

By Senator Grimsley

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1                                   A bill to be entitled  
2           An act relating to health care services rulemaking;  
3           amending ss. 390.012, 400.021, 400.0712, 400.23,  
4           400.487, 400.497, 400.506, 400.509, 400.6095, 400.914,  
5           400.935, 400.962, 400.967, 400.980, 409.912, 429.255,  
6           429.73, 440.102, 483.245, 765.541, and 765.544, F.S.;  
7           removing certain rulemaking authority relating to the  
8           disposal of fetal remains by abortion clinics, nursing  
9           home equipment and furnishings, license applications  
10          for nursing home facilities, evaluation of nursing  
11          home facilities, home health agencies and  
12          cardiopulmonary resuscitation, home health agency  
13          standards, nurse registry emergency management plans,  
14          registration of certain service providers, hospice and  
15          cardiopulmonary resuscitation, standards for  
16          prescribed pediatric extended care facilities, minimum  
17          standards relating to home medical equipment  
18          providers, standards for intermediate care facilities  
19          for the developmentally disabled, rules and the  
20          classification of deficiencies for intermediate care  
21          facilities for the developmentally disabled, the  
22          registration of health care service pools,  
23          participation in a Medicaid provider lock-in program,  
24          assisted living facilities and cardiopulmonary  
25          resuscitation, adult family-care homes and  
26          cardiopulmonary resuscitation, guidelines for drug-  
27          free workplace laboratories, penalties for rebates,  
28          standards for organ procurement organizations;  
29          administrative penalties for violations of the organ

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30 and tissue donor education and procurement program;  
31 creating s. 400.9141; limiting services at PPEC  
32 centers; amending s. 400.934, relating to home medical  
33 equipment providers; requiring that the emergency  
34 management plan include criteria relating to the  
35 maintenance of patient equipment and supply lists;  
36 providing an effective date.

37  
38 WHEREAS, rulemaking is not a matter of agency discretion;  
39 rulemaking authority is delegated by the Legislature for  
40 agencies to adopt statements of general applicability that  
41 interpret or implement law; the valid adoption of a rule  
42 requires both a grant of express rulemaking authority and a  
43 specific law to be implemented or interpreted, and

44 WHEREAS, the repeal or deletion of a redundant or  
45 unnecessary provision authorizing agency rulemaking does not  
46 repeal rulemaking authority otherwise provided that clearly  
47 applies to the same subject, and

48 WHEREAS, statutory provisions mandating rules, when the  
49 substantive law otherwise would be implemented without the need  
50 for administrative rules or by rulemaking under a broader grant  
51 of authority, may be repealed without altering the substantive  
52 law or rulemaking authority on which existing rules rely, NOW,  
53 THEREFORE,

54  
55 Be It Enacted by the Legislature of the State of Florida:

56  
57 Section 1. Paragraph (d) of subsection (3) of section  
58 390.012, Florida Statutes, is amended to read:

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59 390.012 Powers of agency; rules; disposal of fetal  
60 remains.-

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

65 (d) Rules relating to the medical screening and evaluation  
66 of each abortion clinic patient. At a minimum, these rules must  
67 ~~shall~~ require:

68 1. A medical history including reported allergies to  
69 medications, antiseptic solutions, or latex; past surgeries; and  
70 an obstetric and gynecological history.

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

73 3. The appropriate laboratory tests, including:

74 a. Urine or blood tests for pregnancy performed before the  
75 abortion procedure.

76 b. A test for anemia.

77 c. Rh typing, unless reliable written documentation of  
78 blood type is available.

79 d. Other tests as indicated from the physical examination.

80 4. An ultrasound evaluation for all patients. The rules  
81 must ~~shall~~ require that if a person who is not a physician  
82 performs an ultrasound examination, that person shall have  
83 documented evidence that he or she has completed a course in the  
84 operation of ultrasound equipment as prescribed in rule. ~~The~~  
85 ~~rules shall require clinics to be in compliance with s.~~  
86 ~~390.0111.~~

87 5. That the physician is responsible for estimating the

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88 gestational age of the fetus based on the ultrasound examination  
89 and obstetric standards in keeping with established standards of  
90 care regarding the estimation of fetal age as defined in rule  
91 and shall write the estimate in the patient's medical history.  
92 The physician shall keep original prints of each ultrasound  
93 examination of a patient in the patient's medical history file.

94 Section 2. Subsection (11) of section 400.021, Florida  
95 Statutes, is amended to read:

96 400.021 Definitions.—When used in this part, unless the  
97 context otherwise requires, the term:

98 (11) "Nursing home bed" means an accommodation that ~~which~~  
99 is ready for immediate occupancy, or is capable of being made  
100 ready for occupancy within 48 hours, excluding the provision of  
101 staffing, ~~+~~ and that ~~which~~ conforms to minimum space  
102 requirements, including the availability of appropriate  
103 equipment and furnishings within the 48 hours, as specified by  
104 ~~rule of~~ the agency, for the provision of services specified in  
105 this part to a single resident.

106 Section 3. Subsection (3) of section 400.0712, Florida  
107 Statutes, is amended to read:

108 400.0712 Application for inactive license.—

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

111 Section 4. Section 400.23, Florida Statutes, is amended to  
112 read:

113 400.23 Rules; evaluation and deficiencies; licensure  
114 status.—

115 (1) It is the intent of the Legislature that rules  
116 published and enforced pursuant to this part and part II of

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117 chapter 408 ~~shall~~ include criteria by which a reasonable and  
118 consistent quality of resident care may be ensured, and the  
119 results of such resident care can be demonstrated, and by which  
120 safe and sanitary nursing homes can be provided. It is further  
121 intended that reasonable efforts be made to accommodate the  
122 needs and preferences of residents to enhance the quality of  
123 life in a nursing home. In addition, efforts shall be made to  
124 minimize the amount of paperwork associated with the reporting  
125 and documentation requirements of these rules.

126 (2) Pursuant to the intention of the Legislature, the  
127 agency, in consultation with the Department of Health and the  
128 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules  
129 to administer ~~implement~~ this part and part II of chapter 408.  
130 The rules must specify, but are not limited to, which shall  
131 ~~include~~ reasonable and fair criteria relating in relation to:

132 (a) The location of the facility and housing conditions  
133 that will ensure the health, safety, and comfort of residents,  
134 including an adequate call system. In adopting ~~making~~ such  
135 rules, the agency shall be guided by criteria recommended by  
136 nationally recognized reputable professional groups and  
137 associations that have ~~with~~ knowledge of such subject matters.  
138 The agency shall update or revise the ~~such~~ criteria as the need  
139 arises. The agency may require alterations to a building if it  
140 determines that an existing condition constitutes a distinct  
141 hazard to life, health, or safety. In performing ~~any~~ inspections  
142 of facilities authorized by this part or part II of chapter 408,  
143 the agency may enforce the special-occupancy provisions of the  
144 Florida Building Code and the Florida Fire Prevention Code which  
145 apply to nursing homes. A resident ~~Residents~~ or his or her

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

172 (b) The number and qualifications of all personnel,  
173 including management, medical, nursing, and other professional  
174 personnel, and nursing assistants, orderlies, and support

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175 personnel, having responsibility for any part of the care given  
176 residents.

177 (c) All sanitary conditions within the facility and its  
178 surroundings, including water supply, sewage disposal, food  
179 handling, and general hygiene which will ensure the health and  
180 comfort of residents.

181 (d) The equipment essential to the health and welfare of  
182 the residents.

183 (e) A uniform accounting system.

184 (f) The care, treatment, and maintenance of residents and  
185 measurement of the quality and adequacy thereof, based on rules  
186 developed under this chapter and the Omnibus Budget  
187 Reconciliation Act of 1987, (Pub. L. No. 100-203) ~~(December 22,~~  
188 ~~1987)~~, Title IV (Medicare, Medicaid, and Other Health-Related  
189 Programs), Subtitle C (Nursing Home Reform), as amended.

190 (g) The preparation and annual update of a comprehensive  
191 emergency management plan. The agency shall establish ~~adopt~~  
192 ~~rules establishing~~ minimum criteria for the plan after  
193 consultation with the Division of Emergency Management. At a  
194 minimum, the ~~rules must provide for~~ plan components must provide  
195 ~~that address~~ emergency evacuation transportation; adequate  
196 sheltering arrangements; postdisaster activities, including  
197 emergency power, food, and water; postdisaster transportation;  
198 supplies; staffing; emergency equipment; individual  
199 identification of residents and transfer of records; and  
200 responding to family inquiries. The comprehensive emergency  
201 management plan is subject to review and approval by the local  
202 emergency management agency. During the ~~its~~ review, the local  
203 emergency management agency shall ensure that the following

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204 agencies, at a minimum, are given the opportunity to review the  
205 plan: the Department of Elderly Affairs, the Department of  
206 Health, the Agency for Health Care Administration, and the  
207 Division of Emergency Management. ~~Also,~~ Appropriate volunteer  
208 organizations must also be given the opportunity to review the  
209 plan. The local emergency management agency shall complete its  
210 review within 60 days and ~~either~~ approve the plan or advise the  
211 facility of necessary revisions.

212 (h) The availability, distribution, and posting of reports  
213 and records pursuant to s. 400.191 and the Gold Seal Program  
214 pursuant to s. 400.235.

215 (3) (a) ~~1-~~ The agency shall enforce ~~adopt rules providing~~  
216 minimum staffing requirements for nursing home facilities.

217 1. These requirements must include, for each facility:

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

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

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

228 2. Nursing assistants employed under s. 400.211(2) may be  
229 included in computing the staffing ratio for certified nursing  
230 assistants if their job responsibilities include only nursing-  
231 assistant-related duties.

232 3. Each nursing home facility must document compliance with



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233 staffing standards ~~as~~ required under this paragraph and post  
234 daily the names of staff on duty for the benefit of facility  
235 residents and the public.

236 4. The agency shall recognize the use of licensed nurses  
237 for compliance with the minimum staffing requirements for  
238 certified nursing assistants if the nursing home facility  
239 otherwise meets the minimum staffing requirements for licensed  
240 nurses and the licensed nurses are performing the duties of ~~a~~  
241 certified nursing assistants ~~assistant~~. Unless otherwise  
242 approved by the agency, licensed nurses counted toward the  
243 minimum staffing requirements for certified nursing assistants  
244 must exclusively perform the duties of ~~a~~ certified nursing  
245 assistants ~~assistant~~ for the entire shift and not also be  
246 counted toward the minimum staffing requirements for licensed  
247 nurses. If the agency approved a facility's request to use a  
248 licensed nurse to perform both licensed nursing and certified  
249 nursing assistant duties, the facility must allocate the amount  
250 of staff time specifically spent on certified nursing assistant  
251 duties for the purpose of documenting compliance with minimum  
252 staffing requirements for certified and licensed nursing staff.  
253 The hours of a licensed nurse with dual job responsibilities may  
254 not be counted twice.

255 (b) Nonnursing staff providing eating assistance to  
256 residents does ~~shall~~ not count toward compliance with minimum  
257 staffing standards.

258 (c) Licensed practical nurses licensed under chapter 464  
259 who are providing nursing services in nursing home facilities  
260 under this part may supervise the activities of other licensed  
261 practical nurses, certified nursing assistants, and other

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262 unlicensed personnel providing services in such facilities in  
263 accordance with rules adopted by the Board of Nursing.

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

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

272 (a) Minimum standards of care for persons under 21 years of  
273 age who reside in nursing home facilities may be established by  
274 the agency, in collaboration with the Division of Children's  
275 Medical Services of the Department of Health. A facility may be  
276 exempted from these standards and the provisions of paragraph  
277 (b) for specified ~~specific~~ persons between 18 and 21 years of  
278 age, if the person's physician agrees that minimum standards of  
279 care based on age are not necessary.

280 (b) The following ~~Minimum~~ staffing requirements for persons  
281 under 21 years of age who reside in nursing home facilities,  
282 ~~which~~ apply in lieu of the requirements contained in subsection  
283 (3):

284 1. For persons under 21 years of age who require skilled  
285 care:

286 a. A minimum combined average of 3.9 hours of direct care  
287 per resident per day must be provided by licensed nurses,  
288 respiratory therapists, respiratory care practitioners, and  
289 certified nursing assistants.

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

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291 direct care per resident per day ~~must be provided.~~

292 c. Up to ~~No more than~~ 1.5 hours of certified nursing  
293 assistant care per resident per day may be counted in  
294 determining the minimum direct care hours required.

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

297 2. For persons under 21 years of age who are medically  
298 fragile:

299 a. A minimum combined average of 5.0 hours of direct care  
300 per resident per day must be provided by licensed nurses,  
301 respiratory therapists, respiratory care practitioners, and  
302 certified nursing assistants.

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

305 c. Up to ~~No more than~~ 1.5 hours of certified nursing  
306 assistant care per resident per day may be counted in  
307 determining the minimum direct care hours required.

308 d. One registered nurse must be on duty on the site 24  
309 hours per day on a ~~the~~ unit where children reside.

310 (6) Before ~~Prior to~~ conducting a survey of the facility,  
311 the survey team shall obtain a copy of the local long-term care  
312 ombudsman council report on the facility. Problems noted in the  
313 report shall be incorporated into and followed up through the  
314 agency's inspection process. This procedure does not preclude  
315 the local long-term care ombudsman council from requesting the  
316 agency to conduct a followup visit to the facility.

317 (7) The agency shall, at least every 15 months, evaluate  
318 all nursing home facilities and determine ~~make a determination~~  
319 ~~as to~~ the degree of compliance by each licensee with the

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320 established rules adopted under this part as a basis for  
321 assigning a licensure status to a ~~that~~ facility. The agency  
322 shall base its evaluation on the most recent inspection report,  
323 taking into consideration findings from other official reports,  
324 surveys, interviews, investigations, and inspections. In  
325 addition to license categories authorized under part II of  
326 chapter 408, the agency shall assign a ~~licensure status of~~  
327 standard or conditional licensure status to each nursing home.

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

331 (b) A conditional licensure status means that a facility,  
332 due to the presence of one or more class I or class II  
333 deficiencies, or class III deficiencies not corrected within the  
334 time established by the agency, is not in substantial compliance  
335 at the time of the survey with criteria established under this  
336 part or with rules adopted by the agency. If the facility has no  
337 class I, class II, or class III deficiencies at the time of the  
338 followup survey, a standard licensure status may be assigned.

339 (c) In evaluating the overall quality of care and services  
340 and determining whether the facility will receive a conditional  
341 or standard license, the agency shall consider the needs and  
342 limitations of residents in the facility and the results of  
343 interviews and surveys of a representative sampling of  
344 residents, families of residents, ombudsman council members in  
345 the planning and service area in which the facility is located,  
346 guardians of residents, and staff of the nursing home facility.

347 (d) The current licensure status of each facility must be  
348 indicated in bold print on the face of the license. A list of

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349 the deficiencies of the facility shall be posted in a prominent  
350 place that is in clear and unobstructed public view at or near  
351 the place where residents are being admitted to that facility.  
352 Licensees receiving a conditional licensure status for a  
353 facility shall prepare, within 10 working days after receiving  
354 notice of deficiencies, a plan for correction of all  
355 deficiencies and ~~shall~~ submit the plan to the agency for  
356 approval.

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

358 1. Establish uniform procedures for the evaluation of  
359 facilities.

360 2. Provide criteria in the areas referenced in paragraph  
361 (c).

362 3. Address other areas necessary for carrying out the  
363 intent of this section.

364 (8) The agency shall ensure ~~adopt rules pursuant to this~~  
365 ~~part and part II of chapter 408 to provide that, if when the~~  
366 criteria established under subsection (2) are not met, such  
367 deficiencies shall be classified according to the nature and the  
368 scope of the deficiency. The scope shall be cited as isolated,  
369 patterned, or widespread. An isolated deficiency is a deficiency  
370 affecting one or a very limited number of residents, or  
371 involving one or a very limited number of staff, or a situation  
372 that occurred only occasionally or in a very limited number of  
373 locations. A patterned deficiency is a deficiency in which ~~where~~  
374 more than a very limited number of residents are affected, or  
375 more than a very limited number of staff are involved, or the  
376 situation has occurred in several locations, or the same  
377 resident or residents have been affected by repeated occurrences

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378 of the same deficient practice but the effect of the deficient  
379 practice is not found to be pervasive throughout the facility. A  
380 widespread deficiency is a deficiency in which the problems  
381 causing the deficiency are pervasive in the facility or  
382 represent systemic failure that has affected or has the  
383 potential to affect a large portion of the facility's residents.  
384 The agency shall indicate the classification on the face of the  
385 notice of deficiencies as follows:

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

403 (b) A class II deficiency is a deficiency that the agency  
404 determines has compromised a ~~the~~ resident's ability to maintain  
405 or reach his or her highest practicable physical, mental, and  
406 psychosocial well-being, as defined by an accurate and

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407 comprehensive resident assessment, plan of care, and provision  
408 of services. A class II deficiency is subject to a civil penalty  
409 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
410 deficiency, and \$7,500 for a widespread deficiency. The fine  
411 amount is ~~shall be~~ doubled for each deficiency if the facility  
412 was previously cited for one or more class I or class II  
413 deficiencies during the last licensure inspection or an ~~any~~  
414 inspection or complaint investigation since the last licensure  
415 inspection. A fine shall be levied notwithstanding the  
416 correction of the deficiency.

417 (c) A class III deficiency is a deficiency that the agency  
418 determines will result in no more than minimal physical, mental,  
419 or psychosocial discomfort to a ~~the~~ resident or has the  
420 potential to compromise a ~~the~~ resident's ability to maintain or  
421 reach his or her highest practical physical, mental, or  
422 psychosocial well-being, as defined by an accurate and  
423 comprehensive resident assessment, plan of care, and provision  
424 of services. A class III deficiency is subject to a civil  
425 penalty of \$1,000 for an isolated deficiency, \$2,000 for a  
426 patterned deficiency, and \$3,000 for a widespread deficiency.  
427 The fine amount is ~~shall be~~ doubled for each deficiency if the  
428 facility was previously cited for one or more class I or class  
429 II deficiencies during the last licensure inspection or an ~~any~~  
430 inspection or complaint investigation since the last licensure  
431 inspection. A citation for a class III deficiency must specify  
432 the time within which the deficiency is required to be  
433 corrected. If a class III deficiency is corrected within the  
434 time specified, a civil penalty may not be imposed.

435 (d) A class IV deficiency is a deficiency that the agency

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436 determines has the potential for causing no more than a minor  
437 negative impact on a ~~the~~ resident. If the class IV deficiency is  
438 isolated, no plan of correction is required.

439 (9) Civil penalties paid by a ~~any~~ licensee under subsection  
440 (8) shall be deposited in the Health Care Trust Fund and  
441 expended as provided in s. 400.063.

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

445 Section 5. Subsection (7) of section 400.487, Florida  
446 Statutes, is amended to read:

447 400.487 Home health service agreements; physician's,  
448 physician assistant's, and advanced registered nurse  
449 practitioner's treatment orders; patient assessment;  
450 establishment and review of plan of care; provision of services;  
451 orders not to resuscitate.—

452 (7) Home health agency personnel may withhold or withdraw  
453 cardiopulmonary resuscitation if presented with an order not to  
454 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
455 ~~adopt rules providing for the implementation of such orders.~~  
456 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to  
457 criminal prosecution or civil liability and are not, ~~nor be~~  
458 considered to have engaged in negligent or unprofessional  
459 conduct, ~~for withholding or withdrawing cardiopulmonary~~  
460 ~~resuscitation pursuant to such an order and rules adopted by the~~  
461 ~~agency.~~

462 Section 6. Section 400.497, Florida Statutes, is amended to  
463 read:

464 400.497 Rules establishing minimum standards.—The agency



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465 ~~may shall~~ adopt, ~~publish, and enforce~~ rules to administer  
466 ~~implement~~ part II of chapter 408 and this part, including the  
467 agency's duties and responsibilities under, as applicable, ss.  
468 400.506 and 400.509. Rules shall specify, but are not limited  
469 to, which must provide reasonable and fair minimum standards  
470 relating to:

471 (1) The home health aide competency test and home health  
472 aide training. The agency shall create the home health aide  
473 competency test and establish the curriculum and instructor  
474 qualifications for home health aide training. Licensed home  
475 health agencies may provide this training and shall furnish  
476 documentation of such training to other licensed home health  
477 agencies upon request. Successful passage of the competency test  
478 by home health aides may be substituted for the training  
479 required under this section and agency any rule ~~adopted pursuant~~  
480 ~~thereto~~.

481 (2) Shared staffing. ~~The agency shall allow~~ Shared staffing  
482 is allowed if the home health agency is part of a retirement  
483 community that provides multiple levels of care, is located on  
484 one campus, is licensed under this chapter or chapter 429, and  
485 otherwise meets the requirements of law and rule.

486 (3) The criteria for the frequency of onsite licensure  
487 surveys.

488 (4) Licensure application and renewal.

489 (5) Oversight by the director of nursing, including. ~~The~~  
490 ~~agency shall develop rules related to:~~

491 (a) Standards that address oversight responsibilities by  
492 the director of nursing for ~~of~~ skilled nursing and personal care  
493 services provided by the home health agency's staff;

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494 (b) Requirements for a director of nursing to provide to  
495 the agency, upon request, a certified daily report of the home  
496 health services provided by a specified direct employee or  
497 contracted staff member on behalf of the home health agency. The  
498 agency may request a certified daily report for up to only for a  
499 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the  
500 request; and

501 (c) A quality assurance program for home health services  
502 provided by the home health agency.

503 (6) Conditions for using a recent unannounced licensure  
504 inspection for the inspection required under ~~in~~ s. 408.806  
505 related to a licensure application associated with a change in  
506 ownership of a licensed home health agency.

507 (7) The requirements for onsite and electronic  
508 accessibility of supervisory personnel of home health agencies.

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

510 (9) Geographic service areas.

511 (10) Preparation of a comprehensive emergency management  
512 plan pursuant to s. 400.492.

513 ~~(a) The Agency for Health Care Administration shall adopt~~  
514 ~~rules establishing minimum criteria for the plan and plan~~  
515 ~~updates, with the concurrence of the Department of Health and in~~  
516 ~~consultation with the Division of Emergency Management.~~

517 (a) ~~(b)~~ An emergency plan ~~The rules~~ must address the  
518 requirements in s. 400.492. In addition, the rules shall provide  
519 for the maintenance of patient-specific medication lists that  
520 can accompany patients who are transported from their homes.

521 (b) ~~(c)~~ The plan is subject to review and approval by the  
522 county health department. During its review, the county health

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523 department shall contact state and local health and medical  
524 stakeholders when necessary. The county health department shall  
525 complete its review to ensure that the plan is in accordance  
526 with the requirements of law ~~criteria in the Agency for Health~~  
527 ~~Care Administration rules~~ within 90 days after receipt of the  
528 plan and shall approve the plan or advise the home health agency  
529 of necessary revisions. If the home health agency fails to  
530 submit a plan or fails to submit the requested information or  
531 revisions to the county health department within 30 days after  
532 written notification from the county health department, the  
533 county health department shall notify the Agency for Health Care  
534 Administration. The agency shall notify the home health agency  
535 that its failure constitutes a deficiency, subject to a fine of  
536 \$5,000 per occurrence. If the plan is not submitted, information  
537 is not provided, or revisions are not made as requested, the  
538 agency may impose the fine.

539 (c) ~~(d)~~ For a ~~any~~ home health agency that operates in more  
540 than one county, the Department of Health shall review the plan,  
541 after consulting with state and local health and medical  
542 stakeholders when necessary. The department shall complete its  
543 review within 90 days after receipt of the plan and shall  
544 approve the plan or advise the home health agency of necessary  
545 revisions. The department shall make every effort to avoid  
546 imposing differing requirements on a home health agency that  
547 operates in more than one county as a result of differing or  
548 conflicting comprehensive plan requirements of the counties in  
549 which the home health agency operates.

550 (d) ~~(e)~~ The requirements in this subsection do not apply to:  
551 1. A facility that is certified under chapter 651 and has a

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552 licensed home health agency used exclusively by residents of the  
553 facility; or

554 2. A retirement community that consists of both residential  
555 units for independent living and ~~either~~ a licensed nursing home  
556 or an assisted living facility, and has a licensed home health  
557 agency used exclusively by ~~the~~ residents of the retirement  
558 community, if, ~~provided~~ the comprehensive emergency management  
559 plan for the facility or retirement community provides for  
560 continuous care of all residents with special needs during an  
561 emergency.

562 Section 7. Paragraph (f) of subsection (12) and subsection  
563 (17) of section 400.506, Florida Statutes, are amended to read:

564 400.506 Licensure of nurse registries; requirements;  
565 penalties.—

566 (12) Each nurse registry shall prepare and maintain a  
567 comprehensive emergency management plan that is consistent with  
568 the criteria in this subsection and with the local special needs  
569 plan. The plan shall be updated annually. The plan shall include  
570 the means by which the nurse registry will continue to provide  
571 the same type and quantity of services to its patients who  
572 evacuate to special needs shelters which were being provided to  
573 those patients prior to evacuation. The plan shall specify how  
574 the nurse registry shall facilitate the provision of continuous  
575 care by persons referred for contract to persons who are  
576 registered pursuant to s. 252.355 during an emergency that  
577 interrupts the provision of care or services in private  
578 residences. Nurse registries may establish links to local  
579 emergency operations centers to determine a mechanism by which  
580 to approach specific areas within a disaster area in order for a

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581 provider to reach its clients. Nurse registries shall  
582 demonstrate a good faith effort to comply with the requirements  
583 of this subsection by documenting attempts of staff to follow  
584 procedures outlined in the nurse registry's comprehensive  
585 emergency management plan which support a finding that the  
586 provision of continuing care has been attempted for patients  
587 identified as needing care by the nurse registry and registered  
588 under s. 252.355 in the event of an emergency under this  
589 subsection.

590 ~~(f) The Agency for Health Care Administration shall adopt~~  
591 ~~rules establishing minimum criteria for the comprehensive~~  
592 ~~emergency management plan and plan updates required by this~~  
593 ~~subsection, with the concurrence of the Department of Health and~~  
594 ~~in consultation with the Division of Emergency Management.~~

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

597 Section 8. Subsection (7) of section 400.509, Florida  
598 Statutes, is amended to read:

599 400.509 Registration of particular service providers exempt  
600 from licensure; certificate of registration; regulation of  
601 registrants.-

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

604 Section 9. Subsection (8) of section 400.6095, Florida  
605 Statutes, is amended to read:

606 400.6095 Patient admission; assessment; plan of care;  
607 discharge; death.-

608 (8) The hospice care team may withhold or withdraw  
609 cardiopulmonary resuscitation if presented with an order not to

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610 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
 611 ~~adopt rules providing for the implementation of such orders.~~  
 612 Hospice staff are ~~shall~~ not ~~be~~ subject to criminal prosecution  
 613 or civil liability, nor ~~be~~ considered to have engaged in  
 614 negligent or unprofessional conduct, for withholding or  
 615 withdrawing cardiopulmonary resuscitation pursuant to such an  
 616 order and applicable rules. The absence of an order to  
 617 resuscitate executed pursuant to s. 401.45 does not preclude a  
 618 physician from withholding or withdrawing cardiopulmonary  
 619 resuscitation as otherwise permitted by law.

620 Section 10. Section 400.914, Florida Statutes, is amended  
 621 to read:

622 400.914 Rulemaking; Rules establishing standards.—

623 (1) Pursuant to the intention of the Legislature to provide  
 624 safe and sanitary facilities and healthful programs, the agency  
 625 in conjunction with the Division of Children's Medical Services  
 626 of the Department of Health may ~~shall~~ ~~adopt and publish~~ rules to  
 627 administer ~~implement the provisions of~~ this part and part II of  
 628 chapter 408, ~~which shall include reasonable and fair standards.~~  
 629 Any conflict between these rules ~~standards~~ and those established  
 630 ~~that may be set forth~~ in local, county, or city ordinances shall  
 631 be resolved in favor of those having statewide effect.

632 (2) The rules must specify, but are not limited to,  
 633 reasonable and fair standards relating ~~Such standards shall~~  
 634 ~~relate to:~~

635 (a) The assurance that PPEC services are family centered  
 636 and provide individualized medical, developmental, and family  
 637 training services.

638 (b) The maintenance of PPEC centers, not in conflict with

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639 ~~the provisions of~~ chapter 553 and based upon the size of the  
640 structure and number of children, relating to plumbing, heating,  
641 lighting, ventilation, and other building conditions, including  
642 adequate space, which will ensure the health, safety, comfort,  
643 and protection from fire of the children served.

644 (c) The application of the appropriate provisions of the  
645 most recent edition of the "Life Safety Code" (NFPA-101) ~~shall~~  
646 ~~be applied.~~

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

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

653 (f) Programs and basic services promoting and maintaining  
654 the health and development of the children served and meeting  
655 the training needs of the children's legal guardians.

656 (g) Supportive, contracted, other operational, and  
657 transportation services.

658 (h) Maintenance of appropriate medical records, data, and  
659 information relative to the children and programs. Such records  
660 shall be maintained in the facility for inspection by the  
661 agency.

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

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

665 ~~(b) No PPEC center provides services other than those~~  
666 ~~provided to medically or technologically dependent children.~~

667 Section 11. Section 400.9141, Florida Statutes, is created

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668 to read:

669 400.9141 Limitations.-

670 (1) A child may not attend a PPEC center for more than 12  
671 hours within a 24-hour period.

672 (2) A PPEC center may provide services only to medically or  
673 technologically dependent children.

674 Section 12. Paragraph (a) of subsection (20) of section  
675 400.934, Florida Statutes, is amended to read:

676 400.934 Minimum standards.-As a requirement of licensure,  
677 home medical equipment providers shall:

678 (20) (a) Prepare and maintain a comprehensive emergency  
679 management plan that meets minimum criteria established by  
680 agency rule, including criteria for the maintenance of patient  
681 equipment and supply lists that accompany patients who are  
682 transported from their homes. Such rules shall be formulated in  
683 consultation with the Department of Health and the Division of  
684 Emergency Management ~~under s. 400.935~~. The plan shall be updated  
685 annually and shall provide for continuing home medical equipment  
686 services for life-supporting or life-sustaining equipment, as  
687 defined in s. 400.925, during an emergency that interrupts home  
688 medical equipment services in a patient's home. The plan must  
689 ~~shall~~ include:

690 1. The means by which the home medical equipment provider  
691 will continue to provide equipment to perform the same type and  
692 quantity of services to its patients who evacuate to special  
693 needs shelters which were being provided to those patients  
694 before ~~prior to~~ evacuation.

695 2. The means by which the home medical equipment provider  
696 establishes and maintains an effective response to emergencies



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697 and disasters, including plans for:

698 a. Notification of staff when emergency response measures  
699 are initiated.

700 b. Communication between staff members, county health  
701 departments, and local emergency management agencies, which  
702 includes provisions for a backup communications system.

703 c. Identification of resources necessary to continue  
704 essential care or services or referrals to other organizations  
705 subject to written agreement.

706 d. Contacting and prioritizing patients in need of  
707 continued medical equipment services and supplies.

708 Section 13. Section 400.935, Florida Statutes, is amended  
709 to read:

710 400.935 Rule authority ~~Rules establishing minimum~~  
711 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules as  
712 necessary to administer ~~implement~~ this part and part II of  
713 chapter 408, ~~which must provide reasonable and fair minimum~~  
714 ~~standards relating to:~~

715 ~~(1) The qualifications and minimum training requirements of~~  
716 ~~all home medical equipment provider personnel.~~

717 ~~(2) Financial ability to operate.~~

718 ~~(3) The administration of the home medical equipment~~  
719 ~~provider.~~

720 ~~(4) Procedures for maintaining patient records.~~

721 ~~(5) Ensuring that the home medical equipment and services~~  
722 ~~provided by a home medical equipment provider are in accordance~~  
723 ~~with the plan of treatment established for each patient, when~~  
724 ~~provided as a part of a plan of treatment.~~

725 ~~(6) Contractual arrangements for the provision of home~~

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726 ~~medical equipment and services by providers not employed by the~~  
727 ~~home medical equipment provider providing for the consumer's~~  
728 ~~needs.~~

729 ~~(7) Physical location and zoning requirements.~~

730 ~~(8) Home medical equipment requiring home medical equipment~~  
731 ~~services.~~

732 ~~(9) Preparation of the comprehensive emergency management~~  
733 ~~plan under s. 400.934 and the establishment of minimum criteria~~  
734 ~~for the plan, including the maintenance of patient equipment and~~  
735 ~~supply lists that can accompany patients who are transported~~  
736 ~~from their homes. Such rules shall be formulated in consultation~~  
737 ~~with the Department of Health and the Division of Emergency~~  
738 ~~Management.~~

739 Section 14. Subsection (5) of section 400.962, Florida  
740 Statutes, is amended to read:

741 400.962 License required; license application.—

742 (5) The applicant must agree to provide or arrange for  
743 active treatment services by an interdisciplinary team in order  
744 to maximize individual independence or prevent regression or  
745 loss of functional status. ~~Standards for active treatment shall~~  
746 ~~be adopted by the Agency for Health Care Administration by rule~~  
747 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services  
748 shall be provided in accordance with the individual support plan  
749 and shall be reimbursed as part of the per diem rate as paid  
750 under the Medicaid program.

751 Section 15. Subsections (2) and (3) of section 400.967,  
752 Florida Statutes, are amended to read:

753 400.967 Rules and classification of deficiencies.—

754 (2) ~~Pursuant to the intention of the Legislature,~~ The

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755 agency, in consultation with the Agency for Persons with  
756 Disabilities and the Department of Elderly Affairs, may ~~shall~~  
757 adopt and enforce rules as necessary to administer this part and  
758 part II of chapter 408, which ~~shall~~ include ~~reasonable and fair~~  
759 criteria governing:

760 (a) The location and construction of the facility;  
761 including fire and life safety, plumbing, heating, cooling,  
762 lighting, ventilation, and other housing conditions that ensure  
763 the health, safety, and comfort of residents. The agency shall  
764 establish standards for facilities and equipment to increase the  
765 extent to which new facilities, and a new wing or floor added to  
766 an existing facility after July 1, 2000, are structurally  
767 capable of serving as shelters only for residents, staff, and  
768 families of residents and staff, and equipped to be self-  
769 supporting during and immediately following disasters. The  
770 agency shall update or revise the criteria as the need arises.  
771 ~~All~~ Facilities must comply with the ~~those~~ lifesafety code  
772 requirements and building code standards applicable when ~~at the~~  
773 ~~time of approval of~~ their construction plans are approved. The  
774 agency may require alterations to a building if it determines  
775 that an existing condition constitutes a ~~distinct~~ hazard to  
776 life, health, or safety. The agency may state the ~~shall adopt~~  
777 ~~fair and reasonable rules setting forth~~ conditions under which  
778 existing facilities undergoing additions, alterations,  
779 conversions, renovations, or repairs are required to comply with  
780 the most recent updated or revised standards.

781 (b) The number and qualifications of all personnel,  
782 including management, medical, nursing, and other personnel,  
783 having responsibility for any part of the care given to

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784 residents.

785 (c) ~~All~~ Sanitary conditions within the facility and its  
786 surroundings, including water supply, sewage disposal, food  
787 handling, and general hygiene, which ~~will~~ ensure the health and  
788 comfort of residents.

789 (d) ~~The~~ Equipment essential to the health and welfare of  
790 the residents.

791 (e) A uniform accounting system.

792 (f) The care, treatment, and maintenance of residents and  
793 the assessment measurement of the quality and adequacy thereof.

794 (g) The preparation and annual update of a comprehensive  
795 emergency management plan. After consultation with the Division  
796 of Emergency Management, the agency may establish ~~shall adopt~~  
797 ~~rules establishing~~ minimum criteria for the plan after  
798 ~~consultation with the Division of Emergency Management. At a~~  
799 ~~minimum, the rules must provide for~~ plan components that address  
800 emergency evacuation transportation; adequate sheltering  
801 arrangements; postdisaster activities, including emergency  
802 power, food, and water; postdisaster transportation; supplies;  
803 staffing; emergency equipment; individual identification of  
804 residents and transfer of records; and responding to family  
805 inquiries. The comprehensive emergency management plan is  
806 subject to review and approval by the local emergency management  
807 agency. During the ~~its~~ review, the local emergency management  
808 agency shall ensure that the following agencies, at a minimum,  
809 are given the opportunity to review the plan: the Department of  
810 Elderly Affairs, the Agency for Persons with Disabilities, the  
811 Agency for Health Care Administration, and the Division of  
812 Emergency Management. ~~Also,~~ Appropriate volunteer organizations

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813 must also be given the opportunity to review the plan. The local  
814 emergency management agency shall complete its review within 60  
815 days and ~~either~~ approve the plan or advise the facility of  
816 necessary revisions.

817 (h) The use of restraint and seclusion. Such criteria ~~rules~~  
818 must be consistent with recognized best practices; prohibit  
819 inherently dangerous restraint or seclusion procedures;  
820 establish limitations on the use and duration of restraint and  
821 seclusion; establish measures to ensure the safety of clients  
822 and staff during an incident of restraint or seclusion;  
823 establish procedures for staff to follow before, during, and  
824 after incidents of restraint or seclusion, including  
825 individualized plans for the use of restraints or seclusion in  
826 emergency situations; establish professional qualifications of  
827 and training for staff who may order or be engaged in the use of  
828 restraint or seclusion; establish requirements for facility data  
829 collection and reporting relating to the use of restraint and  
830 seclusion; and establish procedures relating to the  
831 documentation of the use of restraint or seclusion in the  
832 client's facility or program record.

833 (3) ~~If The agency shall adopt rules to provide that, when~~  
834 the criteria established under this part and part II of chapter  
835 408 are not met, such deficiencies shall be classified according  
836 to the nature of the deficiency. The agency shall indicate the  
837 classification on the face of the notice of deficiencies as  
838 follows:

839 (a) Class I deficiencies are those which the agency  
840 determines present an imminent danger to ~~the~~ residents or guests  
841 of the facility or a substantial probability that death or

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842 serious physical harm will ~~would~~ result therefrom. The condition  
843 or practice constituting a class I violation must be abated or  
844 eliminated immediately, unless the agency determines that a  
845 fixed period of time, ~~as determined by the agency,~~ is required  
846 for correction. A class I deficiency is subject to a civil  
847 penalty in an amount of at least ~~not less than~~ \$5,000 but not  
848 more than ~~and not exceeding~~ \$10,000 for each deficiency. A fine  
849 may be levied notwithstanding the correction of the deficiency.

850 (b) Class II deficiencies are those which the agency  
851 determines have a direct or immediate relationship to the  
852 health, safety, or security of ~~the~~ facility residents but do not  
853 meet the criteria established for, ~~other than~~ class I  
854 deficiencies. A class II deficiency is subject to a civil  
855 penalty in an amount of at least ~~not less than~~ \$1,000 and not  
856 more than ~~not exceeding~~ \$5,000 for each deficiency. A citation  
857 for a class II deficiency must ~~shall~~ specify the time within  
858 which the deficiency must be corrected. If a class II deficiency  
859 is corrected within the time specified, a ~~no~~ civil penalty may  
860 not ~~shall~~ be imposed, unless it is a repeated offense.

861 (c) Class III deficiencies are those which the agency  
862 determines to have an indirect or potential relationship to the  
863 health, safety, or security of ~~the~~ facility residents but do not  
864 meet the criteria for, ~~other than~~ class I or class II  
865 deficiencies. A class III deficiency is subject to a civil  
866 penalty of at least ~~not less than~~ \$500 and not more than  
867 ~~exceeding~~ \$1,000 for each deficiency. A citation for a class III  
868 deficiency must ~~shall~~ specify the time within which the  
869 deficiency must be corrected. If a class III deficiency is  
870 corrected within the time specified, a ~~no~~ civil penalty may not

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871 ~~shall~~ be imposed, unless it is a repeated offense.

872 Section 16. Subsection (2) of section 400.980, Florida  
873 Statutes, is amended to read:

874 400.980 Health care services pools.—

875 (2) The requirements of part II of chapter 408 apply to the  
876 provision of services that require licensure or registration  
877 pursuant to this part and part II of chapter 408 and to entities  
878 registered by or applying for such registration from the agency  
879 pursuant to this part. Registration or a license issued by the  
880 agency is required for the operation of a health care services  
881 pool in this state. In accordance with s. 408.805, an applicant  
882 or licensee shall pay a fee for each license application  
883 submitted using this part, part II of chapter 408, and  
884 applicable rules. The agency shall ~~adopt rules and~~ provide forms  
885 required for such registration and shall impose a registration  
886 fee in an amount sufficient to cover the cost of administering  
887 this part and part II of chapter 408. In addition to the  
888 requirements in part II of chapter 408, the registrant must  
889 provide the agency with any change of information contained on  
890 the original registration application within 14 days before  
891 ~~prior to~~ the change.

892 Section 17. Subsection (43) of section 409.912, Florida  
893 Statutes, is amended to read:

894 409.912 Cost-effective purchasing of health care.—The  
895 agency shall purchase goods and services for Medicaid recipients  
896 in the most cost-effective manner consistent with the delivery  
897 of quality medical care. To ensure that medical services are  
898 effectively utilized, the agency may, in any case, require a  
899 confirmation or second physician's opinion of the correct

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900 diagnosis for purposes of authorizing future services under the  
901 Medicaid program. This section does not restrict access to  
902 emergency services or poststabilization care services as defined  
903 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
904 shall be rendered in a manner approved by the agency. The agency  
905 shall maximize the use of prepaid per capita and prepaid  
906 aggregate fixed-sum basis services when appropriate and other  
907 alternative service delivery and reimbursement methodologies,  
908 including competitive bidding pursuant to s. 287.057, designed  
909 to facilitate the cost-effective purchase of a case-managed  
910 continuum of care. The agency shall also require providers to  
911 minimize the exposure of recipients to the need for acute  
912 inpatient, custodial, and other institutional care and the  
913 inappropriate or unnecessary use of high-cost services. The  
914 agency shall contract with a vendor to monitor and evaluate the  
915 clinical practice patterns of providers in order to identify  
916 trends that are outside the normal practice patterns of a  
917 provider's professional peers or the national guidelines of a  
918 provider's professional association. The vendor must be able to  
919 provide information and counseling to a provider whose practice  
920 patterns are outside the norms, in consultation with the agency,  
921 to improve patient care and reduce inappropriate utilization.  
922 The agency may mandate prior authorization, drug therapy  
923 management, or disease management participation for certain  
924 populations of Medicaid beneficiaries, certain drug classes, or  
925 particular drugs to prevent fraud, abuse, overuse, and possible  
926 dangerous drug interactions. The Pharmaceutical and Therapeutics  
927 Committee shall make recommendations to the agency on drugs for  
928 which prior authorization is required. The agency shall inform



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929 the Pharmaceutical and Therapeutics Committee of its decisions  
930 regarding drugs subject to prior authorization. The agency is  
931 authorized to limit the entities it contracts with or enrolls as  
932 Medicaid providers by developing a provider network through  
933 provider credentialing. The agency may competitively bid single-  
934 source-provider contracts if procurement of goods or services  
935 results in demonstrated cost savings to the state without  
936 limiting access to care. The agency may limit its network based  
937 on the assessment of beneficiary access to care, provider  
938 availability, provider quality standards, time and distance  
939 standards for access to care, the cultural competence of the  
940 provider network, demographic characteristics of Medicaid  
941 beneficiaries, practice and provider-to-beneficiary standards,  
942 appointment wait times, beneficiary use of services, provider  
943 turnover, provider profiling, provider licensure history,  
944 previous program integrity investigations and findings, peer  
945 review, provider Medicaid policy and billing compliance records,  
946 clinical and medical record audits, and other factors. Providers  
947 are not entitled to enrollment in the Medicaid provider network.  
948 The agency shall determine instances in which allowing Medicaid  
949 beneficiaries to purchase durable medical equipment and other  
950 goods is less expensive to the Medicaid program than long-term  
951 rental of the equipment or goods. The agency may establish rules  
952 to facilitate purchases in lieu of long-term rentals in order to  
953 protect against fraud and abuse in the Medicaid program as  
954 defined in s. 409.913. The agency may seek federal waivers  
955 necessary to administer these policies.

956 (43) Subject to the availability of funds, the agency shall  
957 mandate a recipient's participation in a provider lock-in

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958 program, when appropriate, if a recipient is found by the agency  
 959 to have used Medicaid goods or services at a frequency or amount  
 960 not medically necessary, limiting the receipt of goods or  
 961 services to medically necessary providers after the 21-day  
 962 appeal process has ended, for at least a period of not less than  
 963 1 year. The lock-in programs must ~~shall~~ include, but are not  
 964 limited to, pharmacies, medical doctors, and infusion clinics.  
 965 The limitation does not apply to emergency services and care  
 966 provided to the recipient in a hospital emergency department.  
 967 The agency shall seek any federal waivers necessary to implement  
 968 this subsection. ~~The agency shall adopt any rules necessary to~~  
 969 ~~comply with or administer this subsection.~~ This subsection  
 970 expires October 1, 2014.

971 Section 18. Subsection (4) of section 429.255, Florida  
 972 Statutes, is amended to read:

973 429.255 Use of personnel; emergency care.—

974 (4) Facility staff may withhold or withdraw cardiopulmonary  
 975 resuscitation or the use of an automated external defibrillator  
 976 if presented with an order not to resuscitate executed pursuant  
 977 to s. 401.45. ~~The department shall adopt rules providing for the~~  
 978 ~~implementation of such orders.~~ Facility staff and facilities are  
 979 ~~shall~~ not ~~be~~ subject to criminal prosecution or civil liability,  
 980 nor ~~be~~ considered to have engaged in negligent or unprofessional  
 981 conduct, for withholding or withdrawing cardiopulmonary  
 982 resuscitation or use of an automated external defibrillator  
 983 pursuant to such an order ~~and rules adopted by the department.~~  
 984 The absence of an order to resuscitate executed pursuant to s.  
 985 401.45 does not preclude a physician from withholding or  
 986 withdrawing cardiopulmonary resuscitation or use of an automated

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987 external defibrillator as otherwise permitted by law.

988 Section 19. Subsection (3) of section 429.73, Florida  
989 Statutes, is amended to read:

990 429.73 Rules and standards relating to adult family-care  
991 homes.—

992 (3) ~~The department shall adopt rules providing for the~~  
993 ~~implementation of orders not to resuscitate.~~ The provider may  
994 withhold or withdraw cardiopulmonary resuscitation if presented  
995 with an order not to resuscitate executed pursuant to s. 401.45.  
996 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or  
997 civil liability, nor ~~be~~ considered to have engaged in negligent  
998 or unprofessional conduct, for withholding or withdrawing  
999 cardiopulmonary resuscitation pursuant to such an order ~~and~~  
1000 ~~applicable rules.~~

1001 Section 20. Subsection (10) of section 440.102, Florida  
1002 Statutes, is amended to read:

1003 440.102 Drug-free workplace program requirements.—The  
1004 following provisions apply to a drug-free workplace program  
1005 implemented pursuant to law or to rules adopted by the Agency  
1006 for Health Care Administration:

1007 (10) RULES. ~~The Agency for Health Care Administration shall~~  
1008 ~~adopt rules~~ Pursuant to s. 112.0455, part II of chapter 408, and  
1009 criteria established by the United States Department of Health  
1010 and Human Services, the agency shall adopt as general guidelines  
1011 for modeling drug-free workplace laboratories, including  
1012 concerning, but not limited to:

1013 (a) Standards for licensing drug-testing laboratories and  
1014 suspension and revocation of such licenses.

1015 (b) Urine, hair, blood, and other body specimens and

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1016 minimum specimen amounts that are appropriate for drug testing.

1017 (c) Methods of analysis and procedures to ensure reliable  
1018 drug-testing results, including standards for initial tests and  
1019 confirmation tests.

1020 (d) Minimum cutoff detection levels for each drug or  
1021 metabolites of such drug for the purposes of determining a  
1022 positive test result.

1023 (e) Chain-of-custody procedures to ensure proper  
1024 identification, labeling, and handling of specimens tested.

1025 (f) Retention, storage, and transportation procedures to  
1026 ensure reliable results on confirmation tests and retests.

1027 Section 21. Subsection (2) of section 483.245, Florida  
1028 Statutes, is amended to read:

1029 483.245 Rebates prohibited; penalties.—

1030 (2) The agency may establish and ~~shall adopt rules that~~  
1031 assess administrative penalties for acts prohibited by  
1032 subsection (1). ~~If In the case of~~ an entity is licensed by the  
1033 agency, such penalties may include any disciplinary action  
1034 available to the agency under the appropriate licensing laws. If  
1035 ~~In the case of~~ an entity is not licensed by the agency, such  
1036 penalties may include:

1037 (a) A fine not to exceed \$1,000;

1038 (b) If applicable, a recommendation by the agency to the  
1039 appropriate licensing board that disciplinary action be taken.

1040 Section 22. Subsection (2) of section 765.541, Florida  
1041 Statutes, is amended to read:

1042 765.541 Certification of procurement organizations; agency  
1043 responsibilities.—The agency shall:

1044 (2) Adopt rules as necessary to administer ~~that set forth~~

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1045 ~~appropriate standards and guidelines for the program in~~  
1046 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.

1047 (a) These Standards and guidelines for the program adopted  
1048 by the agency must be substantially based on the ~~existing~~ laws  
1049 of the Federal Government and this state, and the ~~existing~~  
1050 standards and guidelines of the United Network for Organ Sharing  
1051 (UNOS), the American Association of Tissue Banks (AATB), the  
1052 South-Eastern Organ Procurement Foundation (SEOPF), the North  
1053 American Transplant Coordinators Organization (NATCO), and the  
1054 Eye Bank Association of America (EBAA) which were in effect as  
1055 of January 1, 2014.

1056 (b) In addition, the agency shall, Before adopting ~~these~~  
1057 standards and guidelines for the program, the agency shall seek  
1058 input from all procurement organizations based in this state.

1059 Section 23. Subsection (2) of section 765.544, Florida  
1060 Statutes, is amended to read:

1061 765.544 Fees; organ and tissue donor education and  
1062 procurement.—

1063 ~~(2) The agency shall specify by rule the administrative~~  
1064 ~~penalties for the purpose of ensuring adherence to the standards~~  
1065 ~~of quality and practice required by this chapter, part II of~~  
1066 ~~chapter 408, and applicable rules of the agency for continued~~  
1067 ~~certification.~~

1068 Section 24. This act shall take effect July 1, 2014.