  
1689 must be accompanied by a plan for the delivery of home,  
1690 residential, and homelike inpatient hospice services to  
1691 terminally ill persons and their families. Such plan must  
1692 contain, but need not be limited to:

1693 (a) The estimated average number of terminally ill persons  
1694 to be served monthly.

1695 (b) The geographic area in which hospice services will be  
1696 available.

1697 (c) A listing of services that ~~which~~ are or will be  
1698 provided, either directly by the applicant or through  
1699 contractual arrangements with existing providers.

1700 (d) Provisions for the implementation of hospice home care  
1701 within 3 months after licensure.

1702 (e) Provisions for the implementation of hospice homelike  
1703 inpatient care within 12 months after licensure.

1704 (f) The number and disciplines of professional staff to be  
1705 employed.

1706 (g) The name and qualifications of any existing or  
1707 potential contractee.

1708 (h) A plan for attracting and training volunteers.

1709 ~~(i) The projected annual operating cost of the hospice.~~

1710

1711 If the applicant is an existing licensed health care provider,

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1712 the application must be accompanied by a copy of the most recent  
1713 profit-loss statement and, if applicable, the most recent  
1714 licensure inspection report.

1715 (4) A freestanding hospice facility that is ~~primarily~~  
1716 engaged in providing inpatient and related services and that is  
1717 not otherwise licensed as a health care facility shall be  
1718 required to obtain a certificate of need. However, a  
1719 freestanding hospice facility with six or fewer beds shall not  
1720 be required to comply with institutional standards such as, but  
1721 not limited to, standards requiring sprinkler systems, emergency  
1722 electrical systems, or special lavatory devices.

1723 Section 39. Subsection (2) of section 400.607, Florida  
1724 Statutes, is amended to read:

1725 400.607 Denial, suspension, revocation of license;  
1726 emergency actions; imposition of administrative fine; grounds.-

1727 (2) A violation of the provisions of this part, part II of  
1728 chapter 408, or applicable rules ~~Any of the following actions by~~  
1729 ~~a licensed hospice or any of its employees shall be grounds for~~  
1730 administrative ~~action by the agency against a hospice.~~†

1731 ~~(a) A violation of the provisions of this part, part II of~~  
1732 ~~chapter 408, or applicable rules.~~

1733 ~~(b) An intentional or negligent act materially affecting~~  
1734 ~~the health or safety of a patient.~~

1735 Section 40. Section 400.915, Florida Statutes, is amended  
1736 to read:

1737 400.915 Construction and renovation; requirements.-The  
1738 requirements for the construction or renovation of a PPEC center  
1739 shall comply with:

1740 (1) The provisions of chapter 553, which pertain to

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1741 building construction standards, including plumbing, electrical  
1742 code, glass, manufactured buildings, accessibility for the  
1743 physically disabled;

1744 (2) The provisions of s. 633.022 and applicable rules  
1745 pertaining to physical minimum standards for nonresidential  
1746 child care physical facilities in rule 10M-12.003, Florida  
1747 Administrative Code, Child Care Standards; and

1748 (3) The standards or rules adopted pursuant to this part  
1749 and part II of chapter 408.

1750 Section 41. Subsection (1) of section 400.925, Florida  
1751 Statutes, is amended to read:

1752 400.925 Definitions.—As used in this part, the term:

1753 (1) "Accrediting organizations" means the Joint Commission  
1754 ~~on Accreditation of Healthcare Organizations~~ or other national  
1755 accreditation agencies whose standards for accreditation are  
1756 comparable to those required by this part for licensure.

1757 Section 42. Section 400.931, Florida Statutes, is amended  
1758 to read:

1759 400.931 Application for license; ~~fee; provisional license;~~  
1760 ~~temporary permit.~~—

1761 (1) In addition to the requirements of part II of chapter  
1762 408, the applicant must file with the application satisfactory  
1763 proof that the home medical equipment provider is in compliance  
1764 with this part and applicable rules, including:

1765 (a) A report, by category, of the equipment to be provided,  
1766 indicating those offered either directly by the applicant or  
1767 through contractual arrangements with existing providers.

1768 Categories of equipment include:

1769 1. Respiratory modalities.

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1770 2. Ambulation aids.

1771 3. Mobility aids.

1772 4. Sickroom setup.

1773 5. Disposables.

1774 (b) A report, by category, of the services to be provided,  
1775 indicating those offered either directly by the applicant or  
1776 through contractual arrangements with existing providers.

1777 Categories of services include:

1778 1. Intake.

1779 2. Equipment selection.

1780 3. Delivery.

1781 4. Setup and installation.

1782 5. Patient training.

1783 6. Ongoing service and maintenance.

1784 7. Retrieval.

1785 (c) A listing of those with whom the applicant contracts,  
1786 both the providers the applicant uses to provide equipment or  
1787 services to its consumers and the providers for whom the  
1788 applicant provides services or equipment.

1789 ~~(2) As an alternative to submitting proof of financial~~  
1790 ~~ability to operate as required in s. 408.810(8), the applicant~~  
1791 ~~may submit a \$50,000 surety bond to the agency.~~

1792 (2)~~(3)~~ As specified in part II of chapter 408, the home  
1793 medical equipment provider must also obtain and maintain  
1794 professional and commercial liability insurance. Proof of  
1795 liability insurance, as defined in s. 624.605, must be submitted  
1796 with the application. The agency shall set the required amounts  
1797 of liability insurance by rule, but the required amount must not  
1798 be less than \$250,000 per claim. In the case of contracted

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1799 services, ~~it is required that~~ the contractor must have liability  
1800 insurance not less than \$250,000 per claim.

1801 ~~(3)-(4)~~ When a change of the general manager of a home  
1802 medical equipment provider occurs, the licensee must notify the  
1803 agency of the change within 45 days.

1804 ~~(4)-(5)~~ In accordance with s. 408.805, an applicant or a  
1805 licensee shall pay a fee for each license application submitted  
1806 under this part, part II of chapter 408, and applicable rules.  
1807 The amount of the fee shall be established by rule and may not  
1808 exceed \$300 per biennium. The agency shall set the fees in an  
1809 amount that is sufficient to cover its costs in carrying out its  
1810 responsibilities under this part. However, state, county, or  
1811 municipal governments applying for licenses under this part are  
1812 exempt from the payment of license fees.

1813 ~~(5)-(6)~~ An applicant for initial licensure, renewal, or  
1814 change of ownership shall also pay an inspection fee not to  
1815 exceed \$400, which shall be paid by all applicants except those  
1816 not subject to licensure inspection by the agency as described  
1817 in s. 400.933.

1818 Section 43. Subsection (2) of section 400.932, Florida  
1819 Statutes, is amended to read:

1820 400.932 Administrative penalties.—

1821 (2) A violation of this part, part II of chapter 408, or  
1822 applicable rules ~~Any of the following actions~~ by an employee of  
1823 a home medical equipment provider is ~~are~~ grounds for  
1824 administrative action or penalties by the agency. ~~÷~~

1825 ~~(a) Violation of this part, part II of chapter 408, or~~  
1826 ~~applicable rules.~~

1827 ~~(b) An intentional, reckless, or negligent act that~~

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1828 ~~materially affects the health or safety of a patient.~~

1829 Section 44. Subsection (2) of section 400.933, Florida  
1830 Statutes, is amended to read:

1831 400.933 Licensure inspections and investigations.—

1832 (2) The agency shall accept, in lieu of its own periodic  
1833 inspections for licensure, submission of the following:

1834 (a) The survey or inspection of an accrediting  
1835 organization, provided the accreditation of the licensed home  
1836 medical equipment provider is not conditional or provisional and  
1837 provided the licensed home medical equipment provider authorizes  
1838 release of, and the agency receives the report of, the  
1839 accrediting organization; or

1840 (b) A copy of a valid medical oxygen retail establishment  
1841 permit issued by the Department of Health, pursuant to chapter  
1842 499.

1843 Section 45. Subsection (2) of section 400.953, Florida  
1844 Statutes, is amended to read:

1845 400.953 Background screening of home medical equipment  
1846 provider personnel.—The agency shall require employment  
1847 screening as provided in chapter 435, using the level 1  
1848 standards for screening set forth in that chapter, for home  
1849 medical equipment provider personnel.

1850 (2) The general manager of each home medical equipment  
1851 provider must sign an affidavit ~~annually~~, under penalty of  
1852 perjury, stating that all home medical equipment provider  
1853 personnel hired on or after July 1, 1999, who enter the home of  
1854 a patient in the capacity of their employment have been screened  
1855 and that its remaining personnel have worked for the home  
1856 medical equipment provider continuously since before July 1,

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1857 1999. This attestation must be submitted in accordance with s.  
1858 408.809(6).

1859 Section 46. Section 400.967, Florida Statutes, is amended  
1860 to read:

1861 400.967 Rules and classification of violations  
1862 ~~deficiencies.~~-

1863 (1) It is the intent of the Legislature that rules adopted  
1864 and enforced under this part and part II of chapter 408 include  
1865 criteria by which a reasonable and consistent quality of  
1866 resident care may be ensured, the results of such resident care  
1867 can be demonstrated, and safe and sanitary facilities can be  
1868 provided.

1869 (2) Pursuant to the intention of the Legislature, the  
1870 agency, in consultation with the Agency for Persons with  
1871 Disabilities and the Department of Elderly Affairs, shall adopt  
1872 and enforce rules to administer this part and part II of chapter  
1873 408, which shall include reasonable and fair criteria governing:

1874 (a) The location and construction of the facility;  
1875 including fire and life safety, plumbing, heating, cooling,  
1876 lighting, ventilation, and other housing conditions that will  
1877 ensure the health, safety, and comfort of residents. The agency  
1878 shall establish standards for facilities and equipment to  
1879 increase the extent to which new facilities and a new wing or  
1880 floor added to an existing facility after July 1, 2000, are  
1881 structurally capable of serving as shelters only for residents,  
1882 staff, and families of residents and staff, and equipped to be  
1883 self-supporting during and immediately following disasters. The  
1884 Agency for Health Care Administration shall work with facilities  
1885 licensed under this part and report to the Governor and the

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1886 Legislature by April 1, 2000, its recommendations for cost-  
1887 effective renovation standards to be applied to existing  
1888 facilities. In making such rules, the agency shall be guided by  
1889 criteria recommended by nationally recognized, reputable  
1890 professional groups and associations having knowledge concerning  
1891 such subject matters. The agency shall update or revise such  
1892 criteria as the need arises. All facilities must comply with  
1893 those lifesafety code requirements and building code standards  
1894 applicable at the time of approval of their construction plans.  
1895 The agency may require alterations to a building if it  
1896 determines that an existing condition constitutes a distinct  
1897 hazard to life, health, or safety. The agency shall adopt fair  
1898 and reasonable rules setting forth conditions under which  
1899 existing facilities undergoing additions, alterations,  
1900 conversions, renovations, or repairs are required to comply with  
1901 the most recent updated or revised standards.

1902 (b) The number and qualifications of all personnel,  
1903 including management, medical nursing, and other personnel,  
1904 having responsibility for any part of the care given to  
1905 residents.

1906 (c) All sanitary conditions within the facility and its  
1907 surroundings, including water supply, sewage disposal, food  
1908 handling, and general hygiene, which will ensure the health and  
1909 comfort of residents.

1910 (d) The equipment essential to the health and welfare of  
1911 the residents.

1912 (e) A uniform accounting system.

1913 (f) The care, treatment, and maintenance of residents and  
1914 measurement of the quality and adequacy thereof.

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1915 (g) The preparation and annual update of a comprehensive  
1916 emergency management plan. The agency shall adopt rules  
1917 establishing minimum criteria for the plan after consultation  
1918 with the Department of Community Affairs. At a minimum, the  
1919 rules must provide for plan components that address emergency  
1920 evacuation transportation; adequate sheltering arrangements;  
1921 postdisaster activities, including emergency power, food, and  
1922 water; postdisaster transportation; supplies; staffing;  
1923 emergency equipment; individual identification of residents and  
1924 transfer of records; and responding to family inquiries. The  
1925 comprehensive emergency management plan is subject to review and  
1926 approval by the local emergency management agency. During its  
1927 review, the local emergency management agency shall ensure that  
1928 the following agencies, at a minimum, are given the opportunity  
1929 to review the plan: the Department of Elderly Affairs, the  
1930 Agency for Persons with Disabilities, the Agency for Health Care  
1931 Administration, and the Department of Community Affairs. Also,  
1932 appropriate volunteer organizations must be given the  
1933 opportunity to review the plan. The local emergency management  
1934 agency shall complete its review within 60 days and either  
1935 approve the plan or advise the facility of necessary revisions.

1936 (h) The use of restraint and seclusion. Such rules must be  
1937 consistent with recognized best practices; prohibit inherently  
1938 dangerous restraint or seclusion procedures; establish  
1939 limitations on the use and duration of restraint and seclusion;  
1940 establish measures to ensure the safety of clients and staff  
1941 during an incident of restraint or seclusion; establish  
1942 procedures for staff to follow before, during, and after  
1943 incidents of restraint or seclusion, including individualized

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1944 plans for the use of restraints or seclusion in emergency  
1945 situations; establish professional qualifications of and  
1946 training for staff who may order or be engaged in the use of  
1947 restraint or seclusion; establish requirements for facility data  
1948 collection and reporting relating to the use of restraint and  
1949 seclusion; and establish procedures relating to the  
1950 documentation of the use of restraint or seclusion in the  
1951 client's facility or program record.

1952 (3) The agency shall adopt rules to provide that, when the  
1953 criteria established under this part and part II of chapter 408  
1954 are not met, such violations ~~deficiencies~~ shall be classified  
1955 according to the nature of the violation ~~deficiency~~. The agency  
1956 shall indicate the classification on the face of the notice of  
1957 violations ~~deficiencies~~ as follows:

1958 (a) Class I violations ~~deficiencies~~ are defined in s.  
1959 408.813. ~~those which the agency determines present an imminent~~  
1960 ~~danger to the residents or guests of the facility or a~~  
1961 ~~substantial probability that death or serious physical harm~~  
1962 ~~would result therefrom. The condition or practice constituting a~~  
1963 ~~class I violation must be abated or eliminated immediately,~~  
1964 ~~unless a fixed period of time, as determined by the agency, is~~  
1965 ~~required for correction.~~ A class I violation ~~deficiency~~ is  
1966 subject to a civil penalty in an amount not less than \$5,000 and  
1967 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may  
1968 be levied notwithstanding the correction of the violation  
1969 ~~deficiency~~.

1970 (b) Class II violations ~~deficiencies~~ are defined in s.  
1971 408.813. ~~those which the agency determines have a direct or~~  
1972 ~~immediate relationship to the health, safety, or security of the~~

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1973 ~~facility residents, other than class I deficiencies.~~ A class II  
1974 violation deficiency is subject to a civil penalty in an amount  
1975 not less than \$1,000 and not exceeding \$5,000 for each  
1976 deficiency. A citation for a class II violation deficiency shall  
1977 specify the time within which the violation deficiency must be  
1978 corrected. If a class II violation deficiency is corrected  
1979 within the time specified, no civil penalty shall be imposed,  
1980 unless it is a repeated offense.

1981 (c) Class III violations deficiencies are defined in s.  
1982 408.813. ~~those which the agency determines to have an indirect~~  
1983 ~~or potential relationship to the health, safety, or security of~~  
1984 ~~the facility residents, other than class I or class II~~  
1985 ~~deficiencies.~~ A class III violation deficiency is subject to a  
1986 civil penalty of not less than \$500 and not exceeding \$1,000 for  
1987 each violation deficiency. A citation for a class III violation  
1988 deficiency shall specify the time within which the violation  
1989 deficiency must be corrected. If a class III violation  
1990 deficiency is corrected within the time specified, no civil  
1991 penalty shall be imposed, unless it is a repeated offense.

1992 (d) Class IV violations are defined in s. 408.813.

1993 (4) The agency shall approve or disapprove the plans and  
1994 specifications within 60 days after receipt of the final plans  
1995 and specifications. The agency may be granted one 15-day  
1996 extension for the review period, if the secretary of the agency  
1997 so approves. If the agency fails to act within the specified  
1998 time, it is deemed to have approved the plans and  
1999 specifications. When the agency disapproves plans and  
2000 specifications, it must set forth in writing the reasons for  
2001 disapproval. Conferences and consultations may be provided as

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2002 necessary.

2003 (5) The agency may charge an initial fee of \$2,000 for  
2004 review of plans and construction on all projects, no part of  
2005 which is refundable. The agency may also collect a fee, not to  
2006 exceed 1 percent of the estimated construction cost or the  
2007 actual cost of review, whichever is less, for the portion of the  
2008 review that ~~which~~ encompasses initial review through the initial  
2009 revised construction document review. The agency may collect its  
2010 actual costs on all subsequent portions of the review and  
2011 construction inspections. Initial fee payment must accompany the  
2012 initial submission of plans and specifications. Any subsequent  
2013 payment that is due is payable upon receipt of the invoice from  
2014 the agency. Notwithstanding any other ~~provision of~~ law, all  
2015 money received by the agency under this section shall be deemed  
2016 to be trust funds, to be held and applied solely for the  
2017 operations required under this section.

2018 Section 47. Subsections (4) and (7) of section 400.9905,  
2019 Florida Statutes, are amended to read:

2020 400.9905 Definitions.—

2021 (4) "Clinic" means an entity where ~~at which~~ health care  
2022 services are provided to individuals and which tenders charges  
2023 for reimbursement for such services, including a mobile clinic  
2024 and a portable service or equipment provider. For purposes of  
2025 this part, the term does not include and the licensure  
2026 requirements of this part do not apply to:

2027 (a) Entities licensed or registered by the state under  
2028 chapter 395; or entities licensed or registered by the state and  
2029 providing only health care services within the scope of services  
2030 authorized under their respective licenses granted under ss.

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2031 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
2032 chapter except part X, chapter 429, chapter 463, chapter 465,  
2033 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
2034 chapter 651; end-stage renal disease providers authorized under  
2035 42 C.F.R. part 405, subpart U; or providers certified under 42  
2036 C.F.R. part 485, subpart B or subpart H; or any entity that  
2037 provides neonatal or pediatric hospital-based health care  
2038 services or other health care services by licensed practitioners  
2039 solely within a hospital licensed under chapter 395.

2040 (b) Entities that own, directly or indirectly, entities  
2041 licensed or registered by the state pursuant to chapter 395; or  
2042 entities that own, directly or indirectly, entities licensed or  
2043 registered by the state and providing only health care services  
2044 within the scope of services authorized pursuant to their  
2045 respective licenses granted under ss. 383.30-383.335, chapter  
2046 390, chapter 394, chapter 397, this chapter except part X,  
2047 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
2048 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
2049 disease providers authorized under 42 C.F.R. part 405, subpart  
2050 U; or providers certified under 42 C.F.R. part 485, subpart B or  
2051 subpart H; or any entity that provides neonatal or pediatric  
2052 hospital-based health care services by licensed practitioners  
2053 solely within a hospital licensed under chapter 395.

2054 (c) Entities that are owned, directly or indirectly, by an  
2055 entity licensed or registered by the state pursuant to chapter  
2056 395; or entities that are owned, directly or indirectly, by an  
2057 entity licensed or registered by the state and providing only  
2058 health care services within the scope of services authorized  
2059 pursuant to their respective licenses granted under ss. 383.30-

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2060 383.335, chapter 390, chapter 394, chapter 397, this chapter  
2061 except part X, chapter 429, chapter 463, chapter 465, chapter  
2062 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
2063 651; end-stage renal disease providers authorized under 42  
2064 C.F.R. part 405, subpart U; or providers certified under 42  
2065 C.F.R. part 485, subpart B or subpart H; or any entity that  
2066 provides neonatal or pediatric hospital-based health care  
2067 services by licensed practitioners solely within a hospital  
2068 under chapter 395.

2069 (d) Entities that are under common ownership, directly or  
2070 indirectly, with an entity licensed or registered by the state  
2071 pursuant to chapter 395; or entities that are under common  
2072 ownership, directly or indirectly, with an entity licensed or  
2073 registered by the state and providing only health care services  
2074 within the scope of services authorized pursuant to their  
2075 respective licenses granted under ss. 383.30-383.335, chapter  
2076 390, chapter 394, chapter 397, this chapter except part X,  
2077 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
2078 part I of chapter 483, chapter 484, or chapter 651; end-stage  
2079 renal disease providers authorized under 42 C.F.R. part 405,  
2080 subpart U; or providers certified under 42 C.F.R. part 485,  
2081 subpart B or subpart H; or any entity that provides neonatal or  
2082 pediatric hospital-based health care services by licensed  
2083 practitioners solely within a hospital licensed under chapter  
2084 395.

2085 (e) An entity that is exempt from federal taxation under 26  
2086 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
2087 under 26 U.S.C. s. 409 that has a board of trustees not less  
2088 than two-thirds of which are Florida-licensed health care

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2089 practitioners and provides only physical therapy services under  
2090 physician orders, any community college or university clinic,  
2091 and any entity owned or operated by the federal or state  
2092 government, including agencies, subdivisions, or municipalities  
2093 thereof.

2094 (f) A sole proprietorship, group practice, partnership, or  
2095 corporation that provides health care services by physicians  
2096 covered by s. 627.419, that is directly supervised by one or  
2097 more of such physicians, and that is wholly owned by one or more  
2098 of those physicians or by a physician and the spouse, parent,  
2099 child, or sibling of that physician.

2100 (g) A sole proprietorship, group practice, partnership, or  
2101 corporation that provides health care services by licensed  
2102 health care practitioners under chapter 457, chapter 458,  
2103 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
2104 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
2105 chapter 490, chapter 491, or part I, part III, part X, part  
2106 XIII, or part XIV of chapter 468, or s. 464.012, which are  
2107 wholly owned by one or more licensed health care practitioners,  
2108 or the licensed health care practitioners set forth in this  
2109 paragraph and the spouse, parent, child, or sibling of a  
2110 licensed health care practitioner, so long as one of the owners  
2111 who is a licensed health care practitioner is supervising the  
2112 business activities and is legally responsible for the entity's  
2113 compliance with all federal and state laws. However, a health  
2114 care practitioner may not supervise services beyond the scope of  
2115 the practitioner's license, except that, for the purposes of  
2116 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
2117 provides only services authorized pursuant to s. 456.053(3)(b)

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2118 may be supervised by a licensee specified in s. 456.053(3)(b).

2119 (h) Clinical facilities affiliated with an accredited  
2120 medical school at which training is provided for medical  
2121 students, residents, or fellows.

2122 (i) Entities that provide only oncology or radiation  
2123 therapy services by physicians licensed under chapter 458 or  
2124 chapter 459 or entities that provide oncology or radiation  
2125 therapy services by physicians licensed under chapter 458 or  
2126 chapter 459 which are owned by a corporation whose shares are  
2127 publicly traded on a recognized stock exchange.

2128 (j) Clinical facilities affiliated with a college of  
2129 chiropractic accredited by the Council on Chiropractic Education  
2130 at which training is provided for chiropractic students.

2131 (k) Entities that provide licensed practitioners to staff  
2132 emergency departments or to deliver anesthesia services in  
2133 facilities licensed under chapter 395 and that derive at least  
2134 90 percent of their gross annual revenues from the provision of  
2135 such services. Entities claiming an exemption from licensure  
2136 under this paragraph must provide documentation demonstrating  
2137 compliance.

2138 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
2139 perinatology clinical facilities that are a publicly traded  
2140 corporation or that are wholly owned, directly or indirectly, by  
2141 a publicly traded corporation. As used in this paragraph, a  
2142 publicly traded corporation is a corporation that issues  
2143 securities traded on an exchange registered with the United  
2144 States Securities and Exchange Commission as a national  
2145 securities exchange.

2146 (7) "Portable service or equipment provider" means an

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2147 entity that contracts with or employs persons to provide  
2148 portable health care services or equipment to multiple locations  
2149 ~~which performing treatment or diagnostic testing of individuals,~~  
2150 ~~that~~ bills third-party payors for those services, and which ~~that~~  
2151 otherwise meets the definition of a clinic in subsection (4).

2152 Section 48. Subsections (1) and (4) of section 400.991,  
2153 Florida Statutes, are amended to read:

2154 400.991 License requirements; background screenings;  
2155 prohibitions.—

2156 (1) (a) The requirements of part II of chapter 408 apply to  
2157 the provision of services that require licensure pursuant to  
2158 this part and part II of chapter 408 and to entities licensed by  
2159 or applying for such licensure from the agency pursuant to this  
2160 part. A license issued by the agency is required in order to  
2161 operate a clinic in this state. Each clinic location shall be  
2162 licensed separately regardless of whether the clinic is operated  
2163 under the same business name or management as another clinic.

2164 (b) Each mobile clinic must obtain a separate health care  
2165 clinic license and must provide to the agency, at least  
2166 quarterly, its projected street location to enable the agency to  
2167 locate and inspect such clinic. A portable service or equipment  
2168 provider must obtain a health care clinic license for a single  
2169 administrative office and is not required to submit quarterly  
2170 projected street locations.

2171 (4) In addition to the requirements of part II of chapter  
2172 408, the applicant must file with the application satisfactory  
2173 proof that the clinic is in compliance with this part and  
2174 applicable rules, including:

2175 (a) A listing of services to be provided either directly by

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2176 the applicant or through contractual arrangements with existing  
2177 providers;

2178 (b) The number and discipline of each professional staff  
2179 member to be employed; and

2180 (c) Proof of financial ability to operate as required under  
2181 ss. 408.8065 and s. 408.810(8). ~~As an alternative to submitting~~  
2182 ~~proof of financial ability to operate as required under s.~~  
2183 ~~408.810(8), the applicant may file a surety bond of at least~~  
2184 ~~\$500,000 which guarantees that the clinic will act in full~~  
2185 ~~conformity with all legal requirements for operating a clinic,~~  
2186 ~~payable to the agency. The agency may adopt rules to specify~~  
2187 ~~related requirements for such surety bond.~~

2188 Section 49. Paragraph (g) of subsection (1) and paragraph  
2189 (a) of subsection (7) of section 400.9935, Florida Statutes, are  
2190 amended to read:

2191 400.9935 Clinic responsibilities.—

2192 (1) Each clinic shall appoint a medical director or clinic  
2193 director who shall agree in writing to accept legal  
2194 responsibility for the following activities on behalf of the  
2195 clinic. The medical director or the clinic director shall:

2196 (g) Conduct systematic reviews of clinic billings to ensure  
2197 that the billings are not fraudulent or unlawful. Upon discovery  
2198 of an unlawful charge, the medical director or clinic director  
2199 shall take immediate corrective action. If the clinic performs  
2200 only the technical component of magnetic resonance imaging,  
2201 static radiographs, computed tomography, or positron emission  
2202 tomography, and provides the professional interpretation of such  
2203 services, in a fixed facility that is accredited by the Joint  
2204 Commission ~~on Accreditation of Healthcare Organizations~~ or the

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2205 Accreditation Association for Ambulatory Health Care, and the  
2206 American College of Radiology; and if, in the preceding quarter,  
2207 the percentage of scans performed by that clinic which was  
2208 billed to all personal injury protection insurance carriers was  
2209 less than 15 percent, the chief financial officer of the clinic  
2210 may, in a written acknowledgment provided to the agency, assume  
2211 the responsibility for the conduct of the systematic reviews of  
2212 clinic billings to ensure that the billings are not fraudulent  
2213 or unlawful.

2214 (7) (a) Each clinic engaged in magnetic resonance imaging  
2215 services must be accredited by the Joint Commission ~~on~~  
2216 ~~Accreditation of Healthcare Organizations~~, the American College  
2217 of Radiology, or the Accreditation Association for Ambulatory  
2218 Health Care, within 1 year after licensure. A clinic that is  
2219 accredited by the American College of Radiology or is within the  
2220 original 1-year period after licensure and replaces its core  
2221 magnetic resonance imaging equipment shall be given 1 year after  
2222 the date on which the equipment is replaced to attain  
2223 accreditation. However, a clinic may request a single, 6-month  
2224 extension if it provides evidence to the agency establishing  
2225 that, for good cause shown, such clinic cannot be accredited  
2226 within 1 year after licensure, and that such accreditation will  
2227 be completed within the 6-month extension. After obtaining  
2228 accreditation as required by this subsection, each such clinic  
2229 must maintain accreditation as a condition of renewal of its  
2230 license. A clinic that files a change of ownership application  
2231 must comply with the original accreditation timeframe  
2232 requirements of the transferor. The agency shall deny a change  
2233 of ownership application if the clinic is not in compliance with

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2234 the accreditation requirements. When a clinic adds, replaces, or  
2235 modifies magnetic resonance imaging equipment and the  
2236 accreditation agency requires new accreditation, the clinic must  
2237 be accredited within 1 year after the date of the addition,  
2238 replacement, or modification but may request a single, 6-month  
2239 extension if the clinic provides evidence of good cause to the  
2240 agency.

2241 Section 50. Subsection (2) of section 408.034, Florida  
2242 Statutes, is amended to read:

2243 408.034 Duties and responsibilities of agency; rules.—

2244 (2) In the exercise of its authority to issue licenses to  
2245 health care facilities and health service providers, as provided  
2246 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of  
2247 chapter 400, the agency may not issue a license to any health  
2248 care facility or health service provider that fails to receive a  
2249 certificate of need or an exemption for the licensed facility or  
2250 service.

2251 Section 51. Paragraph (d) of subsection (1) of section  
2252 408.036, Florida Statutes, is amended to read:

2253 408.036 Projects subject to review; exemptions.—

2254 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
2255 health-care-related projects, as described in paragraphs (a)-  
2256 (g), are subject to review and must file an application for a  
2257 certificate of need with the agency. The agency is exclusively  
2258 responsible for determining whether a health-care-related  
2259 project is subject to review under ss. 408.031-408.045.

2260 (d) The establishment of a hospice or hospice inpatient  
2261 facility, ~~except as provided in s. 408.043.~~

2262 Section 52. Subsection (2) of section 408.043, Florida

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2263 Statutes, is amended to read:

2264 408.043 Special provisions.—

2265 (2) HOSPICES.—When an application is made for a certificate  
2266 of need to establish or to expand a hospice, the need for such  
2267 hospice shall be determined on the basis of the need for and  
2268 availability of hospice services in the community. The formula  
2269 on which the certificate of need is based shall discourage  
2270 regional monopolies and promote competition. The inpatient  
2271 hospice care component of a hospice that ~~which~~ is a freestanding  
2272 facility, or a part of a facility, ~~which is primarily engaged in~~  
2273 ~~providing inpatient care and related services~~ and is not  
2274 licensed as a health care facility shall also be required to  
2275 obtain a certificate of need. Provision of hospice care by any  
2276 current provider of health care is a significant change in  
2277 service and therefore requires a certificate of need for such  
2278 services.

2279 Section 53. Paragraph (k) of subsection (3) of section  
2280 408.05, Florida Statutes, is amended to read:

2281 408.05 Florida Center for Health Information and Policy  
2282 Analysis.—

2283 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
2284 produce comparable and uniform health information and statistics  
2285 for the development of policy recommendations, the agency shall  
2286 perform the following functions:

2287 (k) Develop, in conjunction with the State Consumer Health  
2288 Information and Policy Advisory Council, and implement a long-  
2289 range plan for making available health care quality measures and  
2290 financial data that will allow consumers to compare health care  
2291 services. The health care quality measures and financial data

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2292 the agency must make available shall include, but is not limited  
2293 to, pharmaceuticals, physicians, health care facilities, and  
2294 health plans and managed care entities. The agency shall submit  
2295 the initial plan to the Governor, the President of the Senate,  
2296 and the Speaker of the House of Representatives by January 1,  
2297 2006, and shall update the plan and report on the status of its  
2298 implementation annually thereafter. The agency shall also make  
2299 the plan and status report available to the public on its  
2300 Internet website. As part of the plan, the agency shall identify  
2301 the process and timeframes for implementation, any barriers to  
2302 implementation, and recommendations of changes in the law that  
2303 may be enacted by the Legislature to eliminate the barriers. As  
2304 preliminary elements of the plan, the agency shall:

2305 1. Make available patient-safety indicators, inpatient  
2306 quality indicators, and performance outcome and patient charge  
2307 data collected from health care facilities pursuant to s.  
2308 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
2309 "inpatient quality indicators" shall be as defined by the  
2310 Centers for Medicare and Medicaid Services, the National Quality  
2311 Forum, the Joint Commission ~~on Accreditation of Healthcare~~  
2312 ~~Organizations~~, the Agency for Healthcare Research and Quality,  
2313 the Centers for Disease Control and Prevention, or a similar  
2314 national entity that establishes standards to measure the  
2315 performance of health care providers, or by other states. The  
2316 agency shall determine which conditions, procedures, health care  
2317 quality measures, and patient charge data to disclose based upon  
2318 input from the council. When determining which conditions and  
2319 procedures are to be disclosed, the council and the agency shall  
2320 consider variation in costs, variation in outcomes, and

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2321 magnitude of variations and other relevant information. When  
2322 determining which health care quality measures to disclose, the  
2323 agency:

2324 a. Shall consider such factors as volume of cases; average  
2325 patient charges; average length of stay; complication rates;  
2326 mortality rates; and infection rates, among others, which shall  
2327 be adjusted for case mix and severity, if applicable.

2328 b. May consider such additional measures ~~that are~~ adopted  
2329 by the Centers for Medicare and Medicaid Studies, National  
2330 Quality Forum, the Joint Commission ~~on Accreditation of~~  
2331 ~~Healthcare Organizations~~, the Agency for Healthcare Research and  
2332 Quality, Centers for Disease Control and Prevention, or a  
2333 similar national entity that establishes standards to measure  
2334 the performance of health care providers, or by other states.

2335

2336 When determining which patient charge data to disclose, the  
2337 agency shall include such measures as the average of  
2338 undiscounted charges on frequently performed procedures and  
2339 preventive diagnostic procedures, the range of procedure charges  
2340 from highest to lowest, average net revenue per adjusted patient  
2341 day, average cost per adjusted patient day, and average cost per  
2342 admission, among others.

2343 2. Make available performance measures, benefit design, and  
2344 premium cost data from health plans licensed pursuant to chapter  
2345 627 or chapter 641. The agency shall determine which health care  
2346 quality measures and member and subscriber cost data to  
2347 disclose, based upon input from the council. When determining  
2348 which data to disclose, the agency shall consider information  
2349 that may be required by either individual or group purchasers to

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2350 assess the value of the product, which may include membership  
2351 satisfaction, quality of care, current enrollment or membership,  
2352 coverage areas, accreditation status, premium costs, plan costs,  
2353 premium increases, range of benefits, copayments and  
2354 deductibles, accuracy and speed of claims payment, credentials  
2355 of physicians, number of providers, names of network providers,  
2356 and hospitals in the network. Health plans shall make available  
2357 to the agency any such data or information that is not currently  
2358 reported to the agency or the office.

2359         3. Determine the method and format for public disclosure of  
2360 data reported pursuant to this paragraph. The agency shall make  
2361 its determination based upon input from the State Consumer  
2362 Health Information and Policy Advisory Council. At a minimum,  
2363 the data shall be made available on the agency's Internet  
2364 website in a manner that allows consumers to conduct an  
2365 interactive search that allows them to view and compare the  
2366 information for specific providers. The website must include  
2367 such additional information as is determined necessary to ensure  
2368 that the website enhances informed decisionmaking among  
2369 consumers and health care purchasers, which shall include, at a  
2370 minimum, appropriate guidance on how to use the data and an  
2371 explanation of why the data may vary from provider to provider.  
2372 The data specified in subparagraph 1. shall be released no later  
2373 than January 1, 2006, for the reporting of infection rates, and  
2374 no later than October 1, 2005, for mortality rates and  
2375 complication rates. The data specified in subparagraph 2. shall  
2376 be released no later than October 1, 2006.

2377         4. Publish on its website undiscounted charges for no fewer  
2378 than 150 of the most commonly performed adult and pediatric

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2379 procedures, including outpatient, inpatient, diagnostic, and  
2380 preventative procedures.

2381 Section 54. Paragraph (a) of subsection (1) of section  
2382 408.061, Florida Statutes, is amended to read:

2383 408.061 Data collection; uniform systems of financial  
2384 reporting; information relating to physician charges;  
2385 confidential information; immunity.—

2386 (1) The agency shall require the submission by health care  
2387 facilities, health care providers, and health insurers of data  
2388 necessary to carry out the agency's duties. Specifications for  
2389 data to be collected under this section shall be developed by  
2390 the agency with the assistance of technical advisory panels  
2391 including representatives of affected entities, consumers,  
2392 purchasers, and such other interested parties as may be  
2393 determined by the agency.

2394 (a) Data submitted by health care facilities, including the  
2395 facilities as defined in chapter 395, shall include, but are not  
2396 limited to: case-mix data, patient admission and discharge data,  
2397 hospital emergency department data that ~~which shall~~ include the  
2398 number of patients treated in the emergency department of a  
2399 licensed hospital reported by patient acuity level, data on  
2400 hospital-acquired infections as specified by rule, data on  
2401 complications as specified by rule, data on readmissions as  
2402 specified by rule, with patient and provider-specific  
2403 identifiers included, actual charge data by diagnostic groups,  
2404 financial data, accounting data, operating expenses, expenses  
2405 incurred for rendering services to patients who cannot or do not  
2406 pay, interest charges, depreciation expenses based on the  
2407 expected useful life of the property and equipment involved, and

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2408 demographic data. The agency shall adopt nationally recognized  
2409 risk adjustment methodologies or software consistent with the  
2410 standards of the Agency for Healthcare Research and Quality and  
2411 as selected by the agency for all data submitted as required by  
2412 this section. Data may be obtained from documents such as, but  
2413 not limited to: leases, contracts, debt instruments, itemized  
2414 patient bills, medical record abstracts, and related diagnostic  
2415 information. Reported data elements shall be reported  
2416 electronically and in accordance with rule 59E-7.012, Florida  
2417 Administrative Code. Data submitted shall be certified by the  
2418 chief executive officer or an appropriate and duly authorized  
2419 representative or employee of the licensed facility that the  
2420 information submitted is true and accurate.

2421 Section 55. Subsection (1) of section 408.10, Florida  
2422 Statutes, is amended to read:

2423 408.10 Consumer complaints.—The agency shall:

2424 (1) Publish and make available to the public a toll-free  
2425 telephone number for the purpose of handling consumer complaints  
2426 and shall serve as a liaison between consumer entities and other  
2427 private entities and governmental entities for the disposition  
2428 of problems identified by consumers of health care. The agency  
2429 may provide staffing for this toll-free number through agency  
2430 staff or other arrangements.

2431 Section 56. Subsection (11) of section 408.802, Florida  
2432 Statutes, is repealed.

2433 Section 57. Effective October 1, 2010, subsection (3) is  
2434 added to section 408.804, Florida Statutes, to read:

2435 408.804 License required; display.—

2436 (3) A person who knowingly alters, defaces, or falsifies

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2437 any license certificate issued by the agency, or causes or  
2438 procures another person to commit such an offense, commits a  
2439 misdemeanor of the second degree, punishable as provided in s.  
2440 775.082 or s. 775.083. Any licensee or provider who displays an  
2441 altered, defaced, or falsified license certificate is subject to  
2442 the penalties set forth in s. 408.815 and an administrative fine  
2443 of \$1,000 for each day of illegal display.

2444 Section 58. Paragraph (d) of subsection (2) of section  
2445 408.806, Florida Statutes, is amended to read:

2446 408.806 License application process.—

2447 (2)

2448 ~~(d) The agency shall notify the licensee by mail or~~  
2449 ~~electronically at least 90 days before the expiration of a~~  
2450 ~~license that a renewal license is necessary to continue~~  
2451 ~~operation.~~ The failure of the licensee to timely submit a  
2452 renewal application and license application fee with the agency  
2453 shall result in a \$50 per day late fee charged to the licensee  
2454 by the agency; however, the aggregate amount of the late fee may  
2455 not exceed 50 percent of the licensure fee or \$500, whichever is  
2456 less. The agency shall provide a courtesy notice to the licensee  
2457 by United States mail, electronically, or by any other manner at  
2458 its address of record at least 90 days before the expiration of  
2459 a license informing the licensee of the expiration of the  
2460 license. Any failure of the agency to provide the courtesy  
2461 notice or any failure of the licensee to receive the courtesy  
2462 notice does not excuse the licensee from the legal obligation to  
2463 timely file the renewal application and license application fee  
2464 with the agency and does not mitigate the late fee. Payment of  
2465 the late fee is required in order for any late application to be

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2466 complete, and failure to pay the late fee is an omission from  
2467 the application. ~~If an application is received after the~~  
2468 ~~required filing date and exhibits a hand-canceled postmark~~  
2469 ~~obtained from a United States post office dated on or before the~~  
2470 ~~required filing date, no fine will be levied.~~

2471 Section 59. Subsections (6) and (9) of section 408.810,  
2472 Florida Statutes, are amended to read:

2473 408.810 Minimum licensure requirements.—In addition to the  
2474 licensure requirements specified in this part, authorizing  
2475 statutes, and applicable rules, each applicant and licensee must  
2476 comply with the requirements of this section in order to obtain  
2477 and maintain a license.

2478 (6) (a) An applicant must provide the agency with proof of  
2479 the applicant's legal right to occupy the property before a  
2480 license may be issued. Proof may include, but need not be  
2481 limited to, copies of warranty deeds, lease or rental  
2482 agreements, contracts for deeds, quitclaim deeds, or other such  
2483 documentation.

2484 (b) If the property is encumbered by a mortgage or is  
2485 leased, an applicant must provide the agency with proof that the  
2486 mortgagor or landlord has received written notice of the  
2487 applicant's intent, as mortgagor or tenant, to provide services  
2488 that require licensure and with instructions that the agency  
2489 must be served by certified mail with copies of any actions  
2490 initiated by the mortgagor or landlord against the applicant.

2491 (9) A controlling interest may not withhold from the agency  
2492 any evidence of financial instability, including, but not  
2493 limited to, checks returned due to insufficient funds,  
2494 delinquent accounts, nonpayment of withholding taxes, unpaid

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2495 utility expenses, nonpayment for essential services, or adverse  
2496 court action concerning the financial viability of the provider  
2497 or any other provider licensed under this part which ~~that~~ is  
2498 under the control of the controlling interest. A controlling  
2499 interest shall notify the agency within 10 days after a court  
2500 action, including, but not limited to, the initiation of  
2501 bankruptcy proceedings, foreclosure, or eviction proceedings in  
2502 which the controlling interest is a petitioner or defendant. Any  
2503 person who violates this subsection commits a misdemeanor of the  
2504 second degree, punishable as provided in s. 775.082 or s.  
2505 775.083. Each day of continuing violation is a separate offense.

2506 Section 60. Paragraph (e) is added to subsection (2) of  
2507 section 408.813, Florida Statutes, to read:

2508 408.813 Administrative fines; violations.—As a penalty for  
2509 any violation of this part, authorizing statutes, or applicable  
2510 rules, the agency may impose an administrative fine.

2511 (2) Violations of this part, authorizing statutes, or  
2512 applicable rules shall be classified according to the nature of  
2513 the violation and the gravity of its probable effect on clients.  
2514 The scope of a violation may be cited as an isolated, patterned,  
2515 or widespread deficiency. An isolated deficiency is a deficiency  
2516 affecting one or a very limited number of clients, or involving  
2517 one or a very limited number of staff, or a situation that  
2518 occurred only occasionally or in a very limited number of  
2519 locations. A patterned deficiency is a deficiency in which more  
2520 than a very limited number of clients are affected, or more than  
2521 a very limited number of staff are involved, or the situation  
2522 has occurred in several locations, or the same client or clients  
2523 have been affected by repeated occurrences of the same deficient

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2524 practice but the effect of the deficient practice is not found  
2525 to be pervasive throughout the provider. A widespread deficiency  
2526 is a deficiency in which the problems causing the deficiency are  
2527 pervasive in the provider or represent systemic failure that has  
2528 affected or has the potential to affect a large portion of the  
2529 provider's clients. This subsection does not affect the  
2530 legislative determination of the amount of a fine imposed under  
2531 authorizing statutes. Violations shall be classified on the  
2532 written notice as follows:

2533 (e) The agency may impose an administrative fine for  
2534 violations that do not qualify as class I, class II, class III,  
2535 or class IV violations. The amount of the fine may not exceed  
2536 \$500 for each violation. Unclassified violations may include:

2537 1. Violating any term or condition of a license.

2538 2. Violating any provision of this part, authorizing  
2539 statutes, or applicable rules.

2540 3. Exceeding licensed capacity without authorization.

2541 4. Providing services beyond the scope of the license.

2542 5. Violating a moratorium.

2543 Section 61. Subsection (5) is added to section 408.815,  
2544 Florida Statutes, to read:

2545 408.815 License or application denial; revocation.—

2546 (5) In order to ensure the health, safety, and welfare of  
2547 clients when a license has been denied or revoked or is set to  
2548 terminate, the agency may extend the license expiration date for  
2549 up to 60 days after denial, revocation, or termination for the  
2550 sole purpose of allowing the safe and orderly discharge of  
2551 clients. The agency may impose conditions on the extension,  
2552 including, but not limited to, prohibiting or limiting

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2553 admissions, expediting discharge planning, submitting required  
2554 status reports, and mandatory monitoring by the agency or third  
2555 parties. The agency may terminate the extension or modify the  
2556 conditions at any time at its discretion. Upon the discharge of  
2557 the final client, the extension shall immediately terminate and  
2558 the provider shall cease operation and promptly surrender its  
2559 license certificate to the agency. During the extension, the  
2560 provider must continue to meet all other requirements of this  
2561 part, authorizing statutes, and applicable rules. This authority  
2562 is in addition to any other authority granted to the agency  
2563 under chapter 120, this part, and the authorizing statutes, but  
2564 does not create any right or entitlement to an extension of a  
2565 license expiration date.

2566 Section 62. Paragraph (d) is added to subsection (13) of  
2567 section 409.906, Florida Statutes, to read:

2568 409.906 Optional Medicaid services.—Subject to specific  
2569 appropriations, the agency may make payments for services which  
2570 are optional to the state under Title XIX of the Social Security  
2571 Act and are furnished by Medicaid providers to recipients who  
2572 are determined to be eligible on the dates on which the services  
2573 were provided. Any optional service that is provided shall be  
2574 provided only when medically necessary and in accordance with  
2575 state and federal law. Optional services rendered by providers  
2576 in mobile units to Medicaid recipients may be restricted or  
2577 prohibited by the agency. Nothing in this section shall be  
2578 construed to prevent or limit the agency from adjusting fees,  
2579 reimbursement rates, lengths of stay, number of visits, or  
2580 number of services, or making any other adjustments necessary to  
2581 comply with the availability of moneys and any limitations or

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2582 directions provided for in the General Appropriations Act or  
2583 chapter 216. If necessary to safeguard the state's systems of  
2584 providing services to elderly and disabled persons and subject  
2585 to the notice and review provisions of s. 216.177, the Governor  
2586 may direct the Agency for Health Care Administration to amend  
2587 the Medicaid state plan to delete the optional Medicaid service  
2588 known as "Intermediate Care Facilities for the Developmentally  
2589 Disabled." Optional services may include:

2590 (13) HOME AND COMMUNITY-BASED SERVICES.—

2591 (d) The agency, in consultation with the Department of  
2592 Elderly Affairs, shall phase out the adult day health care  
2593 waiver program and transfer existing waiver enrollees to other  
2594 appropriate home and community-based service programs. Effective  
2595 July 1, 2010, the adult day health care waiver program shall  
2596 cease to enroll new members. Existing enrollees in the adult day  
2597 health care program shall receive counseling regarding available  
2598 options and shall be offered an alternative home and community-  
2599 based services program based on eligibility and personal choice.  
2600 Each enrollee in the waiver program shall continue to receive  
2601 home and community-based services without interruption in the  
2602 enrollee's program of choice. The providers of the adult day  
2603 health care waiver program, in consultation with resource  
2604 centers for the aged, shall assist in the transition of  
2605 enrollees and cease provision of adult day health care waiver  
2606 services by December 31, 2010. The agency may seek federal  
2607 waiver approval to administer this change.

2608 Section 63. Paragraph (k) of subsection (4) of section  
2609 409.221, Florida Statutes, is repealed.

2610 Section 64. Paragraphs (e), (f), and (g) of subsection (15)

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2611 of section 409.912, Florida Statutes, are repealed.

2612 Section 65. Section 429.07, Florida Statutes, is amended to  
2613 read:

2614 429.07 License required; fee; and inspections.—

2615 (1) The requirements of part II of chapter 408 apply to the  
2616 provision of services that require licensure pursuant to this  
2617 part and part II of chapter 408 and to entities licensed by or  
2618 applying for such licensure from the agency pursuant to this  
2619 part. A license issued by the agency is required in order to  
2620 operate an assisted living facility in this state.

2621 (2) Separate licenses shall be required for facilities  
2622 maintained in separate premises, even though operated under the  
2623 same management. A separate license shall not be required for  
2624 separate buildings on the same grounds.

2625 (3) In addition to the requirements of s. 408.806, each  
2626 license granted by the agency must state the type of care for  
2627 which the license is granted. Licenses shall be issued for one  
2628 or more of the following categories of care: standard, extended  
2629 congregate care, ~~limited nursing services,~~ or limited mental  
2630 health.

2631 (a) A standard license shall be issued to a facility that  
2632 provides ~~facilities providing~~ one or more of the personal  
2633 services identified in s. 429.02. Such licensee ~~facilities~~ may  
2634 also employ or contract with a person ~~licensed under part I of~~  
2635 ~~chapter 464 to administer medications and perform other tasks as~~  
2636 specified in s. 429.255.

2637 (b) An extended congregate care license shall be issued to  
2638 a licensee that provides ~~facilities providing,~~ directly or  
2639 through contract, services beyond those authorized in paragraph

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2640 (a), including acts performed pursuant to part I of chapter 464  
2641 by persons licensed thereunder, and supportive services defined  
2642 by rule to persons who otherwise would be disqualified from  
2643 continued residence in a facility licensed under this part.

2644 1. In order for extended congregate care services to be  
2645 provided in a facility licensed under this part, the agency must  
2646 first determine that all requirements established in law and  
2647 rule are met and must specifically designate, on the ~~facility's~~  
2648 license, that such services may be provided and whether the  
2649 designation applies to all or part of a facility. Such  
2650 designation may be made at the time of initial licensure or  
2651 relicensure, or upon request in writing by a licensee under this  
2652 part and part II of chapter 408. Notification of approval or  
2653 denial of such request shall be made in accordance with part II  
2654 of chapter 408. An existing licensee ~~facilities~~ qualifying to  
2655 provide extended congregate care services must have maintained a  
2656 standard license and ~~may~~ not have been subject to administrative  
2657 sanctions during the previous 2 years, or since initial  
2658 licensure if ~~the facility has been~~ licensed for less than 2  
2659 years, for any of the following reasons:

2660 a. A class I or class II violation;

2661 b. Three or more repeat or recurring class III violations  
2662 of identical or similar resident care standards as specified in  
2663 rule from which a pattern of noncompliance is found by the  
2664 agency;

2665 c. Three or more class III violations that were not  
2666 corrected in accordance with the corrective action plan approved  
2667 by the agency;

2668 d. Violation of resident care standards resulting in a

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2669 requirement to employ the services of a consultant pharmacist or  
2670 consultant dietitian;

2671 e. Denial, suspension, or revocation of a license for  
2672 another facility under this part in which the applicant for an  
2673 extended congregate care license has at least 25 percent  
2674 ownership interest; or

2675 f. Imposition of a moratorium pursuant to ~~this part or part~~  
2676 II of chapter 408 or initiation of injunctive proceedings.

2677 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide  
2678 extended congregate care services shall maintain a written  
2679 progress report for ~~on~~ each person who receives such services,  
2680 and the ~~which~~ report must describe ~~describes~~ the type, amount,  
2681 duration, scope, and outcome of services that are rendered and  
2682 the general status of the resident's health. ~~A registered nurse,~~  
2683 ~~or appropriate designee, representing the agency shall visit~~  
2684 ~~such facilities at least quarterly to monitor residents who are~~  
2685 ~~receiving extended congregate care services and to determine if~~  
2686 ~~the facility is in compliance with this part, part II of chapter~~  
2687 ~~408, and rules that relate to extended congregate care. One of~~  
2688 ~~these visits may be in conjunction with the regular survey. The~~  
2689 ~~monitoring visits may be provided through contractual~~  
2690 ~~arrangements with appropriate community agencies. A registered~~  
2691 ~~nurse shall serve as part of the team that inspects such~~  
2692 ~~facility. The agency may waive one of the required yearly~~  
2693 ~~monitoring visits for a facility that has been licensed for at~~  
2694 ~~least 24 months to provide extended congregate care services,~~  
2695 ~~if, during the inspection, the registered nurse determines that~~  
2696 ~~extended congregate care services are being provided~~  
2697 ~~appropriately, and if the facility has no class I or class II~~

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2698 ~~violations and no uncorrected class III violations. Before such~~  
2699 ~~decision is made, the agency shall consult with the long-term~~  
2700 ~~care ombudsman council for the area in which the facility is~~  
2701 ~~located to determine if any complaints have been made and~~  
2702 ~~substantiated about the quality of services or care. The agency~~  
2703 ~~may not waive one of the required yearly monitoring visits if~~  
2704 ~~complaints have been made and substantiated.~~

2705 3. Licensees ~~Facilities~~ that are licensed to provide  
2706 extended congregate care services shall:

2707 a. Demonstrate the capability to meet unanticipated  
2708 resident service needs.

2709 b. Offer a physical environment that promotes a homelike  
2710 setting, provides for resident privacy, promotes resident  
2711 independence, and allows sufficient congregate space as defined  
2712 by rule.

2713 c. Have sufficient staff available, taking into account the  
2714 physical plant and firesafety features of the building, to  
2715 assist with the evacuation of residents in an emergency, ~~as~~  
2716 ~~necessary~~.

2717 d. Adopt and follow policies and procedures that maximize  
2718 resident independence, dignity, choice, and decisionmaking to  
2719 permit residents to age in place to the extent possible, so that  
2720 moves due to changes in functional status are minimized or  
2721 avoided.

2722 e. Allow residents or, if applicable, a resident's  
2723 representative, designee, surrogate, guardian, or attorney in  
2724 fact to make a variety of personal choices, participate in  
2725 developing service plans, and share responsibility in  
2726 decisionmaking.

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- 2727 f. Implement the concept of managed risk.
- 2728 g. Provide, either directly or through contract, the  
2729 services of a person licensed pursuant to part I of chapter 464.
- 2730 h. In addition to the training mandated in s. 429.52,  
2731 provide specialized training as defined by rule for facility  
2732 staff.
- 2733 4. Licensees ~~Facilities~~ licensed to provide extended  
2734 congregate care services are exempt from the criteria for  
2735 continued residency as set forth in rules adopted under s.  
2736 429.41. Licensees ~~Facilities so licensed~~ shall adopt their own  
2737 requirements within guidelines for continued residency set forth  
2738 by rule. However, such licensees ~~facilities~~ may not serve  
2739 residents who require 24-hour nursing supervision. Licensees  
2740 ~~Facilities~~ licensed to provide extended congregate care services  
2741 shall provide each resident with a written copy of facility  
2742 policies governing admission and retention.
- 2743 5. The primary purpose of extended congregate care services  
2744 is to allow residents, as they become more impaired, the option  
2745 of remaining in a familiar setting from which they would  
2746 otherwise be disqualified for continued residency. A licensee  
2747 ~~facility~~ licensed to provide extended congregate care services  
2748 may also admit an individual who exceeds the admission criteria  
2749 for a facility with a standard license, if the individual is  
2750 determined appropriate for admission to the extended congregate  
2751 care facility.
- 2752 6. Before admission of an individual to a facility licensed  
2753 to provide extended congregate care services, the individual  
2754 must undergo a medical examination as provided in s. 429.26(4)  
2755 and the facility must develop a preliminary service plan for the

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2756 individual.

2757 7. When a licensee ~~facility~~ can no longer provide or  
2758 arrange for services in accordance with the resident's service  
2759 plan and needs and the licensee ~~facility's~~ policy, the licensee  
2760 ~~facility~~ shall make arrangements for relocating the person in  
2761 accordance with s. 429.28(1)(k).

2762 8. Failure to provide extended congregate care services may  
2763 result in denial of extended congregate care license renewal.

2764 ~~9. No later than January 1 of each year, the department, in~~  
2765 ~~consultation with the agency, shall prepare and submit to the~~  
2766 ~~Governor, the President of the Senate, the Speaker of the House~~  
2767 ~~of Representatives, and the chairs of appropriate legislative~~  
2768 ~~committees, a report on the status of, and recommendations~~  
2769 ~~related to, extended congregate care services. The status report~~  
2770 ~~must include, but need not be limited to, the following~~  
2771 ~~information:~~

2772 a. ~~A description of the facilities licensed to provide such~~  
2773 ~~services, including total number of beds licensed under this~~  
2774 ~~part.~~

2775 b. ~~The number and characteristics of residents receiving~~  
2776 ~~such services.~~

2777 c. ~~The types of services rendered that could not be~~  
2778 ~~provided through a standard license.~~

2779 d. ~~An analysis of deficiencies cited during licensure~~  
2780 ~~inspections.~~

2781 e. ~~The number of residents who required extended congregate~~  
2782 ~~care services at admission and the source of admission.~~

2783 f. ~~Recommendations for statutory or regulatory changes.~~

2784 g. ~~The availability of extended congregate care to state~~

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2785 ~~clients residing in facilities licensed under this part and in~~  
2786 ~~need of additional services, and recommendations for~~  
2787 ~~appropriations to subsidize extended congregate care services~~  
2788 ~~for such persons.~~

2789 ~~h. Such other information as the department considers~~  
2790 ~~appropriate.~~

2791 ~~(c) A limited nursing services license shall be issued to a~~  
2792 ~~facility that provides services beyond those authorized in~~  
2793 ~~paragraph (a) and as specified in this paragraph.~~

2794 ~~1. In order for limited nursing services to be provided in~~  
2795 ~~a facility licensed under this part, the agency must first~~  
2796 ~~determine that all requirements established in law and rule are~~  
2797 ~~met and must specifically designate, on the facility's license,~~  
2798 ~~that such services may be provided. Such designation may be made~~  
2799 ~~at the time of initial licensure or relicensure, or upon request~~  
2800 ~~in writing by a licensee under this part and part II of chapter~~  
2801 ~~408. Notification of approval or denial of such request shall be~~  
2802 ~~made in accordance with part II of chapter 408. Existing~~  
2803 ~~facilities qualifying to provide limited nursing services shall~~  
2804 ~~have maintained a standard license and may not have been subject~~  
2805 ~~to administrative sanctions that affect the health, safety, and~~  
2806 ~~welfare of residents for the previous 2 years or since initial~~  
2807 ~~licensure if the facility has been licensed for less than 2~~  
2808 ~~years.~~

2809 ~~2. Facilities that are licensed to provide limited nursing~~  
2810 ~~services shall maintain a written progress report on each person~~  
2811 ~~who receives such nursing services, which report describes the~~  
2812 ~~type, amount, duration, scope, and outcome of services that are~~  
2813 ~~rendered and the general status of the resident's health. A~~

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2814 ~~registered nurse representing the agency shall visit such~~  
2815 ~~facilities at least twice a year to monitor residents who are~~  
2816 ~~receiving limited nursing services and to determine if the~~  
2817 ~~facility is in compliance with applicable provisions of this~~  
2818 ~~part, part II of chapter 408, and related rules. The monitoring~~  
2819 ~~visits may be provided through contractual arrangements with~~  
2820 ~~appropriate community agencies. A registered nurse shall also~~  
2821 ~~serve as part of the team that inspects such facility.~~

2822 ~~3. A person who receives limited nursing services under~~  
2823 ~~this part must meet the admission criteria established by the~~  
2824 ~~agency for assisted living facilities. When a resident no longer~~  
2825 ~~meets the admission criteria for a facility licensed under this~~  
2826 ~~part, arrangements for relocating the person shall be made in~~  
2827 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~  
2828 ~~to provide extended congregate care services.~~

2829 (4) In accordance with s. 408.805, an applicant or licensee  
2830 shall pay a fee for each license application submitted under  
2831 this part, part II of chapter 408, and applicable rules. The  
2832 amount of the fee shall be established by rule.

2833 (a) The biennial license fee required of a facility is \$356  
2834 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per  
2835 resident based on the total licensed resident capacity of the  
2836 facility, except that no additional fee will be assessed for  
2837 beds designated for recipients of optional state supplementation  
2838 payments provided for in s. 409.212. The total fee may not  
2839 exceed \$18,500 ~~\$10,000~~.

2840 (b) In addition to the total fee assessed under paragraph  
2841 (a), the agency shall require facilities that are licensed to  
2842 provide extended congregate care services under this part to pay

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2843 an additional fee per licensed facility. The amount of the  
2844 biennial fee shall be \$501 ~~\$400~~ per license, with an additional  
2845 fee of \$10 per resident based on the total licensed resident  
2846 capacity of the facility.

2847 ~~(c) In addition to the total fee assessed under paragraph~~  
2848 ~~(a), the agency shall require facilities that are licensed to~~  
2849 ~~provide limited nursing services under this part to pay an~~  
2850 ~~additional fee per licensed facility. The amount of the biennial~~  
2851 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~  
2852 ~~resident based on the total licensed resident capacity of the~~  
2853 ~~facility.~~

2854 (5) Counties or municipalities applying for licenses under  
2855 this part are exempt from the payment of license fees.

2856 (6) In order to determine whether the licensee is  
2857 adequately protecting residents' rights as provided in s.  
2858 429.28, the biennial survey must include private, informal  
2859 conversations with a sample of the residents and consultation  
2860 with the ombudsman council in the planning and service area in  
2861 which the facility is located to discuss residents' experiences  
2862 within the facility.

2863 (7) An assisted living facility that has been cited within  
2864 the previous 24-month period for a class I violation or a class  
2865 II violation, regardless of the status of any enforcement or  
2866 disciplinary action, is subject to periodic unannounced  
2867 monitoring to determine if the facility is in compliance with  
2868 this part, part II of chapter 408, and applicable rules.  
2869 Monitoring may occur through a desk review or onsite. If a cited  
2870 violation relates to providing or failing to provide nursing  
2871 care, a registered nurse must participate in at least two onsite

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2872 monitoring visits within a 12-month period.

2873 Section 66. Section 429.11, Florida Statutes, is amended to  
2874 read:

2875 429.11 Initial application for license; ~~provisional~~  
2876 ~~license.~~-

2877 (1) Each applicant for licensure must comply with all  
2878 provisions of part II of chapter 408 and must:

2879 (a) Identify all other homes or facilities, including the  
2880 addresses and the license or licenses under which they operate,  
2881 if applicable, which are currently operated by the applicant or  
2882 administrator and which provide housing, meals, and personal  
2883 services to residents.

2884 (b) Provide the location of the facility for which a  
2885 license is sought and documentation, signed by the appropriate  
2886 local government official, which states that the applicant has  
2887 met local zoning requirements.

2888 (c) Provide the name, address, date of birth, social  
2889 security number, education, and experience of the administrator,  
2890 if different from the applicant.

2891 (2) The applicant shall provide proof of liability  
2892 insurance as defined in s. 624.605.

2893 (3) If the applicant is a community residential home, the  
2894 applicant must provide proof that it has met the requirements  
2895 specified in chapter 419.

2896 (4) The applicant must furnish proof that the facility has  
2897 received a satisfactory firesafety inspection. The local  
2898 authority having jurisdiction or the State Fire Marshal must  
2899 conduct the inspection within 30 days after written request by  
2900 the applicant.

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2901 (5) The applicant must furnish documentation of a  
2902 satisfactory sanitation inspection of the facility by the county  
2903 health department.

2904 ~~(6) In addition to the license categories available in s.~~  
2905 ~~408.808, a provisional license may be issued to an applicant~~  
2906 ~~making initial application for licensure or making application~~  
2907 ~~for a change of ownership. A provisional license shall be~~  
2908 ~~limited in duration to a specific period of time not to exceed 6~~  
2909 ~~months, as determined by the agency.~~

2910 (6)~~(7)~~ A county or municipality may not issue an  
2911 occupational license that is being obtained for the purpose of  
2912 operating a facility regulated under this part without first  
2913 ascertaining that the applicant has been licensed to operate  
2914 such facility at the specified location or locations by the  
2915 agency. The agency shall furnish to local agencies responsible  
2916 for issuing occupational licenses sufficient instruction for  
2917 making such determinations.

2918 Section 67. Subsection (2) of section 429.12, Florida  
2919 Statutes, is repealed.

2920 Section 68. Subsections (5) and (6) of section 429.14,  
2921 Florida Statutes, are amended to read:

2922 429.14 Administrative penalties.—

2923 (5) An action taken by the agency to suspend, deny, or  
2924 revoke a facility's license under this part or part II of  
2925 chapter 408, in which the agency claims that the facility owner  
2926 or an employee of the facility has threatened the health,  
2927 safety, or welfare of a resident of the facility shall be heard  
2928 by the Division of Administrative Hearings of the Department of  
2929 Management Services within 120 days after receipt of the

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2930 facility's request for a hearing, unless that time limitation is  
2931 waived by both parties. The administrative law judge must render  
2932 a decision within 30 days after receipt of a proposed  
2933 recommended order.

2934 (6) The agency shall provide to the Division of Hotels and  
2935 Restaurants of the Department of Business and Professional  
2936 Regulation, on a monthly basis, a list of those assisted living  
2937 facilities that have had their licenses denied, suspended, or  
2938 revoked or that are involved in an appellate proceeding pursuant  
2939 to s. 120.60 related to the denial, suspension, or revocation of  
2940 a license. This information may be provided electronically or  
2941 through the agency's Internet website.

2942 Section 69. Subsections (1), (4), and (5) of section  
2943 429.17, Florida Statutes, are amended to read:

2944 429.17 Expiration of license; renewal; conditional  
2945 license.—

2946 (1) ~~Limited nursing,~~ Extended congregate care, and limited  
2947 mental health licenses shall expire at the same time as the  
2948 facility's standard license, regardless of when issued.

2949 (4) In addition to the license categories available in s.  
2950 408.808, a conditional license may be issued to an applicant for  
2951 license renewal if the applicant fails to meet all standards and  
2952 requirements for licensure. A conditional license issued under  
2953 this subsection shall be limited in duration to a specific  
2954 period of time not to exceed 6 months, as determined by the  
2955 agency, ~~and shall be accompanied by an agency approved plan of~~  
2956 ~~correction.~~

2957 (5) When an extended congregate care ~~or limited nursing~~  
2958 license is requested during a facility's biennial license

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2959 period, the fee shall be prorated in order to permit the  
2960 additional license to expire at the end of the biennial license  
2961 period. The fee shall be calculated as of the date the  
2962 additional license application is received by the agency.

2963 Section 70. Subsection (7) of section 429.19, Florida  
2964 Statutes, is amended to read:

2965 429.19 Violations; imposition of administrative fines;  
2966 grounds.—

2967 (7) In addition to any administrative fines imposed, the  
2968 agency may assess a survey or monitoring fee, equal to the  
2969 lesser of one half of the facility's biennial license and bed  
2970 fee or \$500, to cover the cost of conducting initial complaint  
2971 investigations that result in the finding of a violation that  
2972 was the subject of the complaint or monitoring visits ~~conducted~~  
2973 ~~under s. 429.28(3)(c)~~ to verify the correction of the  
2974 violations, or to monitor the health, safety, or security of  
2975 residents under s. 429.07(7).

2976 Section 71. Subsection (5) of section 429.23, Florida  
2977 Statutes, is repealed.

2978 Section 72. Section 429.255, Florida Statutes, is amended  
2979 to read:

2980 429.255 Use of personnel; emergency care.—

2981 (1) (a) Persons under contract to the facility or facility  
2982 staff, ~~or volunteers,~~ who are licensed according to part I of  
2983 chapter 464, ~~or~~ those persons exempt under s. 464.022(1), and  
2984 others as defined by rule, may administer medications to  
2985 residents, take residents' vital signs, manage individual weekly  
2986 pill organizers for residents who self-administer medication,  
2987 give prepackaged enemas ordered by a physician, observe

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2988 residents, document observations on the appropriate resident's  
2989 record, report observations to the resident's physician, and  
2990 contract or allow residents or a resident's representative,  
2991 designee, surrogate, guardian, or attorney in fact to contract  
2992 with a third party, provided residents meet the criteria for  
2993 appropriate placement as defined in s. 429.26. Persons under  
2994 contract to the facility or facility staff who are licensed  
2995 according to part I of chapter 464 may provide limited nursing  
2996 services. Nursing assistants certified pursuant to part II of  
2997 chapter 464 may take residents' vital signs as directed by a  
2998 licensed nurse or physician. The licensee is responsible for  
2999 maintaining documentation of services provided under this  
3000 paragraph as required by rule and ensuring that staff are  
3001 adequately trained to monitor residents receiving these  
3002 services.

3003 (b) All staff in facilities licensed under this part shall  
3004 exercise their professional responsibility to observe residents,  
3005 to document observations on the appropriate resident's record,  
3006 and to report the observations to the resident's physician.  
3007 However, the owner or administrator of the facility shall be  
3008 responsible for determining that the resident receiving services  
3009 is appropriate for residence in the facility.

3010 (c) In an emergency situation, licensed personnel may carry  
3011 out their professional duties pursuant to part I of chapter 464  
3012 until emergency medical personnel assume responsibility for  
3013 care.

3014 (2) In facilities licensed to provide extended congregate  
3015 care, persons under contract to the facility or facility staff,  
3016 ~~or volunteers,~~ who are licensed according to part I of chapter

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3017 464, ~~or~~ those persons exempt under s. 464.022(1), or those  
3018 persons certified as nursing assistants pursuant to part II of  
3019 chapter 464, may also perform all duties within the scope of  
3020 their license or certification, as approved by the facility  
3021 administrator and pursuant to this part.

3022 (3) Facility staff may withhold or withdraw cardiopulmonary  
3023 resuscitation if presented with an order not to resuscitate  
3024 executed pursuant to s. 401.45. The department shall adopt rules  
3025 providing for the implementation of such orders. Facility staff  
3026 and facilities shall not be subject to criminal prosecution or  
3027 civil liability, nor be considered to have engaged in negligent  
3028 or unprofessional conduct, for withholding or withdrawing  
3029 cardiopulmonary resuscitation pursuant to such an order and  
3030 rules adopted by the department. The absence of an order to  
3031 resuscitate executed pursuant to s. 401.45 does not preclude a  
3032 physician from withholding or withdrawing cardiopulmonary  
3033 resuscitation as otherwise permitted by law.

3034 Section 73. Subsection (3) of section 429.28, Florida  
3035 Statutes, is repealed.

3036 Section 74. Subsection (2) of section 429.35, Florida  
3037 Statutes, is amended to read:

3038 429.35 Maintenance of records; reports.—

3039 (2) Within 60 days after the date of the biennial  
3040 inspection visit required under s. 408.811 or within 30 days  
3041 after the date of any interim visit, the agency shall forward  
3042 the results of the inspection to the local ombudsman council in  
3043 whose planning and service area, as defined in part II of  
3044 chapter 400, the facility is located; to at least one public  
3045 library or, in the absence of a public library, the county seat

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3046 in the county in which the inspected assisted living facility is  
3047 located; and, when appropriate, to the district Adult Services  
3048 and Mental Health Program Offices. This information may be  
3049 provided electronically or through the agency's Internet site.

3050 Section 75. Paragraphs (i) and (j) of subsection (1) of  
3051 section 429.41, Florida Statutes, are amended to read:

3052 429.41 Rules establishing standards.—

3053 (1) It is the intent of the Legislature that rules  
3054 published and enforced pursuant to this section shall include  
3055 criteria by which a reasonable and consistent quality of  
3056 resident care and quality of life may be ensured and the results  
3057 of such resident care may be demonstrated. Such rules shall also  
3058 ensure a safe and sanitary environment that is residential and  
3059 noninstitutional in design or nature. It is further intended  
3060 that reasonable efforts be made to accommodate the needs and  
3061 preferences of residents to enhance the quality of life in a  
3062 facility. The agency, in consultation with the department, may  
3063 adopt rules to administer the requirements of part II of chapter  
3064 408. In order to provide safe and sanitary facilities and the  
3065 highest quality of resident care accommodating the needs and  
3066 preferences of residents, the department, in consultation with  
3067 the agency, the Department of Children and Family Services, and  
3068 the Department of Health, shall adopt rules, policies, and  
3069 procedures to administer this part, which must include  
3070 reasonable and fair minimum standards in relation to:

3071 (i) Facilities holding an ~~a limited nursing~~, extended  
3072 congregate care, or limited mental health license.

3073 (j) The establishment of specific criteria to define  
3074 appropriateness of resident admission and continued residency in

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3075 a facility holding a standard, ~~limited nursing,~~ extended  
3076 congregate care, and limited mental health license.

3077 Section 76. Section 429.53, Florida Statutes, is amended to  
3078 read:

3079 429.53 Consultation by the agency.—

3080 (1) ~~The area offices of licensure and certification of the~~  
3081 agency shall provide consultation to the following upon request:

3082 (a) A licensee of a facility.

3083 (b) A person interested in obtaining a license to operate a  
3084 facility under this part.

3085 (2) As used in this section, "consultation" includes:

3086 (a) An explanation of the requirements of this part and  
3087 rules adopted pursuant thereto;

3088 (b) An explanation of the license application and renewal  
3089 procedures; and

3090 ~~(c) The provision of a checklist of general local and state~~  
3091 ~~approvals required prior to constructing or developing a~~  
3092 ~~facility and a listing of the types of agencies responsible for~~  
3093 ~~such approvals;~~

3094 ~~(d) An explanation of benefits and financial assistance~~  
3095 ~~available to a recipient of supplemental security income~~  
3096 ~~residing in a facility;~~

3097 (c) ~~(e)~~ Any other information ~~which~~ the agency deems  
3098 necessary to promote compliance with the requirements of this  
3099 part; ~~and~~

3100 ~~(f) A preconstruction review of a facility to ensure~~  
3101 ~~compliance with agency rules and this part.~~

3102 (3) The agency may charge a fee commensurate with the cost  
3103 of providing consultation under this section.

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3104 Section 77. Section 429.54, Florida Statutes, is amended to  
3105 read:

3106 429.54 Collection of information; local subsidy.—

3107 (1) Facilities that are licensed under this part must  
3108 report electronically to the agency semiannually, or more  
3109 frequently as determined by rule, data related to the facility,  
3110 including, but not limited to: the total number of residents,  
3111 the number of residents who are receiving limited mental health  
3112 services, the number of residents who are receiving extended  
3113 congregate care services, the number of residents who are  
3114 receiving limited nursing services, funding sources of the  
3115 residents, and professional staffing employed by or under  
3116 contract with the licensee to provide resident services. The  
3117 department, in consultation with the agency, shall adopt rules  
3118 to administer this subsection.

3119 (2)~~(1)~~ To enable the department to collect the information  
3120 requested by the Legislature regarding the actual cost of  
3121 providing room, board, and personal care in facilities, the  
3122 department is authorized to conduct field visits and audits of  
3123 facilities as may be necessary. The owners of randomly sampled  
3124 facilities shall submit such reports, audits, and accountings of  
3125 cost as the department may require by rule; provided that such  
3126 reports, audits, and accountings shall be the minimum necessary  
3127 to implement the provisions of this section. Any facility  
3128 selected to participate in the study shall cooperate with the  
3129 department by providing cost of operation information to  
3130 interviewers.

3131 (3)~~(2)~~ Local governments or organizations may contribute to  
3132 the cost of care of local facility residents by further

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3133 subsidizing the rate of state-authorized payment to such  
3134 facilities. Implementation of local subsidy shall require  
3135 departmental approval and shall not result in reductions in the  
3136 state supplement.

3137 Section 78. Subsections (2) and (11) of section 429.65,  
3138 Florida Statutes, are amended to read:

3139 429.65 Definitions.—As used in this part, the term:

3140 (2) "Adult family-care home" means a full-time, family-type  
3141 living arrangement, in a private home, under which up to two  
3142 individuals ~~a person~~ who reside in the home and own or rent ~~owns~~  
3143 ~~or rents~~ the home provide ~~provides~~ room, board, and personal  
3144 care, on a 24-hour basis, for no more than five disabled adults  
3145 or frail elders who are not relatives. The following family-type  
3146 living arrangements are not required to be licensed as an adult  
3147 family-care home:

3148 (a) An arrangement whereby the person who resides in the  
3149 home and owns or rents the home provides room, board, and  
3150 personal services for not more than two adults who do not  
3151 receive optional state supplementation under s. 409.212. The  
3152 person who provides the housing, meals, and personal care must  
3153 own or rent the home and reside therein.

3154 (b) An arrangement whereby the person who owns or rents the  
3155 home provides room, board, and personal services only to his or  
3156 her relatives.

3157 (c) An establishment that is licensed as an assisted living  
3158 facility under this chapter.

3159 (11) "Provider" means up to two individuals ~~a person~~ who  
3160 are ~~is~~ licensed to operate an adult family-care home.

3161 Section 79. Section 429.71, Florida Statutes, is amended to

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3162 read:

3163 429.71 Classification of violations ~~deficiencies~~;  
3164 administrative fines.-

3165 (1) In addition to the requirements of part II of chapter  
3166 408 and in addition to any other liability or penalty provided  
3167 by law, the agency may impose an administrative fine on a  
3168 provider according to the following classification:

3169 (a) Class I violations are defined in s. 408.813. ~~those~~  
3170 ~~conditions or practices related to the operation and maintenance~~  
3171 ~~of an adult family care home or to the care of residents which~~  
3172 ~~the agency determines present an imminent danger to the~~  
3173 ~~residents or guests of the facility or a substantial probability~~  
3174 ~~that death or serious physical or emotional harm would result~~  
3175 ~~therefrom. The condition or practice that constitutes a class I~~  
3176 ~~violation must be abated or eliminated within 24 hours, unless a~~  
3177 ~~fixed period, as determined by the agency, is required for~~  
3178 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an  
3179 administrative fine in an amount not less than \$500 and not  
3180 exceeding \$1,000 for each violation. A fine may be levied  
3181 notwithstanding the correction of the violation ~~deficiency~~.

3182 (b) Class II violations are defined in s. 408.813. ~~those~~  
3183 ~~conditions or practices related to the operation and maintenance~~  
3184 ~~of an adult family care home or to the care of residents which~~  
3185 ~~the agency determines directly threaten the physical or~~  
3186 ~~emotional health, safety, or security of the residents, other~~  
3187 ~~than class I violations.~~ A class II violation is subject to an  
3188 administrative fine in an amount not less than \$250 and not  
3189 exceeding \$500 for each violation. ~~A citation for a class II~~  
3190 ~~violation must specify the time within which the violation is~~

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3191 ~~required to be corrected. If a class II violation is corrected~~  
3192 ~~within the time specified, no civil penalty shall be imposed,~~  
3193 ~~unless it is a repeated offense.~~

3194 (c) Class III violations are defined in s. 408.813. ~~these~~  
3195 ~~conditions or practices related to the operation and maintenance~~  
3196 ~~of an adult family-care home or to the care of residents which~~  
3197 ~~the agency determines indirectly or potentially threaten the~~  
3198 ~~physical or emotional health, safety, or security of residents,~~  
3199 ~~other than class I or class II violations.~~ A class III violation  
3200 is subject to an administrative fine in an amount not less than  
3201 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~  
3202 ~~class III violation shall specify the time within which the~~  
3203 ~~violation is required to be corrected. If a class III violation~~  
3204 ~~is corrected within the time specified, no civil penalty shall~~  
3205 ~~be imposed, unless it is a repeated offense.~~

3206 (d) Class IV violations are defined in s. 408.813. ~~these~~  
3207 ~~conditions or occurrences related to the operation and~~  
3208 ~~maintenance of an adult family-care home, or related to the~~  
3209 ~~required reports, forms, or documents, which do not have the~~  
3210 ~~potential of negatively affecting the residents.~~ A provider that  
3211 ~~does not correct~~ A class IV violation ~~within the time limit~~  
3212 ~~specified by the agency~~ is subject to an administrative fine in  
3213 an amount not less than \$50 and not exceeding \$100 for each  
3214 violation. ~~Any class IV violation that is corrected during the~~  
3215 ~~time the agency survey is conducted will be identified as an~~  
3216 ~~agency finding and not as a violation.~~

3217 (2) The agency may impose an administrative fine for  
3218 violations that ~~which~~ do not qualify as class I, class II, class  
3219 III, or class IV violations. The amount of the fine may ~~shall~~

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3220 not exceed \$250 for each violation or \$2,000 in the aggregate.

3221 Unclassified violations may include:

3222 (a) Violating any term or condition of a license.

3223 (b) Violating any provision of this part, part II of  
3224 chapter 408, or applicable rules.

3225 (c) Failure to follow the criteria and procedures provided  
3226 under part I of chapter 394 relating to the transportation,  
3227 voluntary admission, and involuntary examination of adult  
3228 family-care home residents.

3229 (d) Exceeding licensed capacity.

3230 (e) Providing services beyond the scope of the license.

3231 (f) Violating a moratorium.

3232 (3) Each day during which a violation occurs constitutes a  
3233 separate offense.

3234 (4) In determining whether a penalty is to be imposed, and  
3235 in fixing the amount of any penalty to be imposed, the agency  
3236 must consider:

3237 (a) The gravity of the violation.

3238 (b) Actions taken by the provider to correct a violation.

3239 (c) Any previous violation by the provider.

3240 (d) The financial benefit to the provider of committing or  
3241 continuing the violation.

3242 ~~(5) As an alternative to or in conjunction with an~~  
3243 ~~administrative action against a provider, the agency may request~~  
3244 ~~a plan of corrective action that demonstrates a good faith~~  
3245 ~~effort to remedy each violation by a specific date, subject to~~  
3246 ~~the approval of the agency.~~

3247 (5) ~~(6)~~ The department shall set forth, by rule, notice  
3248 requirements and procedures for correction of deficiencies.

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3249           Section 80. Subsection (5) of section 429.901, Florida  
3250 Statutes, is repealed.

3251           Section 81. Paragraph (a) of subsection (2) of section  
3252 429.911, Florida Statutes is repealed.

3253           Section 82. Section 429.915, Florida Statutes, is amended  
3254 to read:

3255           429.915 Conditional license.—In addition to the license  
3256 categories available in part II of chapter 408, the agency may  
3257 issue a conditional license to an applicant for license renewal  
3258 or change of ownership if the applicant fails to meet all  
3259 standards and requirements for licensure. A conditional license  
3260 issued under this subsection must be limited to a specific  
3261 period not exceeding 6 months, as determined by the agency, ~~and~~  
3262 ~~must be accompanied by an approved plan of correction.~~

3263           Section 83. Subsection (3) of section 430.80, Florida  
3264 Statutes, is amended to read:

3265           430.80 Implementation of a teaching nursing home pilot  
3266 project.—

3267           (3) To be designated as a teaching nursing home, a nursing  
3268 home licensee must, at a minimum:

3269           (a) Provide a comprehensive program of integrated senior  
3270 services that include institutional services and community-based  
3271 services;

3272           (b) Participate in a nationally recognized accreditation  
3273 program and hold a valid accreditation, such as the  
3274 accreditation awarded by the Joint Commission ~~on Accreditation~~  
3275 ~~of Healthcare Organizations;~~

3276           (c) Have been in business in this state for a minimum of 10  
3277 consecutive years;

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3278 (d) Demonstrate an active program in multidisciplinary  
3279 education and research that relates to gerontology;

3280 (e) Have a formalized contractual relationship with at  
3281 least one accredited health profession education program located  
3282 in this state;

3283 (f) Have a formalized contractual relationship with an  
3284 accredited hospital that is designated by law as a teaching  
3285 hospital; and

3286 (g) Have senior staff members who hold formal faculty  
3287 appointments at universities, which must include at least one  
3288 accredited health profession education program.

3289 (h) Maintain insurance coverage pursuant to s.  
3290 400.141(1)(q) ~~s. 400.141(1)(s)~~ or proof of financial  
3291 responsibility in a minimum amount of \$750,000. Such proof of  
3292 financial responsibility may include:

3293 1. Maintaining an escrow account consisting of cash or  
3294 assets eligible for deposit in accordance with s. 625.52; or

3295 2. Obtaining and maintaining pursuant to chapter 675 an  
3296 unexpired, irrevocable, nontransferable and nonassignable letter  
3297 of credit issued by any bank or savings association organized  
3298 and existing under the laws of this state or any bank or savings  
3299 association organized under the laws of the United States which  
3300 ~~that~~ has its principal place of business in this state or which  
3301 has a branch office that ~~which~~ is authorized to receive deposits  
3302 in this state. The letter of credit shall be used to satisfy the  
3303 obligation of the facility to the claimant upon presentment of a  
3304 final judgment indicating liability and awarding damages to be  
3305 paid by the facility or upon presentment of a settlement  
3306 agreement signed by all parties to the agreement when such final

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3307 judgment or settlement is a result of a liability claim against  
3308 the facility.

3309 Section 84. Paragraph (a) of subsection (2) of section  
3310 440.13, Florida Statutes, is amended to read:

3311 440.13 Medical services and supplies; penalty for  
3312 violations; limitations.—

3313 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

3314 (a) Subject to the limitations specified elsewhere in this  
3315 chapter, the employer shall furnish to the employee such  
3316 medically necessary remedial treatment, care, and attendance for  
3317 such period as the nature of the injury or the process of  
3318 recovery may require, which is in accordance with established  
3319 practice parameters and protocols of treatment as provided for  
3320 in this chapter, including medicines, medical supplies, durable  
3321 medical equipment, orthoses, prostheses, and other medically  
3322 necessary apparatus. Remedial treatment, care, and attendance,  
3323 including work-hardening programs or pain-management programs  
3324 accredited by the Commission on Accreditation of Rehabilitation  
3325 Facilities or Joint Commission ~~on the Accreditation of Health~~  
3326 ~~Organizations~~ or pain-management programs affiliated with  
3327 medical schools, shall be considered as covered treatment only  
3328 when such care is given based on a referral by a physician as  
3329 defined in this chapter. Medically necessary treatment, care,  
3330 and attendance does not include chiropractic services in excess  
3331 of 24 treatments or rendered 12 weeks beyond the date of the  
3332 initial chiropractic treatment, whichever comes first, unless  
3333 the carrier authorizes additional treatment or the employee is  
3334 catastrophically injured.

3335

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3336 Failure of the carrier to timely comply with this subsection  
3337 shall be a violation of this chapter and the carrier shall be  
3338 subject to penalties as provided for in s. 440.525.

3339 Section 85. Subsection (11) is added to section 483.201,  
3340 Florida Statutes, to read:

3341 483.201 Grounds for disciplinary action against clinical  
3342 laboratories.—In addition to the requirements of part II of  
3343 chapter 408, the following acts constitute grounds for which a  
3344 disciplinary action specified in s. 483.221 may be taken against  
3345 a clinical laboratory:

3346 (11) A blood establishment that collects blood or blood  
3347 components from volunteer donors failing to disclose information  
3348 concerning its activities as required by s. 381.06014. Each day  
3349 of violation constitutes a separate violation and each separate  
3350 violation is subject to a separate fine. If multiple licensed  
3351 establishments operated by a single business entity fail to meet  
3352 such disclosure requirements, the agency may assess fines  
3353 against only one of the business entity's clinical laboratory  
3354 licenses. The total administrative fine may not exceed \$10,000  
3355 for each annual reporting period.

3356 Section 86. Section 483.294, Florida Statutes, is amended  
3357 to read:

3358 483.294 Inspection of centers.—In accordance with s.  
3359 408.811, the agency shall biennially, ~~at least once annually~~,  
3360 inspect the premises and operations of all centers subject to  
3361 licensure under this part.

3362 Section 87. Subsection (23) of section 499.003, Florida  
3363 Statutes, is amended to read

3364 499.003 Definitions of terms used in this part.—As used in

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3365 this part, the term:

3366 (23) "Health care entity" means a closed pharmacy or any  
3367 person, organization, or business entity that provides  
3368 diagnostic, medical, surgical, or dental treatment or care, or  
3369 chronic or rehabilitative care, but does not include any  
3370 wholesale distributor or retail pharmacy licensed under state  
3371 law to deal in prescription drugs. However, a blood  
3372 establishment may be a health care entity and engage in the  
3373 wholesale distribution of prescription drugs under s.  
3374 499.01(2)(g)1.c.

3375 Section 88. Subsection (21) of section 499.005, Florida  
3376 Statutes, is amended to read:

3377 499.005 Prohibited acts.—It is unlawful for a person to  
3378 perform or cause the performance of any of the following acts in  
3379 this state:

3380 (21) The wholesale distribution of any prescription drug  
3381 that was:

3382 (a) Purchased by a public or private hospital or other  
3383 health care entity, except as authorized in s. 499.01(2)(g)1.c.;  
3384 or

3385 (b) Donated or supplied at a reduced price to a charitable  
3386 organization.

3387 Section 89. Paragraphs (a) and (g) of subsection (2) of  
3388 section 499.01, Florida Statutes, are amended to read:

3389 499.01 Permits.—

3390 (2) The following permits are established:

3391 (a) *Prescription drug manufacturer permit.*—A prescription  
3392 drug manufacturer permit is required for any person that is a  
3393 manufacturer of a prescription drug and that manufactures or

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3394 distributes such prescription drugs in this state.

3395 1. A person that operates an establishment permitted as a  
3396 prescription drug manufacturer may engage in wholesale  
3397 distribution of prescription drugs manufactured at that  
3398 establishment and must comply with all of the provisions of this  
3399 part, except s. 499.01212, and the rules adopted under this  
3400 part, except s. 499.01212, that apply to a wholesale  
3401 distributor.

3402 2. A prescription drug manufacturer must comply with all  
3403 appropriate state and federal good manufacturing practices.

3404 3. A blood establishment as defined in s. 381.06014,  
3405 operating in a manner consistent with the provisions of Title 21  
3406 C.F.R. Parts 211 and 600-640, and manufacturing only the  
3407 prescription drugs described in s. 499.003(53)(d) is not  
3408 required to be permitted as a prescription drug manufacturer  
3409 under this paragraph or register products under s. 499.015.

3410 (g) *Restricted prescription drug distributor permit.*—

3411 1. A restricted prescription drug distributor permit is  
3412 required for:

3413 a. Any person that engages in the distribution of a  
3414 prescription drug, which distribution is not considered  
3415 "wholesale distribution" under s. 499.003(53)(a).

3416 ~~b.1.~~ Any A person who engages in the receipt or  
3417 distribution of a prescription drug in this state for the  
3418 purpose of processing its return or its destruction ~~must obtain~~  
3419 ~~a permit as a restricted prescription drug distributor~~ if such  
3420 person is not the person initiating the return, the prescription  
3421 drug wholesale supplier of the person initiating the return, or  
3422 the manufacturer of the drug.

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3423 c. A blood establishment located in this state which  
3424 collects blood and blood components only from volunteer donors  
3425 as defined in s. 381.06014 or pursuant to an authorized  
3426 practitioner's order for medical treatment or therapy and  
3427 engages in the wholesale distribution of a prescription drug not  
3428 described in s. 499.003(53)(d) to a health care entity. The  
3429 health care entity receiving a prescription drug distributed  
3430 under this sub-subparagraph must be licensed as a closed  
3431 pharmacy or provide health care services at that establishment.  
3432 The blood establishment must operate in accordance with s.  
3433 381.06014 and may distribute only:

3434 (I) Prescription drugs indicated for a bleeding or clotting  
3435 disorder or anemia;

3436 (II) Blood-collection containers approved under s. 505 of  
3437 the federal act;

3438 (III) Drugs that are blood derivatives, or a recombinant or  
3439 synthetic form of a blood derivative; or

3440 (IV) Prescription drugs identified in rules adopted by the  
3441 department which are essential to services performed or provided  
3442 by blood establishments and authorized for distribution by blood  
3443 establishments under federal law,

3444  
3445 as long as all of the health care services provided by the blood  
3446 establishment are related to its activities as a registered  
3447 blood establishment or the health care services consist of  
3448 collecting, processing, storing, or administering human  
3449 hematopoietic stem cells or progenitor cells or performing  
3450 diagnostic testing of specimens if such specimens are tested  
3451 together with specimens undergoing routine donor testing.

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3452           2. Storage, handling, and recordkeeping of these  
3453 distributions by a person permitted as a restricted prescription  
3454 drug distributor must comply with the requirements for wholesale  
3455 distributors under s. 499.0121, but not those set forth in s.  
3456 499.01212 if the distribution occurs pursuant to sub-  
3457 subparagraph 1.a. or sub-subparagraph 1.b.

3458           3. A person who applies for a permit as a restricted  
3459 prescription drug distributor, or for the renewal of such a  
3460 permit, must provide to the department the information required  
3461 under s. 499.012.

3462           4. The department may adopt rules regarding the  
3463 distribution of prescription drugs by hospitals, health care  
3464 entities, charitable organizations, or other persons not  
3465 involved in wholesale distribution, and blood establishments,  
3466 which rules are necessary for the protection of the public  
3467 health, safety, and welfare. The department may adopt rules  
3468 related to the transportation, storage, and recordkeeping of  
3469 prescription drugs which are essential to services performed or  
3470 provided by a blood establishment, including requirements for  
3471 the use of prescription drugs in mobile blood-collection  
3472 vehicles.

3473           Section 90. Subsection (1) of section 627.645, Florida  
3474 Statutes, is amended to read:

3475           627.645 Denial of health insurance claims restricted.—

3476           (1) A ~~No~~ claim for payment under a health insurance policy  
3477 or self-insured program of health benefits for treatment, care,  
3478 or services in a licensed hospital that ~~which~~ is accredited by  
3479 the Joint Commission ~~on the Accreditation of Hospitals~~, the  
3480 American Osteopathic Association, or the Commission on the

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3481 Accreditation of Rehabilitative Facilities may not ~~shall~~ be  
3482 denied because the ~~such~~ hospital lacks major surgical facilities  
3483 and is primarily of a rehabilitative nature, if such  
3484 rehabilitation is specifically for treatment of physical  
3485 disability.

3486 Section 91. Paragraph (c) of subsection (2) of section  
3487 627.668, Florida Statutes, is amended to read:

3488 627.668 Optional coverage for mental and nervous disorders  
3489 required; exception.—

3490 (2) Under group policies or contracts, inpatient hospital  
3491 benefits, partial hospitalization benefits, and outpatient  
3492 benefits consisting of durational limits, dollar amounts,  
3493 deductibles, and coinsurance factors shall not be less favorable  
3494 than for physical illness generally, except that:

3495 (c) Partial hospitalization benefits shall be provided  
3496 under the direction of a licensed physician. For purposes of  
3497 this part, the term "partial hospitalization services" is  
3498 defined as those services offered by a program accredited by the  
3499 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in  
3500 compliance with equivalent standards. Alcohol rehabilitation  
3501 programs accredited by the Joint Commission ~~on Accreditation of~~  
3502 ~~Hospitals~~ or approved by the state and licensed drug abuse  
3503 rehabilitation programs shall also be qualified providers under  
3504 this section. In any benefit year, if partial hospitalization  
3505 services or a combination of inpatient and partial  
3506 hospitalization are utilized, the total benefits paid for all  
3507 such services shall not exceed the cost of 30 days of inpatient  
3508 hospitalization for psychiatric services, including physician  
3509 fees, which prevail in the community in which the partial

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3510 hospitalization services are rendered. If partial  
3511 hospitalization services benefits are provided beyond the limits  
3512 set forth in this paragraph, the durational limits, dollar  
3513 amounts, and coinsurance factors thereof need not be the same as  
3514 those applicable to physical illness generally.

3515 Section 92. Subsection (3) of section 627.669, Florida  
3516 Statutes, is amended to read:

3517 627.669 Optional coverage required for substance abuse  
3518 impaired persons; exception.—

3519 (3) The benefits provided under this section shall be  
3520 applicable only if treatment is provided by, or under the  
3521 supervision of, or is prescribed by, a licensed physician or  
3522 licensed psychologist and if services are provided in a program  
3523 accredited by the Joint Commission ~~on Accreditation of Hospitals~~  
3524 or approved by the state.

3525 Section 93. Subsection (1) of section 627.736, Florida  
3526 Statutes, is amended to read:

3527 627.736 Required personal injury protection benefits;  
3528 exclusions; priority; claims.—

3529 (1) REQUIRED BENEFITS.—Every insurance policy complying  
3530 with the security requirements of s. 627.733 shall provide  
3531 personal injury protection to the named insured, relatives  
3532 residing in the same household, persons operating the insured  
3533 motor vehicle, passengers in such motor vehicle, and other  
3534 persons struck by such motor vehicle and suffering bodily injury  
3535 while not an occupant of a self-propelled vehicle, subject to  
3536 the provisions of subsection (2) and paragraph (4) (e), to a  
3537 limit of \$10,000 for loss sustained by any such person as a  
3538 result of bodily injury, sickness, disease, or death arising out

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3539 of the ownership, maintenance, or use of a motor vehicle as  
3540 follows:

3541 (a) *Medical benefits.*—Eighty percent of all reasonable  
3542 expenses for medically necessary medical, surgical, X-ray,  
3543 dental, and rehabilitative services, including prosthetic  
3544 devices, and medically necessary ambulance, hospital, and  
3545 nursing services. However, the medical benefits shall provide  
3546 reimbursement only for such services and care that are lawfully  
3547 provided, supervised, ordered, or prescribed by a physician  
3548 licensed under chapter 458 or chapter 459, a dentist licensed  
3549 under chapter 466, or a chiropractic physician licensed under  
3550 chapter 460 or that are provided by any of the following persons  
3551 or entities:

3552 1. A hospital or ambulatory surgical center licensed under  
3553 chapter 395.

3554 2. A person or entity licensed under ss. 401.2101-401.45  
3555 which ~~that~~ provides emergency transportation and treatment.

3556 3. An entity wholly owned by one or more physicians  
3557 licensed under chapter 458 or chapter 459, chiropractic  
3558 physicians licensed under chapter 460, or dentists licensed  
3559 under chapter 466 or by such practitioner or practitioners and  
3560 the spouse, parent, child, or sibling of that practitioner or  
3561 those practitioners.

3562 4. An entity wholly owned, directly or indirectly, by a  
3563 hospital or hospitals.

3564 5. A health care clinic licensed under ss. 400.990-400.995  
3565 which ~~that~~ is:

3566 a. Accredited by the Joint Commission ~~on Accreditation of~~  
3567 ~~Healthcare Organizations~~, the American Osteopathic Association,

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3568 the Commission on Accreditation of Rehabilitation Facilities, or  
3569 the Accreditation Association for Ambulatory Health Care, Inc.;  
3570 or

3571 b. A health care clinic that:

3572 (I) Has a medical director licensed under chapter 458,  
3573 chapter 459, or chapter 460;

3574 (II) Has been continuously licensed for more than 3 years  
3575 or is a publicly traded corporation that issues securities  
3576 traded on an exchange registered with the United States  
3577 Securities and Exchange Commission as a national securities  
3578 exchange; and

3579 (III) Provides at least four of the following medical  
3580 specialties:

3581 (A) General medicine.

3582 (B) Radiography.

3583 (C) Orthopedic medicine.

3584 (D) Physical medicine.

3585 (E) Physical therapy.

3586 (F) Physical rehabilitation.

3587 (G) Prescribing or dispensing outpatient prescription  
3588 medication.

3589 (H) Laboratory services.

3590

3591 The Financial Services Commission shall adopt by rule the form  
3592 that must be used by an insurer and a health care provider  
3593 specified in subparagraph 3., subparagraph 4., or subparagraph  
3594 5. to document that the health care provider meets the criteria  
3595 of this paragraph. This, ~~which~~ rule must include a requirement  
3596 for a sworn statement or affidavit.

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3597 (b) *Disability benefits.*—Sixty percent of any loss of gross  
3598 income and loss of earning capacity per individual from  
3599 inability to work proximately caused by the injury sustained by  
3600 the injured person, plus all expenses reasonably incurred in  
3601 obtaining from others ordinary and necessary services in lieu of  
3602 those that, but for the injury, the injured person would have  
3603 performed without income for the benefit of his or her  
3604 household. All disability benefits payable under this provision  
3605 shall be paid not less than every 2 weeks.

3606 (c) *Death benefits.*—Death benefits equal to the lesser of  
3607 \$5,000 or the remainder of unused personal injury protection  
3608 benefits per individual. The insurer may pay such benefits to  
3609 the executor or administrator of the deceased, to any of the  
3610 deceased's relatives by blood or legal adoption or connection by  
3611 marriage, or to any person appearing to the insurer to be  
3612 equitably entitled thereto.

3613  
3614 Only insurers writing motor vehicle liability insurance in this  
3615 state may provide the required benefits of this section, and no  
3616 such insurer shall require the purchase of any other motor  
3617 vehicle coverage other than the purchase of property damage  
3618 liability coverage as required by s. 627.7275 as a condition for  
3619 providing such required benefits. Insurers may not require that  
3620 property damage liability insurance in an amount greater than  
3621 \$10,000 be purchased in conjunction with personal injury  
3622 protection. Such insurers shall make benefits and required  
3623 property damage liability insurance coverage available through  
3624 normal marketing channels. Any insurer writing motor vehicle  
3625 liability insurance in this state who fails to comply with such

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3626 availability requirement as a general business practice shall be  
3627 deemed to have violated part IX of chapter 626, and such  
3628 violation shall constitute an unfair method of competition or an  
3629 unfair or deceptive act or practice involving the business of  
3630 insurance; and any such insurer committing such violation shall  
3631 be subject to the penalties afforded in such part, as well as  
3632 those which may be afforded elsewhere in the insurance code.

3633 Section 94. Subsection (12) of section 641.495, Florida  
3634 Statutes, is amended to read:

3635 641.495 Requirements for issuance and maintenance of  
3636 certificate.—

3637 (12) The provisions of part I of chapter 395 do not apply  
3638 to a health maintenance organization that, on or before January  
3639 1, 1991, provides not more than 10 outpatient holding beds for  
3640 short-term and hospice-type patients in an ambulatory care  
3641 facility for its members, provided that such health maintenance  
3642 organization maintains current accreditation by the Joint  
3643 Commission ~~on Accreditation of Health Care Organizations~~, the  
3644 Accreditation Association for Ambulatory Health Care, or the  
3645 National Committee for Quality Assurance.

3646 Section 95. Subsection (2) of section 766.1015, Florida  
3647 Statutes, is amended to read:

3648 766.1015 Civil immunity for members of or consultants to  
3649 certain boards, committees, or other entities.—

3650 (2) Such committee, board, group, commission, or other  
3651 entity must be established in accordance with state law or in  
3652 accordance with requirements of the Joint Commission ~~on~~  
3653 ~~Accreditation of Healthcare Organizations~~, established and duly  
3654 constituted by one or more public or licensed private hospitals

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3655 or behavioral health agencies, or established by a governmental  
3656 agency. To be protected by this section, the act, decision,  
3657 omission, or utterance may not be made or done in bad faith or  
3658 with malicious intent.

3659       Section 96. Except as otherwise expressly provided in this  
3660 act, this act shall take effect July 1, 2010.