

1                                   A bill to be entitled  
 2           An act relating to the Agency for Health Care  
 3           Administration; amending ss. 390.012, 400.021,  
 4           400.0712, 400.176, 400.23, 400.487, 400.497, 400.506,  
 5           400.509, 400.914, and 483.245, F.S.; removing certain  
 6           Agency for Health Care Administration rulemaking  
 7           authority relating to the disposal of fetal remains by  
 8           abortion clinics, license applications for nursing  
 9           home facilities, administrative penalties, evaluation  
 10          of nursing home facilities and home health agency  
 11          personnel, treatment orders, duties and  
 12          responsibilities relating to home health aides,  
 13          sanitary standards, prohibited rebates for certain  
 14          services, and registration of certain service  
 15          providers; providing an effective date.

16  
 17           WHEREAS, the Administrative Procedure Act provides that  
 18          rulemaking is not a matter of agency discretion; that rules, to  
 19          be adopted, require both a grant of express rulemaking authority  
 20          and a specific law to be implemented or interpreted; rulemaking  
 21          is required whenever an agency intends to rely upon a statement  
 22          of general applicability that meets the definition of a rule  
 23          under s. 120.52(16), Florida Statutes, and

24           WHEREAS, a grant of express rulemaking authority may have a  
 25          broad or narrow scope, depending upon the clear intent of the  
 26          Legislature, and

27           WHEREAS, the repeal or deletion of a redundant provision  
 28          authorizing rulemaking should not be interpreted to repeal

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29 rulemaking authority otherwise provided that clearly applies to  
 30 the same subject, and

31 WHEREAS, statutory provisions that mandate rulemaking when  
 32 the substantive law would otherwise be implemented without need  
 33 for administrative rules may be repealed without altering the  
 34 substantive law or rulemaking authority upon which such  
 35 provisions rely, NOW THEREFORE,

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Paragraph (d) of subsection (3) of section  
 40 390.012, Florida Statutes, is amended to read:

41 390.012 Powers of agency; rules; disposal of fetal  
 42 remains.—

43 (3) For clinics that perform or claim to perform abortions  
 44 after the first trimester of pregnancy, the agency shall adopt  
 45 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 46 provisions of this chapter, including the following:

47 (d) Rules relating to the medical screening and evaluation  
 48 of each abortion clinic patient. At a minimum, these rules shall  
 49 require:

50 1. A medical history including reported allergies to  
 51 medications, antiseptic solutions, or latex; past surgeries; and  
 52 an obstetric and gynecological history.

53 2. A physical examination, including a bimanual  
 54 examination estimating uterine size and palpation of the adnexa.

55 3. The appropriate laboratory tests, including:

56 a. Urine or blood tests for pregnancy performed before the

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57 | abortion procedure.

58 |       b. A test for anemia.

59 |       c. Rh typing, unless reliable written documentation of

60 | blood type is available.

61 |       d. Other tests as indicated from the physical examination.

62 |       4. An ultrasound evaluation for all patients. The rules

63 | shall require that if a person who is not a physician performs

64 | an ultrasound examination, that person shall have documented

65 | evidence that he or she has completed a course in the operation

66 | of ultrasound equipment as prescribed in rule. ~~The rules shall~~

67 | ~~require clinics to be in compliance with s. 390.0111.~~

68 |       5. That the physician is responsible for estimating the

69 | gestational age of the fetus based on the ultrasound examination

70 | and obstetric standards in keeping with established standards of

71 | care regarding the estimation of fetal age as defined in rule

72 | and shall write the estimate in the patient's medical history.

73 | The physician shall keep original prints of each ultrasound

74 | examination of a patient in the patient's medical history file.

75 |       Section 2. Subsection (11) of section 400.021, Florida

76 | Statutes, is amended to read:

77 |       400.021 Definitions.—When used in this part, unless the

78 | context otherwise requires, the term:

79 |       (11) "Nursing home bed" means an accommodation that ~~which~~

80 | is ready for immediate occupancy, or is capable of being made

81 | ready for occupancy within 48 hours, excluding provision of

82 | staffing; and that ~~which~~ conforms to minimum space requirements,

83 | including the availability of appropriate equipment and

84 | furnishings within the 48 hours, as specified by ~~rule of~~ the

85 | agency, for the provision of services specified in this part to  
 86 | a single resident.

87 | Section 3. Subsection (3) of section 400.0712, Florida  
 88 | Statutes, is repealed:

89 | 400.0712 Application for inactive license.—

90 | ~~(3) The agency shall adopt rules pursuant to ss.~~  
 91 | ~~120.536(1) and 120.54 necessary to implement this section.~~

92 | Section 4. Subsection (2) of section 400.176, Florida  
 93 | Statutes, is amended to read:

94 | 400.176 Rebates prohibited; penalties.—

95 | (2) The agency may establish and ~~shall adopt rules which~~  
 96 | assess administrative penalties for acts prohibited by  
 97 | subsection (1). In the case of an entity licensed by the agency,  
 98 | such penalties may include any disciplinary action available to  
 99 | the agency under the appropriate licensing laws. In the case of  
 100 | an entity not licensed by the agency, such penalties may  
 101 | include:

102 | (a) A fine not to exceed \$5,000. ~~;~~ ~~and~~

103 | (b) If applicable, a recommendation by the agency to the  
 104 | appropriate licensing board that disciplinary action be taken.

105 | Section 5. Section 400.23, Florida Statutes, is amended to  
 106 | read:

107 | 400.23 Rules; evaluation and deficiencies; licensure  
 108 | status.—

109 | (1) It is the intent of the Legislature that rules  
 110 | published and enforced pursuant to this part and part II of  
 111 | chapter 408 shall include criteria by which a reasonable and  
 112 | consistent quality of resident care may be ensured and the

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113 results of such resident care can be demonstrated and by which  
114 safe and sanitary nursing homes can be provided. It is further  
115 intended that reasonable efforts be made to accommodate the  
116 needs and preferences of residents to enhance the quality of  
117 life in a nursing home. In addition, efforts shall be made to  
118 minimize the paperwork associated with the reporting and  
119 documentation requirements of these rules.

120 (2) Pursuant to the intention of the Legislature, the  
121 agency, in consultation with the Department of Health and the  
122 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules  
123 to implement this part and part II of chapter 408. The rules  
124 shall specify, but not be limited to, which shall include  
125 reasonable and fair criteria in relation to:

126 (a) The location of the facility and housing conditions  
127 that will ensure the health, safety, and comfort of residents,  
128 including an adequate call system. In making such rules, the  
129 agency shall be guided by criteria recommended by nationally  
130 recognized reputable professional groups and associations with  
131 knowledge of such subject matters. The agency shall update or  
132 revise such criteria as the need arises. The agency may require  
133 alterations to a building if it determines that an existing  
134 condition constitutes a distinct hazard to life, health, or  
135 safety. In performing any inspections of facilities authorized  
136 by this part or part II of chapter 408, the agency may enforce  
137 the special-occupancy provisions of the Florida Building Code  
138 and the Florida Fire Prevention Code which apply to nursing  
139 homes. Residents or their representatives shall be able to  
140 request a change in the placement of the bed in their room,

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141 provided that at admission they are presented with a room that  
142 meets requirements of the Florida Building Code. The location of  
143 a bed may be changed if the requested placement does not  
144 infringe on the resident's roommate or interfere with the  
145 resident's care or safety as determined by the care planning  
146 team in accordance with facility policies and procedures. In  
147 addition, the bed placement may not be used as a restraint. Each  
148 facility shall maintain a log of resident rooms with beds that  
149 are not in strict compliance with the Florida Building Code in  
150 order for such log to be used by surveyors and nurse monitors  
151 during inspections and visits. A resident or resident  
152 representative who requests that a bed be moved shall sign a  
153 statement indicating that he or she understands the room will  
154 not be in compliance with the Florida Building Code, but they  
155 would prefer to exercise their right to self-determination. The  
156 statement must be retained as part of the resident's care plan.  
157 Any facility that offers this option must submit a letter signed  
158 by the nursing home administrator of record to the agency  
159 notifying it of this practice with a copy of the policies and  
160 procedures of the facility. The agency is directed to provide  
161 assistance to the Florida Building Commission in updating the  
162 construction standards of the code relative to nursing homes.

163 (b) The number and qualifications of all personnel,  
164 including management, medical, nursing, and other professional  
165 personnel, and nursing assistants, orderlies, and support  
166 personnel, having responsibility for any part of the care given  
167 residents.

168 (c) All sanitary conditions within the facility and its

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169 surroundings, including water supply, sewage disposal, food  
 170 handling, and general hygiene which will ensure the health and  
 171 comfort of residents.

172 (d) The equipment essential to the health and welfare of  
 173 the residents.

174 (e) A uniform accounting system.

175 (f) The care, treatment, and maintenance of residents and  
 176 measurement of the quality and adequacy thereof, based on rules  
 177 developed under this chapter and the Omnibus Budget  
 178 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
 179 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
 180 Programs), Subtitle C (Nursing Home Reform), as amended.

181 (g) The preparation and annual update of a comprehensive  
 182 emergency management plan. The agency shall establish ~~adopt~~  
 183 ~~rules establishing~~ minimum criteria for the plan after  
 184 consultation with the Division of Emergency Management. At a  
 185 minimum, ~~the rules must provide for~~ plan components shall  
 186 provide for ~~that address~~ emergency evacuation transportation;  
 187 adequate sheltering arrangements; postdisaster activities,  
 188 including emergency power, food, and water; postdisaster  
 189 transportation; supplies; staffing; emergency equipment;  
 190 individual identification of residents and transfer of records;  
 191 and responding to family inquiries. The comprehensive emergency  
 192 management plan is subject to review and approval by the local  
 193 emergency management agency. During its review, the local  
 194 emergency management agency shall ensure that the following  
 195 agencies, at a minimum, are given the opportunity to review the  
 196 plan: the Department of Elderly Affairs, the Department of

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197 Health, the Agency for Health Care Administration, and the  
 198 Division of Emergency Management. Also, appropriate volunteer  
 199 organizations must be given the opportunity to review the plan.  
 200 The local emergency management agency shall complete its review  
 201 within 60 days and either approve the plan or advise the  
 202 facility of necessary revisions.

203 (h) The availability, distribution, and posting of reports  
 204 and records pursuant to s. 400.191 and the Gold Seal Program  
 205 pursuant to s. 400.235.

206 (3)(a)1. The agency shall enforce ~~adopt rules providing~~  
 207 minimum staffing requirements for nursing home facilities that-  
 208 ~~These requirements~~ must include, for each facility:

209 a. A minimum weekly average of certified nursing assistant  
 210 and licensed nursing staffing combined of 3.6 hours of direct  
 211 care per resident per day. As used in this sub-subparagraph, a  
 212 week is defined as Sunday through Saturday.

213 b. A minimum certified nursing assistant staffing of 2.5  
 214 hours of direct care per resident per day. A facility may not  
 215 staff below one certified nursing assistant per 20 residents.

216 c. A minimum licensed nursing staffing of 1.0 hour of  
 217 direct care per resident per day. A facility may not staff below  
 218 one licensed nurse per 40 residents.

219 2. Nursing assistants employed under s. 400.211(2) may be  
 220 included in computing the staffing ratio for certified nursing  
 221 assistants if their job responsibilities include only nursing-  
 222 assistant-related duties.

223 3. Each nursing home facility must document compliance  
 224 with staffing standards as required under this paragraph and



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225 | post daily the names of staff on duty for the benefit of  
226 | facility residents and the public.

227 |         4. The agency shall recognize the use of licensed nurses  
228 | for compliance with minimum staffing requirements for certified  
229 | nursing assistants if the nursing home facility otherwise meets  
230 | the minimum staffing requirements for licensed nurses and the  
231 | licensed nurses are performing the duties of a certified nursing  
232 | assistant. Unless otherwise approved by the agency, licensed  
233 | nurses counted toward the minimum staffing requirements for  
234 | certified nursing assistants must exclusively perform the duties  
235 | of a certified nursing assistant for the entire shift and not  
236 | also be counted toward the minimum staffing requirements for  
237 | licensed nurses. If the agency approved a facility's request to  
238 | use a licensed nurse to perform both licensed nursing and  
239 | certified nursing assistant duties, the facility must allocate  
240 | the amount of staff time specifically spent on certified nursing  
241 | assistant duties for the purpose of documenting compliance with  
242 | minimum staffing requirements for certified and licensed nursing  
243 | staff. The hours of a licensed nurse with dual job  
244 | responsibilities may not be counted twice.

245 |         (b) Nonnursing staff providing eating assistance to  
246 | residents shall not count toward compliance with minimum  
247 | staffing standards.

248 |         (c) Licensed practical nurses licensed under chapter 464  
249 | who are providing nursing services in nursing home facilities  
250 | under this part may supervise the activities of other licensed  
251 | practical nurses, certified nursing assistants, and other  
252 | unlicensed personnel providing services in such facilities in

253 accordance with rules adopted by the Board of Nursing.

254 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~  
 255 not restrict the use of shared staffing and shared programming  
 256 in facilities that ~~which~~ are part of retirement communities that  
 257 provide multiple levels of care and otherwise meet the  
 258 requirement of law or rule.

259 (5) ~~The agency, in collaboration with the Division of~~  
 260 ~~Children's Medical Services of the Department of Health, must~~  
 261 ~~adopt rules for:~~

262 (a) Minimum standards of care for persons under 21 years  
 263 of age who reside in nursing home facilities may be established  
 264 by the agency in collaboration with the Division of Children's  
 265 Medical Services of the Department of Health. A facility may be  
 266 exempted from these standards and the provisions of paragraph  
 267 (b) for specific persons between 18 and 21 years of age, if the  
 268 person's physician agrees that minimum standards of care based  
 269 on age are not necessary.

270 (b) The following ~~Minimum~~ staffing requirements for  
 271 persons under 21 years of age who reside in nursing home  
 272 facilities, ~~which~~ apply in lieu of the requirements contained in  
 273 subsection (3) :

274 1. For persons under 21 years of age who require skilled  
 275 care:

276 a. A minimum combined average of 3.9 hours of direct care  
 277 per resident per day must be provided by licensed nurses,  
 278 respiratory therapists, respiratory care practitioners, and  
 279 certified nursing assistants.

280 b. A minimum licensed nursing staffing of 1.0 hour of

281 direct care per resident per day must be provided.

282 c. No more than 1.5 hours of certified nursing assistant  
 283 care per resident per day may be counted in determining the  
 284 minimum direct care hours required.

285 d. One registered nurse must be on duty on the site 24  
 286 hours per day on the unit where children reside.

287 2. For persons under 21 years of age who are medically  
 288 fragile:

289 a. A minimum combined average of 5.0 hours of direct care  
 290 per resident per day must be provided by licensed nurses,  
 291 respiratory therapists, respiratory care practitioners, and  
 292 certified nursing assistants.

293 b. A minimum licensed nursing staffing of 1.7 hours of  
 294 direct care per resident per day must be provided.

295 c. No more than 1.5 hours of certified nursing assistant  
 296 care per resident per day may be counted in determining the  
 297 minimum direct care hours required.

298 d. One registered nurse must be on duty on the site 24  
 299 hours per day on the unit where children reside.

300 (6) Prior to conducting a survey of the facility, the  
 301 survey team shall obtain a copy of the local long-term care  
 302 ombudsman council report on the facility. Problems noted in the  
 303 report shall be incorporated into and followed up through the  
 304 agency's inspection process. This procedure does not preclude  
 305 the local long-term care ombudsman council from requesting the  
 306 agency to conduct a followup visit to the facility.

307 (7) The agency shall, at least every 15 months, evaluate  
 308 all nursing home facilities and make a determination as to the

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309 degree of compliance by each licensee with the established rules  
310 adopted under this part as a basis for assigning a licensure  
311 status to that facility. The agency shall base its evaluation on  
312 the most recent inspection report, taking into consideration  
313 findings from other official reports, surveys, interviews,  
314 investigations, and inspections. In addition to license  
315 categories authorized under part II of chapter 408, the agency  
316 shall assign a licensure status of standard or conditional to  
317 each nursing home.

318 (a) A standard licensure status means that a facility has  
319 no class I or class II deficiencies and has corrected all class  
320 III deficiencies within the time established by the agency.

321 (b) A conditional licensure status means that a facility,  
322 due to the presence of one or more class I or class II  
323 deficiencies, or class III deficiencies not corrected within the  
324 time established by the agency, is not in substantial compliance  
325 at the time of the survey with criteria established under this  
326 part or with rules adopted by the agency. If the facility has no  
327 class I, class II, or class III deficiencies at the time of the  
328 followup survey, a standard licensure status may be assigned.

329 (c) In evaluating the overall quality of care and services  
330 and determining whether the facility will receive a conditional  
331 or standard license, the agency shall consider the needs and  
332 limitations of residents in the facility and the results of  
333 interviews and surveys of a representative sampling of  
334 residents, families of residents, ombudsman council members in  
335 the planning and service area in which the facility is located,  
336 guardians of residents, and staff of the nursing home facility.

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337 (d) The current licensure status of each facility must be  
338 indicated in bold print on the face of the license. A list of  
339 the deficiencies of the facility shall be posted in a prominent  
340 place that is in clear and unobstructed public view at or near  
341 the place where residents are being admitted to that facility.  
342 Licensees receiving a conditional licensure status for a  
343 facility shall prepare, within 10 working days after receiving  
344 notice of deficiencies, a plan for correction of all  
345 deficiencies and shall submit the plan to the agency for  
346 approval.

347 (e) The agency shall ~~adopt rules that~~:

348 1. Establish uniform procedures for the evaluation of  
349 facilities.

350 2. Provide criteria in the areas referenced in paragraph  
351 (c).

352 3. Address other areas necessary for carrying out the  
353 intent of this section.

354 (8) The agency shall ensure ~~adopt rules pursuant to this~~  
355 ~~part and part II of chapter 408 to provide~~ that, when the  
356 criteria established under subsection (2) are not met, such  
357 deficiencies shall be classified according to the nature and the  
358 scope of the deficiency. The scope shall be cited as isolated,  
359 patterned, or widespread. An isolated deficiency is a deficiency  
360 affecting one or a very limited number of residents, or  
361 involving one or a very limited number of staff, or a situation  
362 that occurred only occasionally or in a very limited number of  
363 locations. A patterned deficiency is a deficiency where more  
364 than a very limited number of residents are affected, or more

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365 than a very limited number of staff are involved, or the  
366 situation has occurred in several locations, or the same  
367 resident or residents have been affected by repeated occurrences  
368 of the same deficient practice but the effect of the deficient  
369 practice is not found to be pervasive throughout the facility. A  
370 widespread deficiency is a deficiency in which the problems  
371 causing the deficiency are pervasive in the facility or  
372 represent systemic failure that has affected or has the  
373 potential to affect a large portion of the facility's residents.  
374 The agency shall indicate the classification on the face of the  
375 notice of deficiencies as follows:

376 (a) A class I deficiency is a deficiency that the agency  
377 determines presents a situation in which immediate corrective  
378 action is necessary because the facility's noncompliance has  
379 caused, or is likely to cause, serious injury, harm, impairment,  
380 or death to a resident receiving care in a facility. The  
381 condition or practice constituting a class I violation shall be  
382 abated or eliminated immediately, unless a fixed period of time,  
383 as determined by the agency, is required for correction. A class  
384 I deficiency is subject to a civil penalty of \$10,000 for an  
385 isolated deficiency, \$12,500 for a patterned deficiency, and  
386 \$15,000 for a widespread deficiency. The fine amount shall be  
387 doubled for each deficiency if the facility was previously cited  
388 for one or more class I or class II deficiencies during the last  
389 licensure inspection or any inspection or complaint  
390 investigation since the last licensure inspection. A fine must  
391 be levied notwithstanding the correction of the deficiency.

392 (b) A class II deficiency is a deficiency that the agency

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393 determines has compromised the resident's ability to maintain or  
394 reach his or her highest practicable physical, mental, and  
395 psychosocial well-being, as defined by an accurate and  
396 comprehensive resident assessment, plan of care, and provision  
397 of services. A class II deficiency is subject to a civil penalty  
398 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
399 deficiency, and \$7,500 for a widespread deficiency. The fine  
400 amount shall be doubled for each deficiency if the facility was  
401 previously cited for one or more class I or class II  
402 deficiencies during the last licensure inspection or any  
403 inspection or complaint investigation since the last licensure  
404 inspection. A fine shall be levied notwithstanding the  
405 correction of the deficiency.

406 (c) A class III deficiency is a deficiency that the agency  
407 determines will result in no more than minimal physical, mental,  
408 or psychosocial discomfort to the resident or has the potential  
409 to compromise the resident's ability to maintain or reach his or  
410 her highest practical physical, mental, or psychosocial well-  
411 being, as defined by an accurate and comprehensive resident  
412 assessment, plan of care, and provision of services. A class III  
413 deficiency is subject to a civil penalty of \$1,000 for an  
414 isolated deficiency, \$2,000 for a patterned deficiency, and  
415 \$3,000 for a widespread deficiency. The fine amount shall be  
416 doubled for each deficiency if the facility was previously cited  
417 for one or more class I or class II deficiencies during the last  
418 licensure inspection or any inspection or complaint  
419 investigation since the last licensure inspection. A citation  
420 for a class III deficiency must specify the time within which

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421 the deficiency is required to be corrected. If a class III  
 422 deficiency is corrected within the time specified, a civil  
 423 penalty may not be imposed.

424 (d) A class IV deficiency is a deficiency that the agency  
 425 determines has the potential for causing no more than a minor  
 426 negative impact on the resident. If the class IV deficiency is  
 427 isolated, no plan of correction is required.

428 (9) Civil penalties paid by any licensee under subsection  
 429 (8) shall be deposited in the Health Care Trust Fund and  
 430 expended as provided in s. 400.063.

431 (10) Agency records, reports, ranking systems, Internet  
 432 information, and publications must be promptly updated to  
 433 reflect the most current agency actions.

434 Section 6. Subsection (7) of section 400.487, Florida  
 435 Statutes, is amended to read:

436 400.487 Home health service agreements; physician's,  
 437 physician assistant's, and advanced registered nurse  
 438 practitioner's treatment orders; patient assessment;  
 439 establishment and review of plan of care; provision of services;  
 440 orders not to resuscitate.—

441 (7) Home health agency personnel may withhold or withdraw  
 442 cardiopulmonary resuscitation if presented with an order not to  
 443 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
 444 ~~adopt rules providing for the implementation of such orders.~~  
 445 Home health personnel and agencies shall not be subject to  
 446 criminal prosecution or civil liability, nor be considered to  
 447 have engaged in negligent or unprofessional conduct, for  
 448 withholding or withdrawing cardiopulmonary resuscitation



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449 pursuant to such an order ~~and rules adopted by the agency.~~

450 Section 7. Section 400.497, Florida Statutes, is amended  
451 to read:

452 400.497 Rules establishing minimum standards.—The agency  
453 may ~~shall~~ adopt, ~~publish, and enforce~~ rules to implement part II  
454 of chapter 408 and this part, including, ~~as applicable, the~~  
455 agency's duties and responsibilities under ss. 400.506 and  
456 400.509. Rules shall specify, but not be limited to, which must  
457 ~~provide~~ reasonable and fair minimum standards relating to:

458 (1) The home health aide competency test and home health  
459 aide training. The agency shall create the home health aide  
460 competency test and establish the curriculum and instructor  
461 qualifications for home health aide training. Licensed home  
462 health agencies may provide this training and shall furnish  
463 documentation of such training to other licensed home health  
464 agencies upon request. Successful passage of the competency test  
465 by home health aides may be substituted for the training  
466 required under this section and any rule adopted pursuant  
467 thereto.

468 (2) Shared staffing. ~~The agency shall allow~~ Shared  
469 staffing is permitted if the home health agency is part of a  
470 retirement community that provides multiple levels of care, is  
471 located on one campus, is licensed under this chapter or chapter  
472 429, and otherwise meets the requirements of law and rule.

473 (3) The criteria for the frequency of onsite licensure  
474 surveys.

475 (4) Licensure application and renewal.

476 (5) Oversight by the director of nursing, including. ~~The~~

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477 | ~~agency shall develop rules related to:~~

478 |       (a) Standards that address oversight responsibilities by  
479 | the director of nursing of skilled nursing and personal care  
480 | services provided by the home health agency's staff;

481 |       (b) Requirements for a director of nursing to provide to  
482 | the agency, upon request, a certified daily report of the home  
483 | health services provided by a specified direct employee or  
484 | contracted staff member on behalf of the home health agency. The  
485 | agency may request a certified daily report only for a period  
486 | not to exceed 2 years prior to the date of the request; and

487 |       (c) A quality assurance program for home health services  
488 | provided by the home health agency.

489 |       (6) Conditions for using a recent unannounced licensure  
490 | inspection for the inspection required in s. 408.806 related to  
491 | a licensure application associated with a change in ownership of  
492 | a licensed home health agency.

493 |       (7) The requirements for onsite and electronic  
494 | accessibility of supervisory personnel of home health agencies.

495 |       (8) Information to be included in patients' records.

496 |       (9) Geographic service areas.

497 |       (10) Preparation of a comprehensive emergency management  
498 | plan pursuant to s. 400.492.

499 |       ~~(a) The Agency for Health Care Administration shall adopt~~  
500 | ~~rules establishing minimum criteria for the plan and plan~~  
501 | ~~updates, with the concurrence of the Department of Health and in~~  
502 | ~~consultation with the Division of Emergency Management.~~

503 |       (a)(b) An emergency plan ~~The rules must address the~~  
504 | ~~requirements in s. 400.492. In addition, the rules shall provide~~

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505 | for the maintenance of patient-specific medication lists that  
506 | can accompany patients who are transported from their homes.

507 |       **(b)**~~(e)~~ The plan is subject to review and approval by the  
508 | county health department. During its review, the county health  
509 | department shall contact state and local health and medical  
510 | stakeholders when necessary. The county health department shall  
511 | complete its review to ensure that the plan is in accordance  
512 | with the requirements of law ~~criteria in the Agency for Health~~  
513 | ~~Care Administration rules~~ within 90 days after receipt of the  
514 | plan and shall approve the plan or advise the home health agency  
515 | of necessary revisions. If the home health agency fails to  
516 | submit a plan or fails to submit the requested information or  
517 | revisions to the county health department within 30 days after  
518 | written notification from the county health department, the  
519 | county health department shall notify the Agency for Health Care  
520 | Administration. The agency shall notify the home health agency  
521 | that its failure constitutes a deficiency, subject to a fine of  
522 | \$5,000 per occurrence. If the plan is not submitted, information  
523 | is not provided, or revisions are not made as requested, the  
524 | agency may impose the fine.

525 |       **(c)**~~(d)~~ For any home health agency that operates in more  
526 | than one county, the Department of Health shall review the plan,  
527 | after consulting with state and local health and medical  
528 | stakeholders when necessary. The department shall complete its  
529 | review within 90 days after receipt of the plan and shall  
530 | approve the plan or advise the home health agency of necessary  
531 | revisions. The department shall make every effort to avoid  
532 | imposing differing requirements on a home health agency that

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533 operates in more than one county as a result of differing or  
 534 conflicting comprehensive plan requirements of the counties in  
 535 which the home health agency operates.

536 (d)~~(e)~~ The requirements in this subsection do not apply  
 537 to:

538 1. A facility that is certified under chapter 651 and has  
 539 a licensed home health agency used exclusively by residents of  
 540 the facility; or

541 2. A retirement community that consists of residential  
 542 units for independent living and either a licensed nursing home  
 543 or an assisted living facility, and has a licensed home health  
 544 agency used exclusively by the residents of the retirement  
 545 community, provided the comprehensive emergency management plan  
 546 for the facility or retirement community provides for continuous  
 547 care of all residents with special needs during an emergency.

548 Section 8. Paragraph (f) of subsection (12) of section  
 549 400.506, Florida Statutes, is amended, subsection (18) is  
 550 renumbered as subsection (17), and present subsection (17) of  
 551 that section is amended, to read:

552 400.506 Licensure of nurse registries; requirements;  
 553 penalties.—

554 (12) Each nurse registry shall prepare and maintain a  
 555 comprehensive emergency management plan that is consistent with  
 556 the criteria in this subsection and with the local special needs  
 557 plan. The plan shall be updated annually. The plan shall include  
 558 the means by which the nurse registry will continue to provide  
 559 the same type and quantity of services to its patients who  
 560 evacuate to special needs shelters which were being provided to

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561 those patients prior to evacuation. The plan shall specify how  
562 the nurse registry shall facilitate the provision of continuous  
563 care by persons referred for contract to persons who are  
564 registered pursuant to s. 252.355 during an emergency that  
565 interrupts the provision of care or services in private  
566 residences. Nurse registries may establish links to local  
567 emergency operations centers to determine a mechanism by which  
568 to approach specific areas within a disaster area in order for a  
569 provider to reach its clients. Nurse registries shall  
570 demonstrate a good faith effort to comply with the requirements  
571 of this subsection by documenting attempts of staff to follow  
572 procedures outlined in the nurse registry's comprehensive  
573 emergency management plan which support a finding that the  
574 provision of continuing care has been attempted for patients  
575 identified as needing care by the nurse registry and registered  
576 under s. 252.355 in the event of an emergency under this  
577 subsection.

578 ~~(f) The Agency for Health Care Administration shall adopt~~  
579 ~~rules establishing minimum criteria for the comprehensive~~  
580 ~~emergency management plan and plan updates required by this~~  
581 ~~subsection, with the concurrence of the Department of Health and~~  
582 ~~in consultation with the Division of Emergency Management.~~

583 ~~(17) The Agency for Health Care Administration shall adopt~~  
584 ~~rules to implement this section and part II of chapter 408.~~

585 Section 9. Subsection (7) of section 400.509, Florida  
586 Statutes, is amended to read:

587 400.509 Registration of particular service providers  
588 exempt from licensure; certificate of registration; regulation

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589 | of registrants.-

590 | ~~(7) The Agency for Health Care Administration shall adopt~~  
 591 | ~~rules to administer this section and part II of chapter 408.~~

592 | Section 10. Section 400.914, Florida Statutes, is amended  
 593 | to read:

594 | 400.914 Rulemaking; Rules establishing standards.-

595 | (1) Pursuant to the intention of the Legislature to  
 596 | provide safe and sanitary facilities and healthful programs, the  
 597 | agency in conjunction with the Division of Children's Medical  
 598 | Services of the Department of Health may ~~shall~~ adopt and ~~publish~~  
 599 | rules to implement the provisions of this part and part II of  
 600 | chapter 408, ~~which shall include reasonable and fair standards.~~

601 | Any conflict between these standards and those that may be set  
 602 | forth in local, county, or city ordinances shall be resolved in  
 603 | favor of those having statewide effect. Rules shall specify, but  
 604 | not be limited to, reasonable and fair standards relating ~~Such~~  
 605 | ~~standards shall relate to:~~

606 | (a) The assurance that PPEC services are family centered  
 607 | and provide individualized medical, developmental, and family  
 608 | training services.

609 | (b) The maintenance of PPEC centers, not in conflict with  
 610 | the provisions of chapter 553 and based upon the size of the  
 611 | structure and number of children, relating to plumbing, heating,  
 612 | lighting, ventilation, and other building conditions, including  
 613 | adequate space, which will ensure the health, safety, comfort,  
 614 | and protection from fire of the children served.

615 | (c) The appropriate provisions of the most recent edition  
 616 | of the "Life Safety Code" (NFPA-101) shall be applied.

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617 (d) The number and qualifications of all personnel who  
618 have responsibility for the care of the children served.

619 (e) All sanitary conditions within the PPEC center and its  
620 surroundings, including water supply, sewage disposal, food  
621 handling, and general hygiene, and maintenance thereof, which  
622 will ensure the health and comfort of children served.

623 (f) Programs and basic services promoting and maintaining  
624 the health and development of the children served and meeting  
625 the training needs of the children's legal guardians.

626 (g) Supportive, contracted, other operational, and  
627 transportation services.

628 (h) Maintenance of appropriate medical records, data, and  
629 information relative to the children and programs. Such records  
630 shall be maintained in the facility for inspection by the  
631 agency.

632 (2) ~~The agency shall adopt rules to ensure that:~~

633 (a) No child may ~~attends~~ a PPEC center for more than 12  
634 hours within a 24-hour period.

635 (b) No PPEC center may provide ~~provides~~ services other  
636 than those provided to medically or technologically dependent  
637 children.

638 Section 11. Subsection (2) of section 483.245, Florida  
639 Statutes, is amended to read:

640 483.245 Rebates prohibited; penalties.—

641 (2) The agency may establish and ~~shall adopt rules that~~  
642 assess administrative penalties for acts prohibited by  
643 subsection (1). In the case of an entity licensed by the agency,  
644 such penalties may include any disciplinary action available to

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645 | the agency under the appropriate licensing laws. In the case of  
646 | an entity not licensed by the agency, such penalties may  
647 | include:

648 |       (a) A fine not to exceed \$1,000;

649 |       (b) If applicable, a recommendation by the agency to the  
650 | appropriate licensing board that disciplinary action be taken.

651 |       Section 12. This act shall take effect July 1, 2013.