

1                   A bill to be entitled  
2           An act relating to health care facility regulation;  
3           amending ss. 381.0031, 381.004, 384.31, 395.009, and  
4           409.905, F.S.; eliminating state licensure  
5           requirements for clinical laboratories; requiring  
6           clinical laboratories to be federally certified;  
7           amending s. 383.313, F.S.; revising requirements for a  
8           birth center to perform certain laboratory tests;  
9           repealing s. 383.335, F.S., relating to partial  
10          exemptions from licensure requirements for certain  
11          facilities that provide obstetrical and gynecological  
12          surgical services; amending s. 395.002, F.S.; revising  
13          and deleting definitions; creating s. 395.0091, F.S.;  
14          authorizing the Agency for Health Care Administration  
15          to adopt rules establishing criteria for alternate-  
16          site laboratory testing; defining the term "alternate-  
17          site testing"; amending ss. 395.0161 and 395.0163,  
18          F.S.; deleting licensure and inspection requirements  
19          for mobile surgical facilities to conform to changes  
20          made by the act; amending s. 395.0197, F.S.; requiring  
21          the manager of a hospital or ambulatory surgical  
22          center internal risk management program to demonstrate  
23          competence in certain administrative and health care  
24          service areas; conforming references; repealing s.  
25          395.1046, F.S., relating to hospital complaint

26 investigation procedures; amending s. 395.1055, F.S.;  
27 requiring hospitals providing specified services to  
28 meet agency licensure requirements; conforming a  
29 reference; repealing ss. 395.10971 and 395.10972,  
30 F.S., relating to the purpose and establishment of the  
31 Health Care Risk Manager Advisory Council; amending s.  
32 395.10973, F.S.; deleting duties of the agency  
33 relating to health care risk managers, to conform;  
34 repealing s. 395.10974, F.S., relating to licensure of  
35 health care risk managers; repealing s. 395.10975,  
36 F.S., relating to grounds for denial, suspension, or  
37 revocation of a health care risk manager's license;  
38 amending s. 395.602, F.S.; deleting definitions;  
39 amending s. 395.603, F.S.; deleting provisions  
40 relating to deactivation of general hospital beds by  
41 certain rural and emergency care hospitals; repealing  
42 s. 395.604, F.S., relating to other rural hospital  
43 programs; repealing s. 395.605, F.S., relating to  
44 emergency care hospitals; amending s. 395.701, F.S.;  
45 revising the definition of the term "hospital" to  
46 exclude hospitals operated by state agencies; amending  
47 s. 400.464, F.S.; revising licensure requirements for  
48 a home health agency; providing conditions for  
49 advertising certain services that require licensure;  
50 providing for a fine; providing conditions for

51 application for a certificate of exemption from  
52 licensure as a home health agency; specifying the  
53 duration of the certificate of exemption; authorizing  
54 a fee; amending s. 400.471, F.S.; revising home health  
55 agency licensure requirements; providing requirements  
56 for proof of accreditation for home health agencies  
57 applying for change of ownership or addition of  
58 skilled care services; amending s. 400.474, F.S.;  
59 revising conditions for the imposition of a fine  
60 against a home health agency; amending s. 400.476,  
61 F.S.; requiring a home health agency providing skilled  
62 nursing care to have a director of nursing; amending  
63 s. 400.484, F.S.; providing for the imposition of  
64 administrative fines on home health agencies for  
65 specified classes of violations; amending s. 400.497,  
66 F.S.; authorizing the agency to adopt rules  
67 establishing standards for certificate of exemption  
68 applications; amending s. 400.506, F.S.; revising  
69 penalties for a nurse registry directed by the agency  
70 to cease operation; providing that registered nurses,  
71 licensed practical nurses, certified nursing  
72 assistants, companions or homemakers, and home health  
73 aides are independent contractors and not employees of  
74 the nurse registries that referred them; requiring a  
75 nurse registry to inform the patient, the patient's

76 family, or a person acting on behalf of the patient  
77 that the referred caregiver is an independent  
78 contractor and that the nurse registry is not  
79 permitted to monitor, supervise, manage, or train the  
80 referred caregiver; revising provisions relating to  
81 activities for which the Agency for Health Care  
82 Administration is authorized to deny, suspend, or  
83 revoke a nurse registry license and impose fines;  
84 providing that a nurse registry is not permitted to  
85 review or act upon certain records except under  
86 certain circumstances; amending s. 400.606, F.S.;  
87 revising content requirements of the plan accompanying  
88 an initial or change-of-ownership application for a  
89 hospice; amending s. 400.925, F.S.; revising the  
90 definition of the term "home medical equipment";  
91 amending s. 400.931, F.S.; providing a timeframe for a  
92 home medical equipment provider to notify the agency  
93 of certain personnel changes; amending s. 400.933,  
94 F.S.; authorizing the agency to accept certain medical  
95 oxygen permits issued by the Department of Business  
96 and Professional Regulation in lieu of agency  
97 licensure inspections; amending s. 400.980, F.S.;  
98 revising timeframe requirements for change of  
99 registration information submitted to the agency by a  
100 health care services pool; amending s. 408.061, F.S.;

101 excluding hospitals operated by state agencies from  
102 certain financial reporting requirements; conforming a  
103 cross-reference; amending s. 408.07, F.S.; deleting  
104 the definition of the term "clinical laboratory";  
105 amending s. 408.20, F.S.; exempting hospitals operated  
106 by state agencies from assessments against the Health  
107 Care Trust Fund to fund certain agency activities;  
108 repealing s. 408.7056, F.S., relating to the  
109 Subscriber Assistance Program; amending s. 408.803,  
110 F.S.; defining the term "relative" for the Health Care  
111 Licensing Procedures Act; amending s. 408.806, F.S.;  
112 requiring additional information on a licensure  
113 application; authorizing the agency to issue licenses  
114 with an abbreviated licensure period and prorated fee  
115 for alignment of multiple provider license expiration  
116 dates; amending s. 408.810, F.S.; exempting an  
117 applicant for change of ownership from furnishing  
118 proof of ability to operate under certain conditions;  
119 authorizing the agency to adopt rules governing  
120 circumstances under which a controlling interest may  
121 act in certain legal capacities on behalf of a patient  
122 or client; amending s. 408.812, F.S.; citing failure  
123 to discharge residents by the license expiration date  
124 as unlicensed activity; providing that certain  
125 unlicensed activity by a provider constitutes abuse

126 and neglect; requiring the agency to refer certain  
127 findings to the state attorney; requiring the agency  
128 to impose a fine under certain circumstances; amending  
129 s. 429.02, F.S.; revising definitions; amending s.  
130 429.04, F.S.; providing additional exemptions from  
131 licensure as an assisted living facility; imposing a  
132 burden of proof on the person or entity asserting the  
133 exemption; amending s. 429.08, F.S.; providing  
134 criminal penalties and fines for unlicensed ownership  
135 possession, or control of real property used as an  
136 unlicensed assisted living facility; providing that  
137 engaging a third party to provide certain services at  
138 an unlicensed location constitutes unlicensed  
139 activity; amending s. 429.176, F.S.; prohibiting an  
140 assisted living facility from operating without an  
141 administrator who has completed certain educational  
142 requirements beyond a specified period of time;  
143 amending s. 429.41, F.S.; prohibiting an assisted  
144 living facility from providing personal services to  
145 nonresidents; repealing part I of chapter 483, F.S.,  
146 relating to clinical laboratories; amending s.  
147 483.294, F.S.; revising agency inspection schedules  
148 for multiphasic health testing centers; amending s.  
149 483.801, F.S.; providing an exemption from regulation  
150 for persons employed by certain laboratories; amending

151 s. 483.803, F.S.; deleting definitions; conforming a  
 152 reference; amending s. 641.511, F.S.; revising health  
 153 maintenance organization subscriber grievance  
 154 reporting requirements; repealing s. 641.60, F.S.,  
 155 relating to the Statewide Managed Care Ombudsman  
 156 Committee; amending s. 945.36, F.S.; authorizing law  
 157 enforcement personnel to conduct drug tests on certain  
 158 inmates and releasees; amending ss. 20.43, 220.1845,  
 159 376.30781, 376.86, 381.0034, 385.211, 394.4787,  
 160 395.001, 395.003, 395.7015, 400.0625, 400.9905,  
 161 408.033, 408.036, 408.802, 408.820, 409.9116, 409.975,  
 162 456.001, 456.057, 458.307, 458.345, 483.813, 491.003,  
 163 627.351, 627.602, 627.64194, 627.6513, 641.185,  
 164 641.312, 641.3154, 641.51, 641.515, 641.55, 641.70,  
 165 641.75, 766.118, 766.202, and 1009.65, F.S.;

166 conforming references and cross-references; providing  
 167 effective dates.

168  
 169 Be It Enacted by the Legislature of the State of Florida:

170  
 171 Section 1. Paragraph (g) of subsection (3) of section  
 172 20.43, Florida Statutes, is amended to read:

173 20.43 Department of Health.—There is created a Department  
 174 of Health.

175 (3) The following divisions of the Department of Health

176 are established:

177 (g) Division of Medical Quality Assurance, which is  
 178 responsible for the following boards and professions established  
 179 within the division:

- 180 1. The Board of Acupuncture, created under chapter 457.
- 181 2. The Board of Medicine, created under chapter 458.
- 182 3. The Board of Osteopathic Medicine, created under  
 183 chapter 459.
- 184 4. The Board of Chiropractic Medicine, created under  
 185 chapter 460.
- 186 5. The Board of Podiatric Medicine, created under chapter  
 187 461.
- 188 6. Naturopathy, as provided under chapter 462.
- 189 7. The Board of Optometry, created under chapter 463.
- 190 8. The Board of Nursing, created under part I of chapter  
 191 464.
- 192 9. Nursing assistants, as provided under part II of  
 193 chapter 464.
- 194 10. The Board of Pharmacy, created under chapter 465.
- 195 11. The Board of Dentistry, created under chapter 466.
- 196 12. Midwifery, as provided under chapter 467.
- 197 13. The Board of Speech-Language Pathology and Audiology,  
 198 created under part I of chapter 468.
- 199 14. The Board of Nursing Home Administrators, created  
 200 under part II of chapter 468.



201 15. The Board of Occupational Therapy, created under part  
 202 III of chapter 468.

203 16. Respiratory therapy, as provided under part V of  
 204 chapter 468.

205 17. Dietetics and nutrition practice, as provided under  
 206 part X of chapter 468.

207 18. The Board of Athletic Training, created under part  
 208 XIII of chapter 468.

209 19. The Board of Orthotists and Prosthetists, created  
 210 under part XIV of chapter 468.

211 20. Electrolysis, as provided under chapter 478.

212 21. The Board of Massage Therapy, created under chapter  
 213 480.

214 ~~22. The Board of Clinical Laboratory Personnel, created~~  
 215 ~~under part III of chapter 483.~~

216 22.23. Medical physicists, as provided under part IV of  
 217 chapter 483.

218 23.24. The Board of Opticianry, created under part I of  
 219 chapter 484.

220 24.25. The Board of Hearing Aid Specialists, created under  
 221 part II of chapter 484.

222 25.26. The Board of Physical Therapy Practice, created  
 223 under chapter 486.

224 26.27. The Board of Psychology, created under chapter 490.

225 27.28. School psychologists, as provided under chapter

226 | 490.

227 |       28.29. The Board of Clinical Social Work, Marriage and  
 228 | Family Therapy, and Mental Health Counseling, created under  
 229 | chapter 491.

230 |       29.30. Emergency medical technicians and paramedics, as  
 231 | provided under part III of chapter 401.

232 |       Section 2. Paragraph (k) of subsection (2) of section  
 233 | 220.1845, Florida Statutes, is amended to read:

234 |       220.1845 Contaminated site rehabilitation tax credit.—

235 |       (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

236 |       (k) In order to encourage the construction and operation  
 237 | of a new health care facility as defined in s. 408.032 or s.  
 238 | 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~  
 239 | ~~408.7056~~, on a brownfield site, an applicant for a tax credit  
 240 | may claim an additional 25 percent of the total site  
 241 | rehabilitation costs, not to exceed \$500,000, if the applicant  
 242 | meets the requirements of this paragraph. In order to receive  
 243 | this additional tax credit, the applicant must provide  
 244 | documentation indicating that the construction of the health  
 245 | care facility or health care provider by the applicant on the  
 246 | brownfield site has received a certificate of occupancy or a  
 247 | license or certificate has been issued for the operation of the  
 248 | health care facility or health care provider.

249 |       Section 3. Paragraph (f) of subsection (3) of section  
 250 | 376.30781, Florida Statutes, is amended to read:

251           376.30781 Tax credits for rehabilitation of drycleaning-  
 252 solvent-contaminated sites and brownfield sites in designated  
 253 brownfield areas; application process; rulemaking authority;  
 254 revocation authority.-

255           (3)

256           (f) In order to encourage the construction and operation  
 257 of a new health care facility or a health care provider, as  
 258 defined in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a  
 259 brownfield site, an applicant for a tax credit may claim an  
 260 additional 25 percent of the total site rehabilitation costs,  
 261 not to exceed \$500,000, if the applicant meets the requirements  
 262 of this paragraph. In order to receive this additional tax  
 263 credit, the applicant must provide documentation indicating that  
 264 the construction of the health care facility or health care  
 265 provider by the applicant on the brownfield site has received a  
 266 certificate of occupancy or a license or certificate has been  
 267 issued for the operation of the health care facility or health  
 268 care provider.

269           Section 4. Subsection (1) of section 376.86, Florida  
 270 Statutes, is amended to read:

271           376.86 Brownfield Areas Loan Guarantee Program.-

272           (1) The Brownfield Areas Loan Guarantee Council is created  
 273 to review and approve or deny, by a majority vote of its  
 274 membership, the situations and circumstances for participation  
 275 in partnerships by agreements with local governments, financial

276 institutions, and others associated with the redevelopment of  
277 brownfield areas pursuant to the Brownfields Redevelopment Act  
278 for a limited state guaranty of up to 5 years of loan guarantees  
279 or loan loss reserves issued pursuant to law. The limited state  
280 loan guaranty applies only to 50 percent of the primary lenders  
281 loans for redevelopment projects in brownfield areas. If the  
282 redevelopment project is for affordable housing, as defined in  
283 s. 420.0004, in a brownfield area, the limited state loan  
284 guaranty applies to 75 percent of the primary lender's loan. If  
285 the redevelopment project includes the construction and  
286 operation of a new health care facility or a health care  
287 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~  
288 ~~408.7056~~, on a brownfield site and the applicant has obtained  
289 documentation in accordance with s. 376.30781 indicating that  
290 the construction of the health care facility or health care  
291 provider by the applicant on the brownfield site has received a  
292 certificate of occupancy or a license or certificate has been  
293 issued for the operation of the health care facility or health  
294 care provider, the limited state loan guaranty applies to 75  
295 percent of the primary lender's loan. A limited state guaranty  
296 of private loans or a loan loss reserve is authorized for  
297 lenders licensed to operate in the state upon a determination by  
298 the council that such an arrangement would be in the public  
299 interest and the likelihood of the success of the loan is great.

300 Section 5. Subsection (2) of section 381.0031, Florida

301 Statutes, is amended to read:

302 381.0031 Epidemiological research; report of diseases of  
303 public health significance to department.—

304 (2) Any practitioner licensed in this state to practice  
305 medicine, osteopathic medicine, chiropractic medicine,  
306 naturopathy, or veterinary medicine; any hospital licensed under  
307 part I of chapter 395; or any laboratory appropriately certified  
308 by the Centers for Medicare and Medicaid Services (CMS) under  
309 the federal Clinical Laboratory Improvement Amendments (CLIA)  
310 ~~licensed under chapter 483~~ that diagnoses or suspects the  
311 existence of a disease of public health significance shall  
312 immediately report the fact to the Department of Health.

313 Section 6. Subsection (3) of section 381.0034, Florida  
314 Statutes, is amended to read:

315 381.0034 Requirement for instruction on HIV and AIDS.—

316 (3) The department shall require, as a condition of  
317 granting a license under chapter 467 or part II ~~III~~ of chapter  
318 483, that an applicant making initial application for licensure  
319 complete an educational course acceptable to the department on  
320 human immunodeficiency virus and acquired immune deficiency  
321 syndrome. Upon submission of an affidavit showing good cause, an  
322 applicant who has not taken a course at the time of licensure  
323 shall be allowed 6 months to complete this requirement.

324 Section 7. Paragraph (c) of subsection (4) of section  
325 381.004, Florida Statutes, is amended to read:

326 381.004 HIV testing.—

327 (4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS;  
 328 REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM  
 329 REGISTRATION.—No county health department and no other person in  
 330 this state shall conduct or hold themselves out to the public as  
 331 conducting a testing program for acquired immune deficiency  
 332 syndrome or human immunodeficiency virus status without first  
 333 registering with the Department of Health, reregistering each  
 334 year, complying with all other applicable provisions of state  
 335 law, and meeting the following requirements:

336 (c) The program shall have all laboratory procedures  
 337 performed in a laboratory appropriately certified by the Centers  
 338 for Medicare and Medicaid Services (CMS) under the federal  
 339 Clinical Laboratory Improvement Amendments (CLIA) ~~licensed under~~  
 340 ~~the provisions of chapter 483.~~

341 Section 8. Subsection (1) of section 383.313, Florida  
 342 Statutes, is amended to read:

343 383.313 Performance of laboratory and surgical services;  
 344 use of anesthetic and chemical agents.—

345 (1) LABORATORY SERVICES.—A birth center may collect  
 346 specimens for those tests that are requested under protocol. A  
 347 birth center may perform simple laboratory tests, as defined by  
 348 rule of the agency, and is exempt from the requirements of  
 349 chapter 483, ~~provided no more than five physicians are employed~~  
 350 ~~by the birth center and testing is conducted exclusively in~~

351 ~~connection with the diagnosis and treatment of clients of the~~  
352 ~~birth center.~~

353 Section 9. Section 383.335, Florida Statutes, is repealed.

354 Section 10. Section 384.31, Florida Statutes, is amended  
355 to read:

356 384.31 Testing of pregnant women; duty of the attendant.—  
357 Every person, including every physician licensed under chapter  
358 458 or chapter 459 or midwife licensed under part I of chapter  
359 464 or chapter 467, attending a pregnant woman for conditions  
360 relating to pregnancy during the period of gestation and  
361 delivery shall cause the woman to be tested for sexually  
362 transmissible diseases, including HIV, as specified by  
363 department rule. Testing shall be performed by a laboratory  
364 appropriately certified by the Centers for Medicare and Medicaid  
365 Services (CMS) under the federal Clinical Laboratory Improvement  
366 Amendments (CLIA) approved for such purposes ~~under part I of~~  
367 ~~chapter 483~~. The woman shall be informed of the tests that will  
368 be conducted and of her right to refuse testing. If a woman  
369 objects to testing, a written statement of objection, signed by  
370 the woman, shall be placed in the woman's medical record and no  
371 testing shall occur.

372 Section 11. Subsection (2) of section 385.211, Florida  
373 Statutes, is amended to read:

374 385.211 Refractory and intractable epilepsy treatment and  
375 research at recognized medical centers.—

376 (2) Notwithstanding chapter 893, medical centers  
377 recognized pursuant to s. 381.925, or an academic medical  
378 research institution legally affiliated with a licensed  
379 children's specialty hospital as defined in s. 395.002(27)  
380 ~~395.002(28)~~ that contracts with the Department of Health, may  
381 conduct research on cannabidiol and low-THC cannabis. This  
382 research may include, but is not limited to, the agricultural  
383 development, production, clinical research, and use of liquid  
384 medical derivatives of cannabidiol and low-THC cannabis for the  
385 treatment for refractory or intractable epilepsy. The authority  
386 for recognized medical centers to conduct this research is  
387 derived from 21 C.F.R. parts 312 and 316. Current state or  
388 privately obtained research funds may be used to support the  
389 activities described in this section.

390 Section 12. Subsection (7) of section 394.4787, Florida  
391 Statutes, is amended to read:

392 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,  
393 and 394.4789.—As used in this section and ss. 394.4786,  
394 394.4788, and 394.4789:

395 (7) "Specialty psychiatric hospital" means a hospital  
396 licensed by the agency pursuant to s. 395.002(27) ~~395.002(28)~~  
397 and part II of chapter 408 as a specialty psychiatric hospital.

398 Section 13. Section 395.001, Florida Statutes, is amended  
399 to read:

400 395.001 Legislative intent.—It is the intent of the



401 Legislature to provide for the protection of public health and  
402 safety in the establishment, construction, maintenance, and  
403 operation of hospitals and ambulatory surgical centers, ~~and~~  
404 ~~mobile surgical facilities~~ by providing for licensure of same  
405 and for the development, establishment, and enforcement of  
406 minimum standards with respect thereto.

407 Section 14. Subsection (22) and subsections (24) through  
408 (33) of section 395.002, Florida Statutes, are renumbered as  
409 subsection (21) and subsections (23) through (32), respectively,  
410 subsections (3) and (16) and present subsection (21) are  
411 amended, and present subsection (23) is renumbered as subsection  
412 (22) of that section and amended, to read:

413 395.002 Definitions.—As used in this chapter:

414 (3) "Ambulatory surgical center" ~~or "mobile surgical~~  
415 ~~facility"~~ means a facility the primary purpose of which is to  
416 provide elective surgical care, in which the patient is admitted  
417 to and discharged from such facility within the same working day  
418 and is not permitted to stay overnight, and which is not part of  
419 a hospital. However, a facility existing for the primary purpose  
420 of performing terminations of pregnancy, an office maintained by  
421 a physician for the practice of medicine, or an office  
422 maintained for the practice of dentistry shall not be construed  
423 to be an ambulatory surgical center, provided that any facility  
424 or office which is certified or seeks certification as a  
425 Medicare ambulatory surgical center shall be licensed as an

426 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~  
427 ~~or vehicle in which a physician maintains an office and~~  
428 ~~practices surgery, and which can appear to the public to be a~~  
429 ~~mobile office because the structure or vehicle operates at more~~  
430 ~~than one address, shall be construed to be a mobile surgical~~  
431 ~~facility.~~

432 (16) "Licensed facility" means a hospital or ambulatory  
433 surgical center, ~~or mobile surgical facility~~ licensed in  
434 accordance with this chapter.

435 ~~(21) "Mobile surgical facility" is a mobile facility in~~  
436 ~~which licensed health care professionals provide elective~~  
437 ~~surgical care under contract with the Department of Corrections~~  
438 ~~or a private correctional facility operating pursuant to chapter~~  
439 ~~957 and in which inmate patients are admitted to and discharged~~  
440 ~~from said facility within the same working day and are not~~  
441 ~~permitted to stay overnight. However, mobile surgical facilities~~  
442 ~~may only provide health care services to the inmate patients of~~  
443 ~~the Department of Corrections, or inmate patients of a private~~  
444 ~~correctional facility operating pursuant to chapter 957, and not~~  
445 ~~to the general public.~~

446 (22) ~~(23)~~ "Premises" means those buildings, beds, and  
447 equipment located at the address of the licensed facility and  
448 all other buildings, beds, and equipment for the provision of  
449 hospital or ambulatory surgical, ~~or mobile surgical~~ care  
450 located in such reasonable proximity to the address of the

451 licensed facility as to appear to the public to be under the  
452 dominion and control of the licensee. For any licensee that is a  
453 teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,  
454 reasonable proximity includes any buildings, beds, services,  
455 programs, and equipment under the dominion and control of the  
456 licensee that are located at a site with a main address that is  
457 within 1 mile of the main address of the licensed facility; and  
458 all such buildings, beds, and equipment may, at the request of a  
459 licensee or applicant, be included on the facility license as a  
460 single premises.

461 Section 15. Paragraphs (a) and (b) of subsection (1) and  
462 paragraph (b) of subsection (2) of section 395.003, Florida  
463 Statutes, are amended to read:

464 395.003 Licensure; denial, suspension, and revocation.—

465 (1) (a) The requirements of part II of chapter 408 apply to  
466 the provision of services that require licensure pursuant to ss.  
467 395.001-395.1065 and part II of chapter 408 and to entities  
468 licensed by or applying for such licensure from the Agency for  
469 Health Care Administration pursuant to ss. 395.001-395.1065. A  
470 license issued by the agency is required in order to operate a  
471 hospital or ambulatory surgical center, ~~or mobile surgical~~  
472 ~~facility~~ in this state.

473 (b)1. It is unlawful for a person to use or advertise to  
474 the public, in any way or by any medium whatsoever, any facility  
475 as a "hospital," or "ambulatory surgical center," ~~or "mobile~~

476 ~~surgical facility~~" unless such facility has first secured a  
477 license under the provisions of this part.

478 2. This part does not apply to veterinary hospitals or to  
479 commercial business establishments using the word "hospital," or  
480 "ambulatory surgical center," ~~or "mobile surgical facility"~~ as a  
481 part of a trade name if no treatment of human beings is  
482 performed on the premises of such establishments.

483 (2)

484 (b) The agency shall, at the request of a licensee that is  
485 a teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,  
486 issue a single license to a licensee for facilities that have  
487 been previously licensed as separate premises, provided such  
488 separately licensed facilities, taken together, constitute the  
489 same premises as defined in s. 395.002(22) ~~395.002(23)~~. Such  
490 license for the single premises shall include all of the beds,  
491 services, and programs that were previously included on the  
492 licenses for the separate premises. The granting of a single  
493 license under this paragraph shall not in any manner reduce the  
494 number of beds, services, or programs operated by the licensee.

495 Section 16. Subsection (1) of section 395.009, Florida  
496 Statutes, is amended to read:

497 395.009 Minimum standards for clinical laboratory test  
498 results and diagnostic X-ray results; prerequisite for issuance  
499 or renewal of license.—

500 (1) As a requirement for issuance or renewal of its

501 license, each licensed facility shall require that all clinical  
502 laboratory tests performed by or for the licensed facility be  
503 performed by a clinical laboratory appropriately certified by  
504 the Centers for Medicare and Medicaid Services (CMS) under the  
505 federal Clinical Laboratory Improvement Amendments (CLIA)  
506 ~~licensed under the provisions of chapter 483.~~

507 Section 17. Section 395.0091, Florida Statutes, is created  
508 to read:

509 395.0091 Alternate-site testing.—The agency, in  
510 consultation with the Board of Clinical Laboratory Personnel,  
511 shall adopt by rule the criteria for alternate-site testing to  
512 be performed under the supervision of a clinical laboratory  
513 director. The elements to be addressed in the rule include, but  
514 are not limited to: a hospital internal needs assessment; a  
515 protocol of implementation, including tests to be performed and  
516 who will perform the tests; criteria to be used in selecting the  
517 method of testing to be used for alternate-site testing; minimum  
518 training and education requirements for those who will perform  
519 alternate-site testing, such as documented training, licensure,  
520 certification, or other medical professional background not  
521 limited to laboratory professionals; documented inservice  
522 training as well as initial and ongoing competency validation;  
523 an appropriate internal and external quality control protocol;  
524 an internal mechanism for identifying and tracking alternate-  
525 site testing by the central laboratory; and recordkeeping

526 requirements. Alternate-site testing locations must register  
527 when the hospital applies to renew its license. For purposes of  
528 this section, the term "alternate-site testing" means any  
529 laboratory testing done under the administrative control of a  
530 hospital, but performed out of the physical or administrative  
531 confines of the central laboratory.

532 Section 18. Paragraph (f) of subsection (1) of section  
533 395.0161, Florida Statutes, is amended to read:

534 395.0161 Licensure inspection.—

535 (1) In addition to the requirement of s. 408.811, the  
536 agency shall make or cause to be made such inspections and  
537 investigations as it deems necessary, including:

538 ~~(f) Inspections of mobile surgical facilities at each time~~  
539 ~~a facility establishes a new location, prior to the admission of~~  
540 ~~patients. However, such inspections shall not be required when a~~  
541 ~~mobile surgical facility is moved temporarily to a location~~  
542 ~~where medical treatment will not be provided.~~

543 Section 19. Subsection (3) of section 395.0163, Florida  
544 Statutes, is amended to read:

545 395.0163 Construction inspections; plan submission and  
546 approval; fees.—

547 ~~(3) In addition to the requirements of s. 408.811, the~~  
548 ~~agency shall inspect a mobile surgical facility at initial~~  
549 ~~licensure and at each time the facility establishes a new~~  
550 ~~location, prior to admission of patients. However, such~~

551 ~~inspections shall not be required when a mobile surgical~~  
552 ~~facility is moved temporarily to a location where medical~~  
553 ~~treatment will not be provided.~~

554 Section 20. Subsection (2), paragraph (c) of subsection  
555 (6), and subsections (16) and (17) of section 395.0197, Florida  
556 Statutes, are amended to read:

557 395.0197 Internal risk management program.—

558 (2) The internal risk management program is the  
559 responsibility of the governing board of the health care  
560 facility. Each licensed facility shall hire a risk manager,  
561 ~~licensed under s. 395.10974,~~ who is responsible for  
562 implementation and oversight of such facility's internal risk  
563 management program and who demonstrates competence, by education  
564 or experience, in the following areas: as required by this  
565 ~~section. A risk manager must not be made responsible for more~~  
566 ~~than four internal risk management programs in separate licensed~~  
567 ~~facilities, unless the facilities are under one corporate~~  
568 ~~ownership or the risk management programs are in rural~~  
569 ~~hospitals.~~

570 (a) Applicable standards of health care risk management.

571 (b) Applicable federal, state, and local health and safety  
572 laws and rules.

573 (c) General risk management administration.

574 (d) Patient care.

575 (e) Medical care.

576 (f) Personal and social care.

577 (g) Accident prevention.

578 (h) Departmental organization and management.

579 (i) Community interrelationships.

580 (j) Medical terminology.

581 (6)

582 (c) The report submitted to the agency shall also contain  
583 the name ~~and license number~~ of the risk manager of the licensed  
584 facility, a copy of its policy and procedures which govern the  
585 measures taken by the facility and its risk manager to reduce  
586 the risk of injuries and adverse incidents, and the results of  
587 such measures. The annual report is confidential and is not  
588 available to the public pursuant to s. 119.07(1) or any other  
589 law providing access to public records. The annual report is not  
590 discoverable or admissible in any civil or administrative  
591 action, except in disciplinary proceedings by the agency or the  
592 appropriate regulatory board. The annual report is not available  
593 to the public as part of the record of investigation for and  
594 prosecution in disciplinary proceedings made available to the  
595 public by the agency or the appropriate regulatory board.  
596 However, the agency or the appropriate regulatory board shall  
597 make available, upon written request by a health care  
598 professional against whom probable cause has been found, any  
599 such records which form the basis of the determination of  
600 probable cause.



601 (16) There shall be no monetary liability on the part of,  
602 and no cause of action for damages shall arise against, any risk  
603 manager, ~~licensed under s. 395.10974,~~ for the implementation and  
604 oversight of the internal risk management program in a facility  
605 licensed under this chapter or chapter 390 as required by this  
606 section, for any act or proceeding undertaken or performed  
607 within the scope of the functions of such internal risk  
608 management program if the risk manager acts without intentional  
609 fraud.

610 (17) A privilege against civil liability is hereby granted  
611 to any ~~licensed~~ risk manager or licensed facility with regard to  
612 information furnished pursuant to this chapter, unless the  
613 ~~licensed~~ risk manager or facility acted in bad faith or with  
614 malice in providing such information.

615 Section 21. Section 395.1046, Florida Statutes, is  
616 repealed.

617 Section 22. Subsection (2) of section 395.1055, Florida  
618 Statutes, is amended, and paragraph (i) is added to subsection  
619 (1) to read:

620 395.1055 Rules and enforcement.—

621 (1) The agency shall adopt rules pursuant to ss.  
622 120.536(1) and 120.54 to implement the provisions of this part,  
623 which shall include reasonable and fair minimum standards for  
624 ensuring that:

625 (i) All hospitals providing pediatric cardiac

626 catheterization, pediatric open-heart surgery, organ  
627 transplantation, neonatal intensive care services, psychiatric  
628 services, or comprehensive medical rehabilitation meet the  
629 minimum licensure requirements adopted by the agency. Such  
630 licensure requirements shall include quality of care, nurse  
631 staffing, physician staffing, physical plant, equipment,  
632 emergency transportation, and data reporting standards.

633 (2) Separate standards may be provided for general and  
634 specialty hospitals, ambulatory surgical centers, ~~mobile~~  
635 ~~surgical facilities,~~ and statutory rural hospitals as defined in  
636 s. 395.602.

637 Section 23. Section 395.10971, Florida Statutes, is  
638 repealed.

639 Section 24. Section 395.10972, Florida Statutes, is  
640 repealed.

641 Section 25. Section 395.10973, Florida Statutes, is  
642 amended to read:

643 395.10973 Powers and duties of the agency.—It is the  
644 function of the agency to:

645 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
646 implement the provisions of this part and part II of chapter 408  
647 conferring duties upon it.

648 ~~(2) Develop, impose, and enforce specific standards within~~  
649 ~~the scope of the general qualifications established by this part~~  
650 ~~which must be met by individuals in order to receive licenses as~~

651 ~~health care risk managers. These standards shall be designed to~~  
652 ~~ensure that health care risk managers are individuals of good~~  
653 ~~character and otherwise suitable and, by training or experience~~  
654 ~~in the field of health care risk management, qualified in~~  
655 ~~accordance with the provisions of this part to serve as health~~  
656 ~~care risk managers, within statutory requirements.~~

657 ~~(3) Develop a method for determining whether an individual~~  
658 ~~meets the standards set forth in s. 395.10974.~~

659 ~~(4) Issue licenses to qualified individuals meeting the~~  
660 ~~standards set forth in s. 395.10974.~~

661 ~~(5) Receive, investigate, and take appropriate action with~~  
662 ~~respect to any charge or complaint filed with the agency to the~~  
663 ~~effect that a certified health care risk manager has failed to~~  
664 ~~comply with the requirements or standards adopted by rule by the~~  
665 ~~agency or to comply with the provisions of this part.~~

666 ~~(6) Establish procedures for providing periodic reports on~~  
667 ~~persons certified or disciplined by the agency under this part.~~

668 (2)~~(7)~~ Develop a model risk management program for health  
669 care facilities which will satisfy the requirements of s.  
670 395.0197.

671 (3)~~(8)~~ Enforce the special-occupancy provisions of the  
672 Florida Building Code which apply to hospitals, intermediate  
673 residential treatment facilities, and ambulatory surgical  
674 centers in conducting any inspection authorized by this chapter  
675 and part II of chapter 408.

676           Section 26. Section 395.10974, Florida Statutes, is  
 677 repealed.

678           Section 27. Section 395.10975, Florida Statutes, is  
 679 repealed.

680           Section 28. Subsection (2) of section 395.602, Florida  
 681 Statutes, is amended to read:

682           395.602 Rural hospitals.—

683           (2) DEFINITIONS.—As used in this part, the term:

684           ~~(a) "Emergency care hospital" means a medical facility~~  
 685 ~~which provides:~~

686           ~~1. Emergency medical treatment; and~~

687           ~~2. Inpatient care to ill or injured persons prior to their~~  
 688 ~~transportation to another hospital or provides inpatient medical~~  
 689 ~~care to persons needing care for a period of up to 96 hours. The~~  
 690 ~~96-hour limitation on inpatient care does not apply to respite,~~  
 691 ~~skilled nursing, hospice, or other nonacute care patients.~~

692           ~~(b) "Essential access community hospital" means any~~  
 693 ~~facility which:~~

694           ~~1. Has at least 100 beds;~~

695           ~~2. Is located more than 35 miles from any other essential~~  
 696 ~~access community hospital, rural referral center, or urban~~  
 697 ~~hospital meeting criteria for classification as a regional~~  
 698 ~~referral center;~~

699           ~~3. Is part of a network that includes rural primary care~~  
 700 ~~hospitals;~~

701 ~~4. Provides emergency and medical backup services to rural~~  
 702 ~~primary care hospitals in its rural health network;~~

703 ~~5. Extends staff privileges to rural primary care hospital~~  
 704 ~~physicians in its network; and~~

705 ~~6. Accepts patients transferred from rural primary care~~  
 706 ~~hospitals in its network.~~

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

710 (a)~~(d)~~ "Rural area health education center" means an area  
 711 health education center (AHEC), as authorized by Pub. L. No. 94-  
 712 484, which provides services in a county with a population  
 713 density of up to ~~no greater than~~ 100 persons per square mile.

714 (b)~~(e)~~ "Rural hospital" means an acute care hospital  
 715 licensed under this chapter, having 100 or fewer licensed beds  
 716 and an emergency room, which is:

717 1. The sole provider within a county with a population  
 718 density of up to 100 persons per square mile;

719 2. An acute care hospital, in a county with a population  
 720 density of up to 100 persons per square mile, which is at least  
 721 30 minutes of travel time, on normally traveled roads under  
 722 normal traffic conditions, from any other acute care hospital  
 723 within the same county;

724 3. A hospital supported by a tax district or subdistrict  
 725 whose boundaries encompass a population of up to 100 persons per

726 square mile;

727 4. A hospital classified as a sole community hospital  
728 under 42 C.F.R. s. 412.92 which has up to 175 licensed beds;

729 5. A hospital with a service area that has a population of  
730 up to 100 persons per square mile. As used in this subparagraph,  
731 the term "service area" means the fewest number of zip codes  
732 that account for 75 percent of the hospital's discharges for the  
733 most recent 5-year period, based on information available from  
734 the hospital inpatient discharge database in the Florida Center  
735 for Health Information and Transparency at the agency; or

736 6. A hospital designated as a critical access hospital, as  
737 defined in s. 408.07.

738

739 Population densities used in this paragraph must be based upon  
740 the most recently completed United States census. A hospital  
741 that received funds under s. 409.9116 for a quarter beginning no  
742 later than July 1, 2002, is deemed to have been and shall  
743 continue to be a rural hospital from that date through June 30,  
744 2021, if the hospital continues to have up to 100 licensed beds  
745 and an emergency room. An acute care hospital that has not  
746 previously been designated as a rural hospital and that meets  
747 the criteria of this paragraph shall be granted such designation  
748 upon application, including supporting documentation, to the  
749 agency. A hospital that was licensed as a rural hospital during  
750 the 2010-2011 or 2011-2012 fiscal year shall continue to be a

751 rural hospital from the date of designation through June 30,  
 752 2021, if the hospital continues to have up to 100 licensed beds  
 753 and an emergency room.

754 ~~(f) "Rural primary care hospital" means any facility~~  
 755 ~~meeting the criteria in paragraph (c) or s. 395.605 which~~  
 756 ~~provides:~~

- 757 ~~1. Twenty-four-hour emergency medical care;~~
- 758 ~~2. Temporary inpatient care for periods of 72 hours or~~  
 759 ~~less to patients requiring stabilization before discharge or~~  
 760 ~~transfer to another hospital. The 72-hour limitation does not~~  
 761 ~~apply to respite, skilled nursing, hospice, or other nonacute~~  
 762 ~~care patients; and~~
- 763 ~~3. Has no more than six licensed acute care inpatient~~  
 764 ~~beds.~~

765 (c)(g) "Swing-bed" means a bed which can be used  
 766 interchangeably as either a hospital, skilled nursing facility  
 767 (SNF), or intermediate care facility (ICF) bed pursuant to 42  
 768 C.F.R. parts 405, 435, 440, 442, and 447.

769 Section 29. Section 395.603, Florida Statutes, is amended  
 770 to read:

771 395.603 ~~Deactivation of general hospital beds;~~ Rural  
 772 hospital impact statement.—

773 ~~(1) The agency shall establish, by rule, a process by~~  
 774 ~~which a rural hospital, as defined in s. 395.602, that seeks~~  
 775 ~~licensure as a rural primary care hospital or as an emergency~~

776 ~~care hospital, or becomes a certified rural health clinic as~~  
777 ~~defined in Pub. L. No. 95-210, or becomes a primary care program~~  
778 ~~such as a county health department, community health center, or~~  
779 ~~other similar outpatient program that provides preventive and~~  
780 ~~curative services, may deactivate general hospital beds. Rural~~  
781 ~~primary care hospitals and emergency care hospitals shall~~  
782 ~~maintain the number of actively licensed general hospital beds~~  
783 ~~necessary for the facility to be certified for Medicare~~  
784 ~~reimbursement. Hospitals that discontinue inpatient care to~~  
785 ~~become rural health care clinics or primary care programs shall~~  
786 ~~deactivate all licensed general hospital beds. All hospitals,~~  
787 ~~clinics, and programs with inactive beds shall provide 24-hour~~  
788 ~~emergency medical care by staffing an emergency room. Providers~~  
789 ~~with inactive beds shall be subject to the criteria in s.~~  
790 ~~395.1041. The agency shall specify in rule requirements for~~  
791 ~~making 24-hour emergency care available. Inactive general~~  
792 ~~hospital beds shall be included in the acute care bed inventory,~~  
793 ~~maintained by the agency for certificate of need purposes, for~~  
794 ~~10 years from the date of deactivation of the beds. After 10~~  
795 ~~years have elapsed, inactive beds shall be excluded from the~~  
796 ~~inventory. The agency shall, at the request of the licensee,~~  
797 ~~reactivate the inactive general beds upon a showing by the~~  
798 ~~licensee that licensure requirements for the inactive general~~  
799 ~~beds are met.~~

800       (2) In formulating and implementing policies and rules



801 that may have significant impact on the ability of rural  
802 hospitals to continue to provide health care services in rural  
803 communities, the agency, the department, or the respective  
804 regulatory board adopting policies or rules regarding the  
805 licensure or certification of health care professionals shall  
806 provide a rural hospital impact statement. The rural hospital  
807 impact statement shall assess the proposed action in light of  
808 the following questions:

809 (1)~~(a)~~ Do the health personnel affected by the proposed  
810 action currently practice in rural hospitals or are they likely  
811 to in the near future?

812 (2)~~(b)~~ What are the current numbers of the affected health  
813 personnel in this state, their geographic distribution, and the  
814 number practicing in rural hospitals?

815 (3)~~(c)~~ What are the functions presently performed by the  
816 affected health personnel, and are such functions presently  
817 performed in rural hospitals?

818 (4)~~(d)~~ What impact will the proposed action have on the  
819 ability of rural hospitals to recruit the affected personnel to  
820 practice in their facilities?

821 (5)~~(e)~~ What impact will the proposed action have on the  
822 limited financial resources of rural hospitals through increased  
823 salaries and benefits necessary to recruit or retain such health  
824 personnel?

825 (6)~~(f)~~ Is there a less stringent requirement which could

826 | apply to practice in rural hospitals?

827 |        ~~(7)(g)~~ Will this action create staffing shortages, which  
 828 | could result in a loss to the public of health care services in  
 829 | rural hospitals or result in closure of any rural hospitals?

830 |        Section 30. Section 395.604, Florida Statutes, is  
 831 | repealed.

832 |        Section 31. Section 395.605, Florida Statutes, is  
 833 | repealed.

834 |        Section 32. Paragraph (c) of subsection (1) of section  
 835 | 395.701, Florida Statutes, is amended to read:

836 |        395.701 Annual assessments on net operating revenues for  
 837 | inpatient and outpatient services to fund public medical  
 838 | assistance; administrative fines for failure to pay assessments  
 839 | when due; exemption.—

840 |        (1) For the purposes of this section, the term:

841 |        (c) "Hospital" means a health care institution as defined  
 842 | in s. 395.002(12), but does not include any hospital operated by  
 843 | a state ~~the agency or the Department of Corrections.~~

844 |        Section 33. Paragraph (b) of subsection (2) of section  
 845 | 395.7015, Florida Statutes, is amended to read:

846 |        395.7015 Annual assessment on health care entities.—

847 |        (2) There is imposed an annual assessment against certain  
 848 | health care entities as described in this section:

849 |        (b) For the purpose of this section, "health care  
 850 | entities" include the following:

851 1. Ambulatory surgical centers and ~~mobile surgical~~  
852 ~~facilities licensed under s. 395.003. This subsection shall only~~  
853 ~~apply to mobile surgical facilities operating under contracts~~  
854 ~~entered into on or after July 1, 1998.~~

855 ~~2. Clinical laboratories licensed under s. 483.091,~~  
856 ~~excluding any hospital laboratory defined under s. 483.041(6),~~  
857 ~~any clinical laboratory operated by the state or a political~~  
858 ~~subdivision of the state, any clinical laboratory which~~  
859 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~  
860 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~  
861 ~~percent or more of its gross revenues from services to charity~~  
862 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~  
863 ~~bank procuring, storing, or distributing blood, plasma, or~~  
864 ~~tissue either for future manufacture or research or distributed~~  
865 ~~on a nonprofit basis, and further excluding any clinical~~  
866 ~~laboratory which is wholly owned and operated by 6 or fewer~~  
867 ~~physicians who are licensed pursuant to chapter 458 or chapter~~  
868 ~~459 and who practice in the same group practice, and at which no~~  
869 ~~clinical laboratory work is performed for patients referred by~~  
870 ~~any health care provider who is not a member of the same group.~~

871 2.3. Diagnostic-imaging centers that are freestanding  
872 outpatient facilities that provide specialized services for the  
873 identification or determination of a disease through examination  
874 and also provide sophisticated radiological services, and in  
875 which services are rendered by a physician licensed by the Board

876 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by  
877 an osteopathic physician licensed by the Board of Osteopathic  
878 Medicine under s. 459.0055 or s. 459.0075. For purposes of this  
879 paragraph, "sophisticated radiological services" means the  
880 following: magnetic resonance imaging; nuclear medicine;  
881 angiography; arteriography; computed tomography; positron  
882 emission tomography; digital vascular imaging; bronchography;  
883 lymphangiography; splenography; ultrasound, excluding ultrasound  
884 providers that are part of a private physician's office practice  
885 or when ultrasound is provided by two or more physicians  
886 licensed under chapter 458 or chapter 459 who are members of the  
887 same professional association and who practice in the same  
888 medical specialties; and such other sophisticated radiological  
889 services, excluding mammography, as adopted in rule by the  
890 board.

891 Section 34. Subsection (1) of section 400.0625, Florida  
892 Statutes, is amended to read:

893 400.0625 Minimum standards for clinical laboratory test  
894 results and diagnostic X-ray results.—

895 (1) Each nursing home, as a requirement for issuance or  
896 renewal of its license, shall require that all clinical  
897 laboratory tests performed for the nursing home be performed by  
898 a clinical laboratory licensed under the provisions of chapter  
899 483, except for such self-testing procedures as are approved by  
900 the agency by rule. ~~Results of clinical laboratory tests~~

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901 ~~performed prior to admission which meet the minimum standards~~  
902 ~~provided in s. 483.181(3) shall be accepted in lieu of routine~~  
903 ~~examinations required upon admission and clinical laboratory~~  
904 ~~tests which may be ordered by a physician for residents of the~~  
905 ~~nursing home.~~

906 Section 35. Subsection (1) and paragraphs (b), (e), and  
907 (f) of subsection (4) of section 400.464, Florida Statutes, are  
908 amended, and subsection (6) is added to that section to read:

909 400.464 Home health agencies to be licensed; expiration of  
910 license; exemptions; unlawful acts; penalties.—

911 (1) The requirements of part II of chapter 408 apply to  
912 the provision of services that require licensure pursuant to  
913 this part and part II of chapter 408 and entities licensed or  
914 registered by or applying for such licensure or registration  
915 from the Agency for Health Care Administration pursuant to this  
916 part. A license issued by the agency is required in order to  
917 operate a home health agency in this state. A license issued  
918 after June 30, 2017, must specify the home health services the  
919 organization is authorized to perform and indicate whether such  
920 specified services are considered skilled care. The provision or  
921 advertising of services which require licensure pursuant to this  
922 part without such services being specified on the face of the  
923 license issued after June 30, 2017, constitutes unlicensed  
924 activity as prohibited under s. 408.812.

925 (4)

926 (b) The operation or maintenance of an unlicensed home  
 927 health agency or the performance of any home health services in  
 928 violation of this part is declared a nuisance, inimical to the  
 929 public health, welfare, and safety. The agency or any state  
 930 attorney may, in addition to other remedies provided in this  
 931 part, bring an action for an injunction to restrain such  
 932 violation, or to enjoin the future operation or maintenance of  
 933 the home health agency or the provision of home health services  
 934 in violation of this part or part II of chapter 408, until  
 935 compliance with this part or the rules adopted under this part  
 936 has been demonstrated to the satisfaction of the agency.

937 (e) Any person who owns, operates, or maintains an  
 938 unlicensed home health agency and who, ~~within 10 working days~~  
 939 after receiving notification from the agency, fails to cease  
 940 operation and apply for a license under this part commits a  
 941 misdemeanor of the second degree, punishable as provided in s.  
 942 775.082 or s. 775.083. Each day of continued operation is a  
 943 separate offense.

944 (f) Any home health agency that fails to cease operation  
 945 after agency notification may be fined in accordance with s.  
 946 408.812 \$500 for each day of noncompliance.

947 (6) Any person, entity, or organization providing home  
 948 health services that is exempt from licensure under subsection  
 949 (5), may voluntarily apply for a certificate of exemption from  
 950 licensure under its exempt status with the agency on a form that

951 sets forth its name or names and addresses, a statement of the  
952 reasons why it is exempt from licensure as a home health agency,  
953 and other information deemed necessary by the agency. A  
954 certificate of exemption is valid for a period of not more than  
955 2 years and is not transferable. The agency may charge an  
956 applicant for a certificate of exemption in an amount equal to  
957 \$100 or the actual cost of processing the certificate.

958 Section 36. Subsections (7), (8), and (9) of section  
959 400.471, Florida Statutes, are renumbered as subsections (6),  
960 (7), and (8), respectively, and subsection (2), present  
961 subsection (6), and paragraph (g) of present subsection (10) are  
962 amended to read:

963 400.471 Application for license; fee.—

964 (2) In addition to the requirements of part II of chapter  
965 408, the initial applicant, the applicant for a change of  
966 ownership, and the applicant for the addition of skilled care  
967 services, must file with the application satisfactory proof that  
968 the home health agency is in compliance with this part and  
969 applicable rules, including:

970 (a) A listing of services to be provided, either directly  
971 by the applicant or through contractual arrangements with  
972 existing providers.

973 (b) The number and discipline of professional staff to be  
974 employed.

975 ~~(c) Completion of questions concerning volume data on the~~

976 ~~renewal application as determined by rule.~~

977 (c)~~(d)~~ A business plan, signed by the applicant, which  
978 details the home health agency's methods to obtain patients and  
979 its plan to recruit and maintain staff.

980 (d)~~(e)~~ Evidence of contingency funding as required under  
981 s. 408.8065 ~~equal to 1 month's average operating expenses during~~  
982 ~~the first year of operation.~~

983 (e)~~(f)~~ A balance sheet, income and expense statement, and  
984 statement of cash flows for the first 2 years of operation which  
985 provide evidence of having sufficient assets, credit, and  
986 projected revenues to cover liabilities and expenses. The  
987 applicant has demonstrated financial ability to operate if the  
988 applicant's assets, credit, and projected revenues meet or  
989 exceed projected liabilities and expenses. An applicant may not  
990 project an operating margin of 15 percent or greater for any  
991 month in the first year of operation. All documents required  
992 under this paragraph must be prepared in accordance with  
993 generally accepted accounting principles and compiled and signed  
994 by a certified public accountant.

995 (f)~~(g)~~ All other ownership interests in health care  
996 entities for each controlling interest, as defined in part II of  
997 chapter 408.

998 (g)~~(h)~~ In the case of an application for initial  
999 licensure, an application for a change of ownership, or an  
1000 application for the addition of skilled care services,



1001 documentation of accreditation, or an application for  
 1002 accreditation, from an accrediting organization that is  
 1003 recognized by the agency as having standards comparable to those  
 1004 required by this part and part II of chapter 408. A home health  
 1005 agency that ~~is not Medicare or Medicaid certified and~~ does not  
 1006 provide skilled care is exempt from this paragraph.

1007 Notwithstanding s. 408.806, an initial applicant ~~that has~~  
 1008 ~~applied for accreditation~~ must provide proof of accreditation  
 1009 that is not conditional or provisional and a survey  
 1010 demonstrating compliance with the requirements of this part,  
 1011 part II of chapter 408, and applicable rules from an accrediting  
 1012 organization that is recognized by the agency as having  
 1013 standards comparable to those required by this part and part II  
 1014 of chapter 408 within 120 days after the date of the agency's  
 1015 receipt of the application for licensure ~~or the application~~  
 1016 ~~shall be withdrawn from further consideration.~~ Such  
 1017 accreditation must be continuously maintained by the home health  
 1018 agency to maintain licensure. The agency shall accept, in lieu  
 1019 of its own periodic licensure survey, the submission of the  
 1020 survey of an accrediting organization that is recognized by the  
 1021 agency if the accreditation of the licensed home health agency  
 1022 is not provisional and if the licensed home health agency  
 1023 authorizes releases of, and the agency receives the report of,  
 1024 the accrediting organization.

1025 ~~(6) The agency may not issue a license designated as~~

1026 ~~certified to a home health agency that fails to satisfy the~~  
 1027 ~~requirements of a Medicare certification survey from the agency.~~

1028 (9)~~(10)~~ The agency may not issue a renewal license for a  
 1029 home health agency in any county having at least one licensed  
 1030 home health agency and that has more than one home health agency  
 1031 per 5,000 persons, as indicated by the most recent population  
 1032 estimates published by the Legislature's Office of Economic and  
 1033 Demographic Research, if the applicant or any controlling  
 1034 interest has been administratively sanctioned by the agency  
 1035 during the 2 years prior to the submission of the licensure  
 1036 renewal application for one or more of the following acts:

1037 (g) Demonstrating a pattern of failing to provide a  
 1038 service specified in the home health agency's written agreement  
 1039 with a patient or the patient's legal representative, or the  
 1040 plan of care for that patient, except ~~unless a reduction in~~  
 1041 ~~service is mandated by Medicare, Medicaid, or a state program or~~  
 1042 as provided in s. 400.492(3). A pattern may be demonstrated by a  
 1043 showing of at least three incidents, regardless of the patient  
 1044 or service, in which the home health agency did not provide a  
 1045 service specified in a written agreement or plan of care during  
 1046 a 3-month period;

1047 Section 37. Subsection (5) of section 400.474, Florida  
 1048 Statutes, is amended to read:

1049 400.474 Administrative penalties.—

1050 (5) The agency shall impose a fine of \$5,000 against a

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1051 home health agency that demonstrates a pattern of failing to  
1052 provide a service specified in the home health agency's written  
1053 agreement with a patient or the patient's legal representative,  
1054 or the plan of care for that patient, except ~~unless a reduction~~  
1055 ~~in service is mandated by Medicare, Medicaid, or a state program~~  
1056 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated  
1057 by a showing of at least three incidences, regardless of the  
1058 patient or service, where the home health agency did not provide  
1059 a service specified in a written agreement or plan of care  
1060 during a 3-month period. The agency shall impose the fine for  
1061 each occurrence. The agency may also impose additional  
1062 administrative fines under s. 400.484 for the direct or indirect  
1063 harm to a patient, or deny, revoke, or suspend the license of  
1064 the home health agency for a pattern of failing to provide a  
1065 service specified in the home health agency's written agreement  
1066 with a patient or the plan of care for that patient.

1067 Section 38. Paragraph (c) of subsection (2) of section  
1068 400.476, Florida Statutes, is amended to read:

1069 400.476 Staffing requirements; notifications; limitations  
1070 on staffing services.—

1071 (2) DIRECTOR OF NURSING.—

1072 (c) A home health agency that provides skilled nursing  
1073 care must ~~is not Medicare or Medicaid certified and does not~~  
1074 ~~provide skilled care or provides only physical, occupational, or~~  
1075 ~~speech therapy is not required to have a director of nursing and~~

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1076 ~~is exempt from paragraph (b).~~

1077 Section 39. Subsection (2) of section 400.484, Florida  
1078 Statutes, is amended to read:

1079 400.484 Right of inspection; violations ~~deficiencies~~;  
1080 fines.—

1081 (2) The agency shall impose fines for various classes of  
1082 violations ~~deficiencies~~ in accordance with the following  
1083 schedule:

1084 (a) Class I violations are defined in s. 408.813 ~~A class I~~  
1085 ~~deficiency is any act, omission, or practice that results in a~~  
1086 ~~patient's death, disablement, or permanent injury, or places a~~  
1087 ~~patient at imminent risk of death, disablement, or permanent~~  
1088 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency  
1089 shall impose an administrative fine in the amount of \$15,000 for  
1090 each occurrence and each day that the violation ~~deficiency~~  
1091 exists.

1092 (b) Class II violations are defined in s. 408.813 ~~A class~~  
1093 ~~II deficiency is any act, omission, or practice that has a~~  
1094 ~~direct adverse effect on the health, safety, or security of a~~  
1095 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the  
1096 agency shall impose an administrative fine in the amount of  
1097 \$5,000 for each occurrence and each day that the violation  
1098 ~~deficiency~~ exists.

1099 (c) Class III violations are defined in s. 408.813 ~~A class~~  
1100 ~~III deficiency is any act, omission, or practice that has an~~

1101 ~~indirect, adverse effect on the health, safety, or security of a~~  
1102 ~~patient.~~ Upon finding an uncorrected or repeated class III  
1103 violation deficiency, the agency shall impose an administrative  
1104 fine not to exceed \$1,000 for each occurrence and each day that  
1105 the uncorrected or repeated violation deficiency exists.

1106 (d) Class IV violations are defined in s. 408.813 ~~A class~~  
1107 ~~IV deficiency is any act, omission, or practice related to~~  
1108 ~~required reports, forms, or documents which does not have the~~  
1109 ~~potential of negatively affecting patients.~~ These violations are  
1110 of a type that the agency determines do not threaten the health,  
1111 safety, or security of patients. Upon finding an uncorrected or  
1112 repeated class IV violation deficiency, the agency shall impose  
1113 an administrative fine not to exceed \$500 for each occurrence  
1114 and each day that the uncorrected or repeated violation  
1115 deficiency exists.

1116 Section 40. Subsection (4) of section 400.497, Florida  
1117 Statutes, is amended to read:

1118 400.497 Rules establishing minimum standards.—The agency  
1119 shall adopt, publish, and enforce rules to implement part II of  
1120 chapter 408 and this part, including, as applicable, ss. 400.506  
1121 and 400.509, which must provide reasonable and fair minimum  
1122 standards relating to:

1123 (4) Licensure and certificate of exemption application and  
1124 renewal.

1125 Section 41. Subsection (5), paragraphs (d) and (e) of

1126 subsection (6), paragraph (a) of subsection (15), and  
 1127 subsections (19) and (20) of section 400.506, Florida Statutes,  
 1128 are amended to read:

1129 400.506 Licensure of nurse registries; requirements;  
 1130 penalties.—

1131 (5) (a) In addition to the requirements of s. 408.812, any  
 1132 person who owns, operates, or maintains an unlicensed nurse  
 1133 registry and who, ~~within 10 working days~~ after receiving  
 1134 notification from the agency, fails to cease operation and apply  
 1135 for a license under this part commits a misdemeanor of the  
 1136 second degree, punishable as provided in s. 775.082 or s.  
 1137 775.083. Each day of continued operation is a separate offense.

1138 (b) If a nurse registry fails to cease operation after  
 1139 agency notification, the agency may impose a fine in accordance  
 1140 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1141 (6)

1142 (d) A registered nurse, licensed practical nurse,  
 1143 certified nursing assistant, companion or homemaker, or home  
 1144 health aide referred for contract under this chapter by a nurse  
 1145 registry is deemed an independent contractor and not an employee  
 1146 of the nurse registry under any chapter, regardless of the  
 1147 obligations imposed on a nurse registry under this chapter or  
 1148 chapter 408.

1149 (e) Upon referral of a registered nurse, licensed  
 1150 practical nurse, certified nursing assistant, companion or

1151 homemaker, or home health aide for contract in a private  
1152 residence or facility, the nurse registry shall advise the  
1153 patient, the patient's family, or any other person acting on  
1154 behalf of the patient, at the time of the contract for services,  
1155 that the caregiver referred by the nurse registry is an  
1156 independent contractor and that ~~the it is not the obligation of~~  
1157 ~~a nurse registry~~ is not permitted to monitor, supervise, manage,  
1158 or train a caregiver referred for contract under this chapter.

1159 (15) (a) The agency may deny, suspend, or revoke the  
1160 license of a nurse registry and shall impose a fine of \$5,000  
1161 against a nurse registry that:

1162 1. Provides services to residents in an assisted living  
1163 facility for which the nurse registry does not receive fair  
1164 market value remuneration.

1165 2. Provides staffing to an assisted living facility for  
1166 which the nurse registry does not receive fair market value  
1167 remuneration.

1168 3. Fails to provide the agency, upon request, with copies  
1169 of all contracts with assisted living facilities which were  
1170 executed within the last 5 years.

1171 ~~4. Gives remuneration to a case manager, discharge~~  
1172 ~~planner, facility-based staff member, or third-party vendor who~~  
1173 ~~is involved in the discharge planning process of a facility~~  
1174 ~~licensed under chapter 395 or this chapter and from whom the~~  
1175 ~~nurse registry receives referrals. A nurse registry is exempt~~

1176 ~~from this subparagraph if it does not bill the Florida Medicaid~~  
1177 ~~program or the Medicare program or share a controlling interest~~  
1178 ~~with any entity licensed, registered, or certified under part II~~  
1179 ~~of chapter 408 that bills the Florida Medicaid program or the~~  
1180 ~~Medicare program.~~

1181 ~~5. Gives remuneration to a physician, a member of the~~  
1182 ~~physician's office staff, or an immediate family member of the~~  
1183 ~~physician, and the nurse registry received a patient referral in~~  
1184 ~~the last 12 months from that physician or the physician's office~~  
1185 ~~staff. A nurse registry is exempt from this subparagraph if it~~  
1186 ~~does not bill the Florida Medicaid program or the Medicare~~  
1187 ~~program or share a controlling interest with any entity~~  
1188 ~~licensed, registered, or certified under part II of chapter 408~~  
1189 ~~that bills the Florida Medicaid program or the Medicare program.~~

1190 (19) ~~It is not the obligation of~~ A nurse registry is not  
1191 permitted to monitor, supervise, manage, or train a registered  
1192 nurse, licensed practical nurse, certified nursing assistant,  
1193 companion or homemaker, or home health aide referred for  
1194 contract under this chapter. In the event of a violation of this  
1195 chapter or a violation of any other law of this state by a  
1196 referred registered nurse, licensed practical nurse, certified  
1197 nursing assistant, companion or homemaker, or home health aide,  
1198 or a deficiency in credentials which comes to the attention of  
1199 the nurse registry, the nurse registry shall advise the patient  
1200 to terminate the referred person's contract, providing the



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1201 reason for the suggested termination; cease referring the person  
1202 to other patients or facilities; and, if practice violations are  
1203 involved, notify the licensing board. This section does not  
1204 affect or negate any other obligations imposed on a nurse  
1205 registry under chapter 408.

1206 (20) Records required to be filed under this chapter with  
1207 the nurse registry as a repository of records must be kept in  
1208 accordance with rules adopted by the agency. The nurse registry  
1209 is not permitted ~~has no obligation~~ to review or act upon such  
1210 records except as specified in subsection (19).

1211 Section 42. Subsection (1) of section 400.606, Florida  
1212 Statutes, is amended to read:

1213 400.606 License; application; renewal; conditional license  
1214 or permit; certificate of need.—

1215 (1) In addition to the requirements of part II of chapter  
1216 408, the initial application and change of ownership application  
1217 must be accompanied by a plan for the delivery of home,  
1218 residential, and homelike inpatient hospice services to  
1219 terminally ill persons and their families. Such plan must  
1220 contain, but need not be limited to:

1221 (a) The estimated average number of terminally ill persons  
1222 to be served monthly.

1223 (b) The geographic area in which hospice services will be  
1224 available.

1225 (c) A listing of services which are or will be provided,

1226 either directly by the applicant or through contractual  
 1227 arrangements with existing providers.

1228 (d) Provisions for the implementation of hospice home care  
 1229 within 3 months after licensure.

1230 (e) Provisions for the implementation of hospice homelike  
 1231 inpatient care within 12 months after licensure.

1232 (f) The number and disciplines of professional staff to be  
 1233 employed.

1234 (g) The name and qualifications of any existing or  
 1235 potential contractee.

1236 (h) A plan for attracting and training volunteers.

1237

1238 ~~If the applicant is an existing licensed health care provider,~~  
 1239 ~~the application must be accompanied by a copy of the most recent~~  
 1240 ~~profit-loss statement and, if applicable, the most recent~~  
 1241 ~~licensure inspection report.~~

1242 Section 43. Subsection (6) of section 400.925, Florida  
 1243 Statutes, is amended to read:

1244 400.925 Definitions.—As used in this part, the term:

1245 (6) "Home medical equipment" includes any product as  
 1246 defined by the Federal Drug Administration's Drugs, Devices and  
 1247 Cosmetics Act, any products reimbursed under the Medicare Part B  
 1248 Durable Medical Equipment benefits, or any products reimbursed  
 1249 under the Florida Medicaid durable medical equipment program.

1250 Home medical equipment includes:

1251 (a) Oxygen and related respiratory equipment; ~~manual,~~  
 1252 ~~motorized, or customized wheelchairs and related seating and~~  
 1253 ~~positioning, but does not include prosthetics or orthotics or~~  
 1254 ~~any splints, braces, or aids custom fabricated by a licensed~~  
 1255 ~~health care practitioner;~~

1256 (b) Motorized scooters;

1257 (c) Personal transfer systems; ~~and~~

1258 (d) Specialty beds, for use by a person with a medical  
 1259 need; and

1260 (e) Manual, motorized, or customized wheelchairs and  
 1261 related seating and positioning, but does not include  
 1262 prosthetics or orthotics or any splints, braces, or aids custom  
 1263 fabricated by a licensed health care practitioner.

1264 Section 44. Subsection (4) of section 400.931, Florida  
 1265 Statutes, is amended to read:

1266 400.931 Application for license; fee.—

1267 (4) When a change of the general manager of a home medical  
 1268 equipment provider occurs, the licensee must notify the agency  
 1269 of the change within the timeframes established in part II of  
 1270 chapter 408 and applicable rules ~~45 days~~.

1271 Section 45. Subsection (2) of section 400.933, Florida  
 1272 Statutes, is amended to read:

1273 400.933 Licensure inspections and investigations.—

1274 (2) The agency shall accept, in lieu of its own periodic  
 1275 inspections for licensure, submission of the following:

1276 (a) The survey or inspection of an accrediting  
1277 organization, provided the accreditation of the licensed home  
1278 medical equipment provider is not provisional and provided the  
1279 licensed home medical equipment provider authorizes release of,  
1280 and the agency receives the report of, the accrediting  
1281 organization; or

1282 (b) A copy of a valid medical oxygen retail establishment  
1283 permit issued by the Department of Business and Professional  
1284 Regulation Health, pursuant to chapter 499.

1285 Section 46. Subsection (2) of section 400.980, Florida  
1286 Statutes, is amended to read:

1287 400.980 Health care services pools.—

1288 (2) The requirements of part II of chapter 408 apply to  
1289 the provision of services that require licensure or registration  
1290 pursuant to this part and part II of chapter 408 and to entities  
1291 registered by or applying for such registration from the agency  
1292 pursuant to this part. Registration or a license issued by the  
1293 agency is required for the operation of a health care services  
1294 pool in this state. In accordance with s. 408.805, an applicant  
1295 or licensee shall pay a fee for each license application  
1296 submitted using this part, part II of chapter 408, and  
1297 applicable rules. The agency shall adopt rules and provide forms  
1298 required for such registration and shall impose a registration  
1299 fee in an amount sufficient to cover the cost of administering  
1300 this part and part II of chapter 408. In addition to the

1301 requirements in part II of chapter 408, the registrant must  
1302 provide the agency with any change of information contained on  
1303 the original registration application within the timeframes  
1304 established in this part, part II of chapter 408, and applicable  
1305 rules ~~14 days prior to the change.~~

1306 Section 47. Paragraphs (a) through (d) of subsection (4)  
1307 of section 400.9905, Florida Statutes, are amended to read:

1308 400.9905 Definitions.—

1309 (4) "Clinic" means an entity where health care services  
1310 are provided to individuals and which tenders charges for  
1311 reimbursement for such services, including a mobile clinic and a  
1312 portable equipment provider. As used in this part, the term does  
1313 not include and the licensure requirements of this part do not  
1314 apply to:

1315 (a) Entities licensed or registered by the state under  
1316 chapter 395; entities licensed or registered by the state and  
1317 providing only health care services within the scope of services  
1318 authorized under their respective licenses under ss. 383.30-  
1319 383.335, chapter 390, chapter 394, chapter 397, this chapter  
1320 except part X, chapter 429, chapter 463, chapter 465, chapter  
1321 466, chapter 478, ~~part I of chapter 483,~~ chapter 484, or chapter  
1322 651; end-stage renal disease providers authorized under 42  
1323 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.  
1324 part 485, subpart B or subpart H; or any entity that provides  
1325 neonatal or pediatric hospital-based health care services or

1326 other health care services by licensed practitioners solely  
 1327 within a hospital licensed under chapter 395.

1328 (b) Entities that own, directly or indirectly, entities  
 1329 licensed or registered by the state pursuant to chapter 395;  
 1330 entities that own, directly or indirectly, entities licensed or  
 1331 registered by the state and providing only health care services  
 1332 within the scope of services authorized pursuant to their  
 1333 respective licenses under ss. 383.30-383.335, chapter 390,  
 1334 chapter 394, chapter 397, this chapter except part X, chapter  
 1335 429, chapter 463, chapter 465, chapter 466, chapter 478, ~~part I~~  
 1336 ~~of chapter 483~~, chapter 484, or chapter 651; end-stage renal  
 1337 disease providers authorized under 42 C.F.R. part 405, subpart  
 1338 U; providers certified under 42 C.F.R. part 485, subpart B or  
 1339 subpart H; or any entity that provides neonatal or pediatric  
 1340 hospital-based health care services by licensed practitioners  
 1341 solely within a hospital licensed under chapter 395.

1342 (c) Entities that are owned, directly or indirectly, by an  
 1343 entity licensed or registered by the state pursuant to chapter  
 1344 395; entities that are owned, directly or indirectly, by an  
 1345 entity licensed or registered by the state and providing only  
 1346 health care services within the scope of services authorized  
 1347 pursuant to their respective licenses under ss. 383.30-383.335,  
 1348 chapter 390, chapter 394, chapter 397, this chapter except part  
 1349 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
 1350 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-

1351 stage renal disease providers authorized under 42 C.F.R. part  
1352 405, subpart U; providers certified under 42 C.F.R. part 485,  
1353 subpart B or subpart H; or any entity that provides neonatal or  
1354 pediatric hospital-based health care services by licensed  
1355 practitioners solely within a hospital under chapter 395.

1356 (d) Entities that are under common ownership, directly or  
1357 indirectly, with an entity licensed or registered by the state  
1358 pursuant to chapter 395; entities that are under common  
1359 ownership, directly or indirectly, with an entity licensed or  
1360 registered by the state and providing only health care services  
1361 within the scope of services authorized pursuant to their  
1362 respective licenses under ss. 383.30-383.335, chapter 390,  
1363 chapter 394, chapter 397, this chapter except part X, chapter  
1364 429, chapter 463, chapter 465, chapter 466, chapter 478, ~~part I~~  
1365 ~~of chapter 483~~, chapter 484, or chapter 651; end-stage renal  
1366 disease providers authorized under 42 C.F.R. part 405, subpart  
1367 U; providers certified under 42 C.F.R. part 485, subpart B or  
1368 subpart H; or any entity that provides neonatal or pediatric  
1369 hospital-based health care services by licensed practitioners  
1370 solely within a hospital licensed under chapter 395.

1371  
1372 Notwithstanding this subsection, an entity shall be deemed a  
1373 clinic and must be licensed under this part in order to receive  
1374 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
1375 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1376 Section 48. Paragraph (a) of subsection (2) of section  
 1377 408.033, Florida Statutes, is amended to read:

1378 408.033 Local and state health planning.—

1379 (2) FUNDING.—

1380 (a) The Legislature intends that the cost of local health  
 1381 councils be borne by assessments on selected health care  
 1382 facilities subject to facility licensure by the Agency for  
 1383 Health Care Administration, including abortion clinics, assisted  
 1384 living facilities, ambulatory surgical centers, birthing  
 1385 centers, ~~clinical laboratories except community nonprofit blood~~  
 1386 ~~banks and clinical laboratories operated by practitioners for~~  
 1387 ~~exclusive use regulated under s. 483.035,~~ home health agencies,  
 1388 hospices, hospitals, intermediate care facilities for the  
 1389 developmentally disabled, nursing homes, health care clinics,  
 1390 and multiphasic testing centers and by assessments on  
 1391 organizations subject to certification by the agency pursuant to  
 1392 chapter 641, part III, including health maintenance  
 1393 organizations and prepaid health clinics. Fees assessed may be  
 1394 collected prospectively at the time of licensure renewal and  
 1395 prorated for the licensure period.

1396 Section 49. Paragraph (e) of subsection (3) of section  
 1397 408.036, Florida Statutes, is amended to read:

1398 408.036 Projects subject to review; exemptions.—

1399 (3) EXEMPTIONS.—Upon request, the following projects are  
 1400 subject to exemption from the provisions of subsection (1):



1401 ~~(c) For mobile surgical facilities and related health care~~  
1402 ~~services provided under contract with the Department of~~  
1403 ~~Corrections or a private correctional facility operating~~  
1404 ~~pursuant to chapter 957.~~

1405 Section 50. Subsection (4) of section 408.061, Florida  
1406 Statutes, is amended to read:

1407 408.061 Data collection; uniform systems of financial  
1408 reporting; information relating to physician charges;  
1409 confidential information; immunity.—

1410 (4) Within 120 days after the end of its fiscal year, each  
1411 health care facility, excluding continuing care facilities,  
1412 hospitals operated by state agencies, and nursing homes as  
1413 defined in s. 408.07(13) and (36) ~~408.07(14) and (37)~~, shall  
1414 file with the agency, on forms adopted by the agency and based  
1415 on the uniform system of financial reporting, its actual  
1416 financial experience for that fiscal year, including  
1417 expenditures, revenues, and statistical measures. Such data may  
1418 be based on internal financial reports which are certified to be  
1419 complete and accurate by the provider. However, hospitals'  
1420 actual financial experience shall be their audited actual  
1421 experience. Every nursing home shall submit to the agency, in a  
1422 format designated by the agency, a statistical profile of the  
1423 nursing home residents. The agency, in conjunction with the  
1424 Department of Elderly Affairs and the Department of Health,  
1425 shall review these statistical profiles and develop

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1426 recommendations for the types of residents who might more  
1427 appropriately be placed in their homes or other noninstitutional  
1428 settings.

1429 Section 51. Subsection (11) of section 408.07, Florida  
1430 Statutes, is amended to read:

1431 408.07 Definitions.—As used in this chapter, with the  
1432 exception of ss. 408.031-408.045, the term:

1433 ~~(11) "Clinical laboratory" means a facility licensed under~~  
1434 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~  
1435 ~~483.041(6); any clinical laboratory operated by the state or a~~  
1436 ~~political subdivision of the state; any blood or tissue bank~~  
1437 ~~where the majority of revenues are received from the sale of~~  
1438 ~~blood or tissue and where blood, plasma, or tissue is procured~~  
1439 ~~from volunteer donors and donated, processed, stored, or~~  
1440 ~~distributed on a nonprofit basis; and any clinical laboratory~~  
1441 ~~which is wholly owned and operated by physicians who are~~  
1442 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~  
1443 ~~in the same group practice, and at which no clinical laboratory~~  
1444 ~~work is performed for patients referred by any health care~~  
1445 ~~provider who is not a member of that same group practice.~~

1446 Section 52. Subsection (4) of section 408.20, Florida  
1447 Statutes, is amended to read:

1448 408.20 Assessments; Health Care Trust Fund.—

1449 (4) Hospitals operated by state agencies ~~the Department of~~  
1450 ~~Children and Families, the Department of Health, or the~~

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1451 ~~Department of Corrections~~ are exempt from the assessments  
1452 required under this section.

1453 Section 53. Section 408.7056, Florida Statutes, is  
1454 repealed.

1455 Section 54. Subsections (10), (11), and (27) of section  
1456 408.802, Florida Statutes, are amended to read:

1457 408.802 Applicability.—The provisions of this part apply  
1458 to the provision of services that require licensure as defined  
1459 in this part and to the following entities licensed, registered,  
1460 or certified by the agency, as described in chapters 112, 383,  
1461 390, 394, 395, 400, 429, 440, 483, and 765:

1462 ~~(10) Mobile surgical facilities, as provided under part I~~  
1463 ~~of chapter 395.~~

1464 ~~(11) Health care risk managers, as provided under part I~~  
1465 ~~of chapter 395.~~

1466 ~~(27) Clinical laboratories, as provided under part I of~~  
1467 ~~chapter 483.~~

1468 Section 55. Subsections (12) and (13) of section 408.803,  
1469 Florida Statutes, are renumbered as subsections (13) and (14),  
1470 respectively, and a new subsection (12) is added to that section  
1471 to read:

1472 408.803 Definitions.—As used in this part, the term:

1473 (12) "Relative" means an individual who is the father,  
1474 mother, stepfather, stepmother, son, daughter, brother, sister,  
1475 grandmother, grandfather, great-grandmother, great-grandfather,

1476 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
1477 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
1478 daughter-in-law, brother-in-law, sister-in-law, stepson,  
1479 stepdaughter, stepbrother, stepsister, half-brother, or half-  
1480 sister of a patient or client.

1481 Section 56. Paragraph (a) of subsection (1) and paragraph  
1482 (c) of subsection (7) of section 408.806, Florida Statutes, are  
1483 amended, and subsection (9) is added to that section, to read:

1484 408.806 License application process.—

1485 (1) An application for licensure must be made to the  
1486 agency on forms furnished by the agency, submitted under oath or  
1487 attestation, and accompanied by the appropriate fee in order to  
1488 be accepted and considered timely. The application must contain  
1489 information required by authorizing statutes and applicable  
1490 rules and must include:

1491 (a) The name, address, and social security number, or  
1492 individual taxpayer identification number if a social security  
1493 number cannot legally be obtained, of:

1494 1. The applicant;

1495 2. The administrator or a similarly titled person who is  
1496 responsible for the day-to-day operation of the provider;

1497 3. The financial officer or similarly titled person who is  
1498 responsible for the financial operation of the licensee or  
1499 provider; and

1500 4. Each controlling interest if the applicant or

1501 controlling interest is an individual.

1502

1503 The licensee shall ensure that no person has any ownership  
1504 interest in the licensee, directly or indirectly, regardless of  
1505 ownership structure, who is ineligible pursuant to s.  
1506 408.809(4). The licensee shall ensure that no person holds or  
1507 has held any ownership interest, directly or indirectly,  
1508 regardless of ownership structure, in a provider that has had a  
1509 license or change of ownership application denied, revoked, or  
1510 excluded pursuant to s. 408.815.

1511 (7)

1512 (c) If an inspection is required by the authorizing  
1513 statute for a license application other than an initial  
1514 application, the inspection must be unannounced. This paragraph  
1515 does not apply to inspections required pursuant to ss. 383.324,  
1516 395.0161(4) and, 429.67(6), ~~and 483.061(2).~~

1517 (9) A licensee that holds a license for multiple providers  
1518 licensed by the agency may request all related license  
1519 expiration dates be aligned. The agency may issue a license for  
1520 an abbreviated licensure period with a prorated licensure fee.

1521 Section 57. Subsection (8) of section 408.810, Florida  
1522 Statutes, is amended, and subsection (11) is added to that  
1523 section to read:

1524 408.810 Minimum licensure requirements.—In addition to the  
1525 licensure requirements specified in this part, authorizing

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1526 statutes, and applicable rules, each applicant and licensee must  
1527 comply with the requirements of this section in order to obtain  
1528 and maintain a license.

1529 (8) Upon application for initial licensure or change of  
1530 ownership licensure, the applicant shall furnish satisfactory  
1531 proof of the applicant's financial ability to operate in  
1532 accordance with the requirements of this part, authorizing  
1533 statutes, and applicable rules. The agency shall establish  
1534 standards for this purpose, including information concerning the  
1535 applicant's controlling interests. The agency shall also  
1536 establish documentation requirements, to be completed by each  
1537 applicant, that show anticipated provider revenues and  
1538 expenditures, the basis for financing the anticipated cash-flow  
1539 requirements of the provider, and an applicant's access to  
1540 contingency financing. A current certificate of authority,  
1541 pursuant to chapter 651, may be provided as proof of financial  
1542 ability to operate. The agency may require a licensee to provide  
1543 proof of financial ability to operate at any time if there is  
1544 evidence of financial instability, including, but not limited  
1545 to, unpaid expenses necessary for the basic operations of the  
1546 provider. An applicant applying for change of ownership  
1547 licensure is exempt from furnishing proof of the applicant's  
1548 financial ability to operate if the provider has been licensed  
1549 for at least 5 years, and:

1550 (a) The licensee change is a result of a corporate

1551 reorganization under which the controlling interest is unchanged  
1552 and the applicant submits organization charts that represent the  
1553 current and proposed structure of the reorganized corporation;  
1554 or

1555 (b) The licensee change is due solely to the death of a  
1556 controlling interest, and the surviving controlling interests  
1557 continue to hold at least 51 percent of ownership after the  
1558 change of ownership.

1559 (11) The agency may adopt rules that govern the  
1560 circumstances under which a controlling interest, an  
1561 administrator, an employee, a contractor, or a representative  
1562 thereof who is not a relative of the patient or client may act  
1563 as a legal representative, agent, health care surrogate, power  
1564 of attorney, or guardian of a patient or client. Such rules may  
1565 include requirements related to disclosure, bonding,  
1566 restrictions, and client protections.

1567 Section 58. Section 408.812, Florida Statutes, is amended  
1568 to read:

1569 408.812 Unlicensed activity.—

1570 (1) A person or entity may not offer or advertise services  
1571 that require licensure as defined by this part, authorizing  
1572 statutes, or applicable rules to the public without obtaining a  
1573 valid license from the agency. A licenseholder may not advertise  
1574 or hold out to the public that he or she holds a license for  
1575 other than that for which he or she actually holds the license.

1576           (2) The operation or maintenance of an unlicensed provider  
 1577 or the performance of any services that require licensure  
 1578 without proper licensure is a violation of this part and  
 1579 authorizing statutes. Unlicensed activity constitutes harm that  
 1580 materially affects the health, safety, and welfare of clients  
 1581 and constitutes abuse and neglect as defined in s. 415.102. The  
 1582 agency or any state attorney may, in addition to other remedies  
 1583 provided in this part, bring an action for an injunction to  
 1584 restrain such violation, or to enjoin the future operation or  
 1585 maintenance of the unlicensed provider or the performance of any  
 1586 services in violation of this part and authorizing statutes,  
 1587 until compliance with this part, authorizing statutes, and  
 1588 agency rules has been demonstrated to the satisfaction of the  
 1589 agency.

1590           (3) It is unlawful for any person or entity to own,  
 1591 operate, or maintain an unlicensed provider. If after receiving  
 1592 notification from the agency, such person or entity fails to  
 1593 cease operation ~~and apply for a license under this part and~~  
 1594 ~~authorizing statutes,~~ the person or entity shall be subject to  
 1595 penalties as prescribed by authorizing statutes and applicable  
 1596 rules. Each day of ~~continued~~ operation is a separate offense.

1597           (4) Any person or entity that fails to cease operation  
 1598 after agency notification may be fined \$1,000 for each day of  
 1599 noncompliance.

1600           (5) When a controlling interest or licensee has an



1601 interest in more than one provider and fails to license a  
 1602 provider rendering services that require licensure, the agency  
 1603 may revoke all licenses and impose actions under s. 408.814 and  
 1604 regardless of correction, impose a fine of \$1,000 per day,  
 1605 unless otherwise specified by authorizing statutes, against each  
 1606 licensee until such time as the appropriate license is obtained  
 1607 or the unlicensed activity ceases ~~for the unlicensed operation.~~

1608 (6) In addition to granting injunctive relief pursuant to  
 1609 subsection (2), if the agency determines that a person or entity  
 1610 is operating or maintaining a provider without obtaining a  
 1611 license and determines that a condition exists that poses a  
 1612 threat to the health, safety, or welfare of a client of the  
 1613 provider, the person or entity is subject to the same actions  
 1614 and fines imposed against a licensee as specified in this part,  
 1615 authorizing statutes, and agency rules.

1616 (7) Any person aware of the operation of an unlicensed  
 1617 provider must report that provider to the agency.

1618 Section 59. Subsections (10), (11), and (26) of section  
 1619 408.820, Florida Statutes, are amended to read:

1620 408.820 Exemptions.—Except as prescribed in authorizing  
 1621 statutes, the following exemptions shall apply to specified  
 1622 requirements of this part:

1623 ~~(10) Mobile surgical facilities, as provided under part I~~  
 1624 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

1625 ~~(11) Health care risk managers, as provided under part I~~

1626 ~~of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~  
 1627 ~~and 408.811.~~

1628 ~~(26) Clinical laboratories, as provided under part I of~~  
 1629 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

1630 Section 60. Subsection (7) of section 409.905, Florida  
 1631 Statutes, is amended to read:

1632 409.905 Mandatory Medicaid services.—The agency may make  
 1633 payments for the following services, which are required of the  
 1634 state by Title XIX of the Social Security Act, furnished by  
 1635 Medicaid providers to recipients who are determined to be  
 1636 eligible on the dates on which the services were provided. Any  
 1637 service under this section shall be provided only when medically  
 1638 necessary and in accordance with state and federal law.

1639 Mandatory services rendered by providers in mobile units to  
 1640 Medicaid recipients may be restricted by the agency. Nothing in  
 1641 this section shall be construed to prevent or limit the agency  
 1642 from adjusting fees, reimbursement rates, lengths of stay,  
 1643 number of visits, number of services, or any other adjustments  
 1644 necessary to comply with the availability of moneys and any  
 1645 limitations or directions provided for in the General  
 1646 Appropriations Act or chapter 216.

1647 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay  
 1648 for medically necessary diagnostic laboratory procedures ordered  
 1649 by a licensed physician or other licensed practitioner of the  
 1650 healing arts which are provided for a recipient in a laboratory

1651 that meets the requirements for Medicare participation and  
1652 appropriately certified by the Centers for Medicare and Medicaid  
1653 Services (CMS) under the federal Clinical Laboratory Improvement  
1654 Amendments (CLIA) is licensed under chapter 483, if required.

1655 Section 61. Subsection (6) of section 409.9116, Florida  
1656 Statutes, is amended to read:

1657 409.9116 Disproportionate share/financial assistance  
1658 program for rural hospitals.—In addition to the payments made  
1659 under s. 409.911, the Agency for Health Care Administration  
1660 shall administer a federally matched disproportionate share  
1661 program and a state-funded financial assistance program for  
1662 statutory rural hospitals. The agency shall make  
1663 disproportionate share payments to statutory rural hospitals  
1664 that qualify for such payments and financial assistance payments  
1665 to statutory rural hospitals that do not qualify for  
1666 disproportionate share payments. The disproportionate share  
1667 program payments shall be limited by and conform with federal  
1668 requirements. Funds shall be distributed quarterly in each  
1669 fiscal year for which an appropriation is made. Notwithstanding  
1670 the provisions of s. 409.915, counties are exempt from  
1671 contributing toward the cost of this special reimbursement for  
1672 hospitals serving a disproportionate share of low-income  
1673 patients.

1674 (6) This section applies only to hospitals that were  
1675 defined as statutory rural hospitals, or their successor-in-

1676 interest hospital, prior to January 1, 2001. Any additional  
1677 hospital that is defined as a statutory rural hospital, or its  
1678 successor-in-interest hospital, on or after January 1, 2001, is  
1679 not eligible for programs under this section unless additional  
1680 funds are appropriated each fiscal year specifically to the  
1681 rural hospital disproportionate share and financial assistance  
1682 programs in an amount necessary to prevent any hospital, or its  
1683 successor-in-interest hospital, eligible for the programs prior  
1684 to January 1, 2001, from incurring a reduction in payments  
1685 because of the eligibility of an additional hospital to  
1686 participate in the programs. A hospital, or its successor-in-  
1687 interest hospital, which received funds pursuant to this section  
1688 before January 1, 2001, and which qualifies under s.  
1689 395.602(2)(b) ~~395.602(2)(e)~~, shall be included in the programs  
1690 under this section and is not required to seek additional  
1691 appropriations under this subsection.

1692 Section 62. Paragraphs (a) and (b) of subsection (1) of  
1693 section 409.975, Florida Statutes, are amended to read:

1694 409.975 Managed care plan accountability.—In addition to  
1695 the requirements of s. 409.967, plans and providers  
1696 participating in the managed medical assistance program shall  
1697 comply with the requirements of this section.

1698 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
1699 maintain provider networks that meet the medical needs of their  
1700 enrollees in accordance with standards established pursuant to

1701 s. 409.967(2)(c). Except as provided in this section, managed  
1702 care plans may limit the providers in their networks based on  
1703 credentials, quality indicators, and price.

1704 (a) Plans must include all providers in the region that  
1705 are classified by the agency as essential Medicaid providers,  
1706 unless the agency approves, in writing, an alternative  
1707 arrangement for securing the types of services offered by the  
1708 essential providers. Providers are essential for serving  
1709 Medicaid enrollees if they offer services that are not available  
1710 from any other provider within a reasonable access standard, or  
1711 if they provided a substantial share of the total units of a  
1712 particular service used by Medicaid patients within the region  
1713 during the last 3 years and the combined capacity of other  
1714 service providers in the region is insufficient to meet the  
1715 total needs of the Medicaid patients. The agency may not  
1716 classify physicians and other practitioners as essential  
1717 providers. The agency, at a minimum, shall determine which  
1718 providers in the following categories are essential Medicaid  
1719 providers:

- 1720 1. Federally qualified health centers.  
1721 2. Statutory teaching hospitals as defined in s.  
1722 408.07(44) ~~408.07(45)~~.  
1723 3. Hospitals that are trauma centers as defined in s.  
1724 395.4001(14).  
1725 4. Hospitals located at least 25 miles from any other

1726 hospital with similar services.  
1727  
1728 Managed care plans that have not contracted with all essential  
1729 providers in the region as of the first date of recipient  
1730 enrollment, or with whom an essential provider has terminated  
1731 its contract, must negotiate in good faith with such essential  
1732 providers for 1 year or until an agreement is reached, whichever  
1733 is first. Payments for services rendered by a nonparticipating  
1734 essential provider shall be made at the applicable Medicaid rate  
1735 as of the first day of the contract between the agency and the  
1736 plan. A rate schedule for all essential providers shall be  
1737 attached to the contract between the agency and the plan. After  
1738 1 year, managed care plans that are unable to contract with  
1739 essential providers shall notify the agency and propose an  
1740 alternative arrangement for securing the essential services for  
1741 Medicaid enrollees. The arrangement must rely on contracts with  
1742 other participating providers, regardless of whether those  
1743 providers are located within the same region as the  
1744 nonparticipating essential service provider. If the alternative  
1745 arrangement is approved by the agency, payments to  
1746 nonparticipating essential providers after the date of the  
1747 agency's approval shall equal 90 percent of the applicable  
1748 Medicaid rate. Except for payment for emergency services, if the  
1749 alternative arrangement is not approved by the agency, payment  
1750 to nonparticipating essential providers shall equal 110 percent

1751 of the applicable Medicaid rate.

1752 (b) Certain providers are statewide resources and  
 1753 essential providers for all managed care plans in all regions.  
 1754 All managed care plans must include these essential providers in  
 1755 their networks. Statewide essential providers include:

- 1756 1. Faculty plans of Florida medical schools.
- 1757 2. Regional perinatal intensive care centers as defined in  
 1758 s. 383.16(2).
- 1759 3. Hospitals licensed as specialty children's hospitals as  
 1760 defined in s. 395.002(27) ~~395.002(28)~~.
- 1761 4. Accredited and integrated systems serving medically  
 1762 complex children which comprise separately licensed, but  
 1763 commonly owned, health care providers delivering at least the  
 1764 following services: medical group home, in-home and outpatient  
 1765 nursing care and therapies, pharmacy services, durable medical  
 1766 equipment, and Prescribed Pediatric Extended Care.

1767  
 1768 Managed care plans that have not contracted with all statewide  
 1769 essential providers in all regions as of the first date of  
 1770 recipient enrollment must continue to negotiate in good faith.  
 1771 Payments to physicians on the faculty of nonparticipating  
 1772 Florida medical schools shall be made at the applicable Medicaid  
 1773 rate. Payments for services rendered by regional perinatal  
 1774 intensive care centers shall be made at the applicable Medicaid  
 1775 rate as of the first day of the contract between the agency and

1776 the plan. Except for payments for emergency services, payments  
 1777 to nonparticipating specialty children's hospitals shall equal  
 1778 the highest rate established by contract between that provider  
 1779 and any other Medicaid managed care plan.

1780 Section 63. Subsections (5) and (17) of section 429.02,  
 1781 Florida Statutes, are amended to read:

1782 429.02 Definitions.—When used in this part, the term:

1783 (5) "Assisted living facility" means any building or  
 1784 buildings, section or distinct part of a building, private home,  
 1785 boarding home, home for the aged, or other residential facility,  
 1786 whether operated for profit or not, which, ~~undertakes~~ through  
 1787 its ownership or management, provides ~~to provide~~ housing, meals,  
 1788 and one or more personal services for a period exceeding 24  
 1789 hours to one or more adults who are not relatives of the owner  
 1790 or administrator.

1791 (17) "Personal services" means direct physical assistance  
 1792 with or supervision of the activities of daily living, ~~and~~ the  
 1793 self-administration of medication or ~~and~~ other similar services  
 1794 which the department may define by rule. "Personal services" may  
 1795 ~~shall~~ not be construed to mean the provision of medical,  
 1796 nursing, dental, or mental health services, or, with the  
 1797 exception of authorized adult day care services provided within  
 1798 a licensed assisted living facility, personal services to  
 1799 individuals who are not residents of the facility.

1800 Section 64. Paragraphs (b) and (d) of subsection (2) of



1801 section 429.04, Florida Statutes, are amended, and subsection  
 1802 (3) is added to that section to read:

1803 429.04 Facilities to be licensed; exemptions.—

1804 (2) The following are exempt from licensure under this  
 1805 part:

1806 (b) Any facility or part of a facility licensed by the  
 1807 Agency for Persons with Disabilities under chapter 393, a mental  
 1808 health facility licensed under ~~or~~ chapter 394, a hospital  
 1809 licensed under chapter 395, a nursing home licensed under part  
 1810 II of chapter 400, an inpatient hospice licensed under part IV  
 1811 of chapter 400, a home for special services licensed under part  
 1812 V of chapter 400, an intermediate care facility licensed under  
 1813 part VIII of chapter 400, or a transitional living facility  
 1814 licensed under part XI of chapter 400.

1815 (d) Any person who provides housing, meals, and one or  
 1816 more personal services on a 24-hour basis in the person's own  
 1817 home to not more than two adults who do not receive optional  
 1818 state supplementation. The person who provides the housing,  
 1819 meals, and personal services must own or rent the home and must  
 1820 have established the home as the person's permanent residence.  
 1821 Any person holding a homestead exemption at an address other  
 1822 than that at which the person asserts this exemption shall be  
 1823 presumed to not have established permanent residence under this  
 1824 exemption ~~reside therein.~~ This exemption does not apply to a  
 1825 person or entity who previously held licensure issued by the

1826 agency and such licensure was revoked or licensure renewal was  
 1827 denied by final order of the agency, or when the person or  
 1828 entity voluntarily relinquished licensure during agency  
 1829 enforcement proceedings.

1830 (3) Upon agency investigation of unlicensed activity, any  
 1831 person or entity asserting an exemption pursuant to this section  
 1832 shall have the burden of providing documentation substantiating  
 1833 that the person or entity is entitled to the licensure  
 1834 exemption.

1835 Section 65. Paragraphs (b) and (d) of subsection (1) of  
 1836 section 429.08, Florida Statutes, are amended and subsection (3)  
 1837 is added to that section to read:

1838 429.08 Unlicensed facilities; referral of person for  
 1839 residency to unlicensed facility; penalties.—

1840 (1)

1841 (b) ~~Except as provided under paragraph (d),~~ Any person who  
 1842 owns, rents, or otherwise maintains a building or property that  
 1843 operates, or maintains an unlicensed assisted living facility  
 1844 commits a felony of the third degree, punishable as provided in  
 1845 s. 775.082, s. 775.083, or s. 775.084. Each day of continued  
 1846 operation is a separate offense.

1847 (d) In addition to the requirements of s. 408.812, any  
 1848 person who owns, operates, or maintains an unlicensed assisted  
 1849 living facility after receiving notice from the agency ~~due to a~~  
 1850 ~~change in this part or a modification in rule within 6 months~~

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1851 ~~after the effective date of such change and who, within 10~~  
1852 ~~working days after receiving notification from the agency, fails~~  
1853 ~~to cease operation or apply for a license under this part~~  
1854 commits a felony of the third degree, punishable as provided in  
1855 s. 775.082, s. 775.083, or s. 775.084. Each day of continued  
1856 operation is a separate offense.

1857 Section 66. Section 429.176, Florida Statutes, is amended  
1858 to read:

1859 429.176 Notice of change of administrator.—If, during the  
1860 period for which a license is issued, the owner changes  
1861 administrators, the owner must notify the agency of the change  
1862 within 10 days and provide documentation within 90 days that the  
1863 new administrator has completed the applicable core educational  
1864 requirements under s. 429.52. A facility may not be operated for  
1865 more than 120 consecutive days without an administrator who has  
1866 completed the core educational requirements.

1867 Section 67. Paragraph (h) of subsection (1) of section  
1868 429.41, Florida Statutes, is amended to read:

1869 429.41 Rules establishing standards.—

1870 (1) It is the intent of the Legislature that rules  
1871 published and enforced pursuant to this section shall include  
1872 criteria by which a reasonable and consistent quality of  
1873 resident care and quality of life may be ensured and the results  
1874 of such resident care may be demonstrated. Such rules shall also  
1875 ensure a safe and sanitary environment that is residential and

1876 noninstitutional in design or nature. It is further intended  
1877 that reasonable efforts be made to accommodate the needs and  
1878 preferences of residents to enhance the quality of life in a  
1879 facility. Uniform firesafety standards for assisted living  
1880 facilities shall be established by the State Fire Marshal  
1881 pursuant to s. 633.206. The agency, in consultation with the  
1882 department, may adopt rules to administer the requirements of  
1883 part II of chapter 408. In order to provide safe and sanitary  
1884 facilities and the highest quality of resident care  
1885 accommodating the needs and preferences of residents, the  
1886 department, in consultation with the agency, the Department of  
1887 Children and Families, and the Department of Health, shall adopt  
1888 rules, policies, and procedures to administer this part, which  
1889 must include reasonable and fair minimum standards in relation  
1890 to:

1891 (h) The care and maintenance of residents, which must  
1892 include, but is not limited to:

1893 1. The supervision of residents;

1894 2. The provision of personal services. With the exception  
1895 of authorized adult day care services provided within a licensed  
1896 assisted living facility, an assisted living facility may not  
1897 provide personal services to individuals who are not residents  
1898 of the facility;

1899 3. The provision of, or arrangement for, social and  
1900 leisure activities;

1901 4. The arrangement for appointments and transportation to  
 1902 appropriate medical, dental, nursing, or mental health services,  
 1903 as needed by residents;

1904 5. The management of medication;

1905 6. The nutritional needs of residents;

1906 7. Resident records; and

1907 8. Internal risk management and quality assurance.

1908 Section 68. Subsection (4) of section 456.001, Florida  
 1909 Statutes, is amended to read:

1910 456.001 Definitions.—As used in this chapter, the term:

1911 (4) "Health care practitioner" means any person licensed  
 1912 under chapter 457; chapter 458; chapter 459; chapter 460;  
 1913 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
 1914 chapter 466; chapter 467; part I, part II, part III, part V,  
 1915 part X, part XIII, or part XIV of chapter 468; chapter 478;  
 1916 chapter 480; part II or part III ~~or part IV~~ of chapter 483;  
 1917 chapter 484; chapter 486; chapter 490; or chapter 491.

1918 Section 69. Paragraph (i) of subsection (2) of section  
 1919 456.057, Florida Statutes, is amended to read:

1920 456.057 Ownership and control of patient records; report  
 1921 or copies of records to be furnished; disclosure of  
 1922 information.—

1923 (2) As used in this section, the terms "records owner,"  
 1924 "health care practitioner," and "health care practitioner's  
 1925 employer" do not include any of the following persons or

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1926 entities; furthermore, the following persons or entities are not  
1927 authorized to acquire or own medical records, but are authorized  
1928 under the confidentiality and disclosure requirements of this  
1929 section to maintain those documents required by the part or  
1930 chapter under which they are licensed or regulated:

1931 (i) Medical physicists licensed under part III ~~IV~~ of  
1932 chapter 483.

1933 Section 70. Subsection (2) of section 458.307, Florida  
1934 Statutes, is amended to read:

1935 458.307 Board of Medicine.—

1936 (2) Twelve members of the board must be licensed  
1937 physicians in good standing in this state who are residents of  
1938 the state and who have been engaged in the active practice or  
1939 teaching of medicine for at least 4 years immediately preceding  
1940 their appointment. One of the physicians must be on the full-  
1941 time faculty of a medical school in this state, and one of the  
1942 physicians must be in private practice and on the full-time  
1943 staff of a statutory teaching hospital in this state as defined  
1944 in s. 408.07. At least one of the physicians must be a graduate  
1945 of a foreign medical school. The remaining three members must be  
1946 residents of the state who are not, and never have been,  
1947 licensed health care practitioners. One member must be a health  
1948 care risk manager ~~licensed under s. 395.10974~~. At least one  
1949 member of the board must be 60 years of age or older.

1950 Section 71. Subsection (1) of section 458.345, Florida

1951 Statutes, is amended to read:

1952 458.345 Registration of resident physicians, interns, and  
 1953 fellows; list of hospital employees; prescribing of medicinal  
 1954 drugs; penalty.—

1955 (1) Any person desiring to practice as a resident  
 1956 physician, assistant resident physician, house physician,  
 1957 intern, or fellow in fellowship training which leads to  
 1958 subspecialty board certification in this state, or any person  
 1959 desiring to practice as a resident physician, assistant resident  
 1960 physician, house physician, intern, or fellow in fellowship  
 1961 training in a teaching hospital in this state as defined in s.  
 1962 408.07(44) ~~408.07(45)~~ or s. 395.805(2), who does not hold a  
 1963 valid, active license issued under this chapter shall apply to  
 1964 the department to be registered and shall remit a fee not to  
 1965 exceed \$300 as set by the board. The department shall register  
 1966 any applicant the board certifies has met the following  
 1967 requirements:

1968 (a) Is at least 21 years of age.

1969 (b) Has not committed any act or offense within or without  
 1970 the state which would constitute the basis for refusal to  
 1971 certify an application for licensure pursuant to s. 458.331.

1972 (c) Is a graduate of a medical school or college as  
 1973 specified in s. 458.311(1)(f).

1974 Section 72. Part I of chapter 483, Florida Statutes,  
 1975 consisting of sections 483.011, 483.021, 483.031, 483.035,

1976 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,  
 1977 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,  
 1978 is repealed.

1979 Section 73. Section 483.294, Florida Statutes, is amended  
 1980 to read:

1981 483.294 Inspection of centers.—In accordance with s.  
 1982 408.811, the agency shall, ~~at least once annually,~~ inspect the  
 1983 premises and operations of all centers subject to licensure  
 1984 under this part.

1985 Section 74. Subsection (3) of section 483.801, Florida  
 1986 Statutes, is amended to read:

1987 483.801 Exemptions.—This part applies to all clinical  
 1988 laboratories and clinical laboratory personnel within this  
 1989 state, except:

1990 (3) Persons engaged in testing performed by laboratories  
 1991 that are wholly owned and operated by one or more practitioners  
 1992 who are licensed under chapter 458, chapter 459, chapter 460,  
 1993 chapter 461, chapter 462, chapter 463, or chapter 466 and who  
 1994 practice in the same group practice, and in which no clinical  
 1995 laboratory work is performed for patients referred by any health  
 1996 care provider who is not a member of the same group ~~regulated~~  
 1997 under s. 483.035(1) or exempt from regulation under s.  
 1998 483.031(2).

1999 Section 75. Subsections (2), (3), and (4) of section  
 2000 483.803, Florida Statutes, are amended to read:



2001 483.803 Definitions.—As used in this part, the term:

2002 ~~(2) "Clinical laboratory" means a clinical laboratory as~~

2003 ~~defined in s. 483.041.~~

2004 ~~(3) "Clinical laboratory examination" means a clinical~~

2005 ~~laboratory examination as defined in s. 483.041.~~

2006 (2)~~(4)~~ "Clinical laboratory personnel" includes a clinical

2007 laboratory director, supervisor, technologist, blood gas

2008 analyst, or technician who performs or is responsible for

2009 laboratory test procedures, but the term does not include

2010 trainees, persons who perform screening for blood banks or

2011 plasmapheresis centers, phlebotomists, or persons employed by a

2012 clinical laboratory to perform manual pretesting duties or

2013 clerical, personnel, or other administrative responsibilities,~~7~~

2014 ~~or persons engaged in testing performed by laboratories~~

2015 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~

2016 ~~483.031(2).~~

2017 Section 76. Section 483.813, Florida Statutes, is amended

2018 to read:

2019 483.813 Clinical laboratory personnel license.—A person

2020 may not conduct a clinical laboratory examination or report the

2021 results of such examination unless such person is licensed under

2022 this part to perform such procedures. However, this provision

2023 does not apply to any practitioner of the healing arts

2024 authorized to practice in this state ~~or to persons engaged in~~

2025 ~~testing performed by laboratories regulated under s. 483.035(1)~~

2026 ~~or exempt from regulation under s. 483.031(2).~~ The department  
2027 may grant a temporary license to any candidate it deems properly  
2028 qualified, for a period not to exceed 1 year.

2029 Section 77. Paragraph (c) of subsection (7), paragraph (c)  
2030 of subsection (8), and paragraph (c) of subsection (9) of  
2031 section 491.003, Florida Statutes, are amended to read:

2032 491.003 Definitions.—As used in this chapter:

2033 (7) The "practice of clinical social work" is defined as  
2034 the use of scientific and applied knowledge, theories, and  
2035 methods for the purpose of describing, preventing, evaluating,  
2036 and treating individual, couple, marital, family, or group  
2037 behavior, based on the person-in-situation perspective of  
2038 psychosocial development, normal and abnormal behavior,  
2039 psychopathology, unconscious motivation, interpersonal  
2040 relationships, environmental stress, differential assessment,  
2041 differential planning, and data gathering. The purpose of such  
2042 services is the prevention and treatment of undesired behavior  
2043 and enhancement of mental health. The practice of clinical  
2044 social work includes methods of a psychological nature used to  
2045 evaluate, assess, diagnose, treat, and prevent emotional and  
2046 mental disorders and dysfunctions (whether cognitive, affective,  
2047 or behavioral), sexual dysfunction, behavioral disorders,  
2048 alcoholism, and substance abuse. The practice of clinical social  
2049 work includes, but is not limited to, psychotherapy,  
2050 hypnotherapy, and sex therapy. The practice of clinical social

2051 work also includes counseling, behavior modification,  
2052 consultation, client-centered advocacy, crisis intervention, and  
2053 the provision of needed information and education to clients,  
2054 when using methods of a psychological nature to evaluate,  
2055 assess, diagnose, treat, and prevent emotional and mental  
2056 disorders and dysfunctions (whether cognitive, affective, or  
2057 behavioral), sexual dysfunction, behavioral disorders,  
2058 alcoholism, or substance abuse. The practice of clinical social  
2059 work may also include clinical research into more effective  
2060 psychotherapeutic modalities for the treatment and prevention of  
2061 such conditions.

2062 (c) The terms "diagnose" and "treat," as used in this  
2063 chapter, when considered in isolation or in conjunction with any  
2064 provision of the rules of the board, shall not be construed to  
2065 permit the performance of any act which clinical social workers  
2066 are not educated and trained to perform, including, but not  
2067 limited to, admitting persons to hospitals for treatment of the  
2068 foregoing conditions, treating persons in hospitals without  
2069 medical supervision, prescribing medicinal drugs as defined in  
2070 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~  
2071 ~~to chapter 483~~, or radiological procedures, or use of  
2072 electroconvulsive therapy. In addition, this definition shall  
2073 not be construed to permit any person licensed, provisionally  
2074 licensed, registered, or certified pursuant to this chapter to  
2075 describe or label any test, report, or procedure as

2076 "psychological," except to relate specifically to the definition  
2077 of practice authorized in this subsection.

2078 (8) The "practice of marriage and family therapy" is  
2079 defined as the use of scientific and applied marriage and family  
2080 theories, methods, and procedures for the purpose of describing,  
2081 evaluating, and modifying marital, family, and individual  
2082 behavior, within the context of marital and family systems,  
2083 including the context of marital formation and dissolution, and  
2084 is based on marriage and family systems theory, marriage and  
2085 family development, human development, normal and abnormal  
2086 behavior, psychopathology, human sexuality, psychotherapeutic  
2087 and marriage and family therapy theories and techniques. The  
2088 practice of marriage and family therapy includes methods of a  
2089 psychological nature used to evaluate, assess, diagnose, treat,  
2090 and prevent emotional and mental disorders or dysfunctions  
2091 (whether cognitive, affective, or behavioral), sexual  
2092 dysfunction, behavioral disorders, alcoholism, and substance  
2093 abuse. The practice of marriage and family therapy includes, but  
2094 is not limited to, marriage and family therapy, psychotherapy,  
2095 including behavioral family therapy, hypnotherapy, and sex  
2096 therapy. The practice of marriage and family therapy also  
2097 includes counseling, behavior modification, consultation,  
2098 client-centered advocacy, crisis intervention, and the provision  
2099 of needed information and education to clients, when using  
2100 methods of a psychological nature to evaluate, assess, diagnose,

2101 treat, and prevent emotional and mental disorders and  
2102 dysfunctions (whether cognitive, affective, or behavioral),  
2103 sexual dysfunction, behavioral disorders, alcoholism, or  
2104 substance abuse. The practice of marriage and family therapy may  
2105 also include clinical research into more effective  
2106 psychotherapeutic modalities for the treatment and prevention of  
2107 such conditions.

2108 (c) The terms "diagnose" and "treat," as used in this  
2109 chapter, when considered in isolation or in conjunction with any  
2110 provision of the rules of the board, shall not be construed to  
2111 permit the performance of any act which marriage and family  
2112 therapists are not educated and trained to perform, including,  
2113 but not limited to, admitting persons to hospitals for treatment  
2114 of the foregoing conditions, treating persons in hospitals  
2115 without medical supervision, prescribing medicinal drugs as  
2116 defined in chapter 465, authorizing clinical laboratory  
2117 procedures ~~pursuant to chapter 483~~, or radiological procedures,  
2118 or use of electroconvulsive therapy. In addition, this  
2119 definition shall not be construed to permit any person licensed,  
2120 provisionally licensed, registered, or certified pursuant to  
2121 this chapter to describe or label any test, report, or procedure  
2122 as "psychological," except to relate specifically to the  
2123 definition of practice authorized in this subsection.

2124 (9) The "practice of mental health counseling" is defined  
2125 as the use of scientific and applied behavioral science

2126 theories, methods, and techniques for the purpose of describing,  
2127 preventing, and treating undesired behavior and enhancing mental  
2128 health and human development and is based on the person-in-  
2129 situation perspectives derived from research and theory in  
2130 personality, family, group, and organizational dynamics and  
2131 development, career planning, cultural diversity, human growth  
2132 and development, human sexuality, normal and abnormal behavior,  
2133 psychopathology, psychotherapy, and rehabilitation. The practice  
2134 of mental health counseling includes methods of a psychological  
2135 nature used to evaluate, assess, diagnose, and treat emotional  
2136 and mental dysfunctions or disorders (whether cognitive,  
2137 affective, or behavioral), behavioral disorders, interpersonal  
2138 relationships, sexual dysfunction, alcoholism, and substance  
2139 abuse. The practice of mental health counseling includes, but is  
2140 not limited to, psychotherapy, hypnotherapy, and sex therapy.  
2141 The practice of mental health counseling also includes  
2142 counseling, behavior modification, consultation, client-centered  
2143 advocacy, crisis intervention, and the provision of needed  
2144 information and education to clients, when using methods of a  
2145 psychological nature to evaluate, assess, diagnose, treat, and  
2146 prevent emotional and mental disorders and dysfunctions (whether  
2147 cognitive, affective, or behavioral), behavioral disorders,  
2148 sexual dysfunction, alcoholism, or substance abuse. The practice  
2149 of mental health counseling may also include clinical research  
2150 into more effective psychotherapeutic modalities for the

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2151 treatment and prevention of such conditions.

2152 (c) The terms "diagnose" and "treat," as used in this  
2153 chapter, when considered in isolation or in conjunction with any  
2154 provision of the rules of the board, shall not be construed to  
2155 permit the performance of any act which mental health counselors  
2156 are not educated and trained to perform, including, but not  
2157 limited to, admitting persons to hospitals for treatment of the  
2158 foregoing conditions, treating persons in hospitals without  
2159 medical supervision, prescribing medicinal drugs as defined in  
2160 chapter 465, authorizing clinical laboratory procedures pursuant  
2161 ~~to chapter 483~~, or radiological procedures, or use of  
2162 electroconvulsive therapy. In addition, this definition shall  
2163 not be construed to permit any person licensed, provisionally  
2164 licensed, registered, or certified pursuant to this chapter to  
2165 describe or label any test, report, or procedure as  
2166 "psychological," except to relate specifically to the definition  
2167 of practice authorized in this subsection.

2168 Section 78. Paragraph (h) of subsection (4) of section  
2169 627.351, Florida Statutes, is amended to read:

2170 627.351 Insurance risk apportionment plans.—

2171 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

2172 (h) As used in this subsection:

2173 1. "Health care provider" means hospitals licensed under  
2174 chapter 395; physicians licensed under chapter 458; osteopathic  
2175 physicians licensed under chapter 459; podiatric physicians

2176 licensed under chapter 461; dentists licensed under chapter 466;  
2177 chiropractic physicians licensed under chapter 460; naturopaths  
2178 licensed under chapter 462; nurses licensed under part I of  
2179 chapter 464; midwives licensed under chapter 467; ~~clinical~~  
2180 ~~laboratories registered under chapter 483~~; physician assistants  
2181 licensed under chapter 458 or chapter 459; physical therapists  
2182 and physical therapist assistants licensed under chapter 486;  
2183 health maintenance organizations certificated under part I of  
2184 chapter 641; ambulatory surgical centers licensed under chapter  
2185 395; other medical facilities as defined in subparagraph 2.;  
2186 blood banks, plasma centers, industrial clinics, and renal  
2187 dialysis facilities; or professional associations, partnerships,  
2188 corporations, joint ventures, or other associations for  
2189 professional activity by health care providers.

2190 2. "Other medical facility" means a facility the primary  
2191 purpose of which is to provide human medical diagnostic services  
2192 or a facility providing nonsurgical human medical treatment, to  
2193 which facility the patient is admitted and from which facility  
2194 the patient is discharged within the same working day, and which  
2195 facility is not part of a hospital. However, a facility existing  
2196 for the primary purpose of performing terminations of pregnancy  
2197 or an office maintained by a physician or dentist for the  
2198 practice of medicine shall not be construed to be an "other  
2199 medical facility."

2200 3. "Health care facility" means any hospital licensed



2201 under chapter 395, health maintenance organization certificated  
 2202 under part I of chapter 641, ambulatory surgical center licensed  
 2203 under chapter 395, or other medical facility as defined in  
 2204 subparagraph 2.

2205 Section 79. Paragraph (h) of subsection (1) of section  
 2206 627.602, Florida Statutes, is amended to read:

2207 627.602 Scope, format of policy.—

2208 (1) Each health insurance policy delivered or issued for  
 2209 delivery to any person in this state must comply with all  
 2210 applicable provisions of this code and all of the following  
 2211 requirements:

2212 (h) Section 641.312 and the provisions of the Employee  
 2213 Retirement Income Security Act of 1974, as implemented by 29  
 2214 C.F.R. s. 2560.503-1, relating to internal grievances. This  
 2215 paragraph does not apply ~~to a health insurance policy that is~~  
 2216 ~~subject to the Subscriber Assistance Program under s. 408.7056~~  
 2217 ~~or~~ to the types of benefits or coverages provided under s.  
 2218 627.6513(1)-(14) issued in any market.

2219 Section 80. Paragraphs (b) and (e) of subsection (1) of  
 2220 section 627.64194, Florida Statutes, are amended to read:

2221 627.64194 Coverage requirements for services provided by  
 2222 nonparticipating providers; payment collection limitations.—

2223 (1) As used in this section, the term:

2224 (b) "Facility" means a licensed facility as defined in s.  
 2225 395.002(16) and an urgent care center as defined in s.

2226 | 395.002(30).

2227 |       (e) "Nonparticipating provider" means a provider who is  
 2228 | not a preferred provider as defined in s. 627.6471 or a provider  
 2229 | who is not an exclusive provider as defined in s. 627.6472. For  
 2230 | purposes of covered emergency services under this section, a  
 2231 | facility licensed under chapter 395 or an urgent care center  
 2232 | defined in s. 395.002(29) ~~395.002(30)~~ is a nonparticipating  
 2233 | provider if the facility has not contracted with an insurer to  
 2234 | provide emergency services to its insureds at a specified rate.

2235 |       Section 81. Section 627.6513, Florida Statutes, is amended  
 2236 | to read:

2237 |       627.6513 Scope.—Section 641.312 and the provisions of the  
 2238 | Employee Retirement Income Security Act of 1974, as implemented  
 2239 | by 29 C.F.R. s. 2560.503-1, relating to internal grievances,  
 2240 | apply to all group health insurance policies issued under this  
 2241 | part. This section does not apply to ~~a group health insurance~~  
 2242 | ~~policy that is subject to the Subscriber Assistance Program in~~  
 2243 | ~~s. 408.7056 or to:~~

2244 |       (1) Coverage only for accident insurance, or disability  
 2245 | income insurance, or any combination thereof.

2246 |       (2) Coverage issued as a supplement to liability  
 2247 | insurance.

2248 |       (3) Liability insurance, including general liability  
 2249 | insurance and automobile liability insurance.

2250 |       (4) Workers' compensation or similar insurance.

- 2251 (5) Automobile medical payment insurance.
- 2252 (6) Credit-only insurance.
- 2253 (7) Coverage for onsite medical clinics, including prepaid
- 2254 health clinics under part II of chapter 641.
- 2255 (8) Other similar insurance coverage, specified in rules
- 2256 adopted by the commission, under which benefits for medical care
- 2257 are secondary or incidental to other insurance benefits. To the
- 2258 extent possible, such rules must be consistent with regulations
- 2259 adopted by the United States Department of Health and Human
- 2260 Services.
- 2261 (9) Limited scope dental or vision benefits, if offered
- 2262 separately.
- 2263 (10) Benefits for long-term care, nursing home care, home
- 2264 health care, or community-based care, or any combination
- 2265 thereof, if offered separately.
- 2266 (11) Other similar, limited benefits, if offered
- 2267 separately, as specified in rules adopted by the commission.
- 2268 (12) Coverage only for a specified disease or illness, if
- 2269 offered as independent, noncoordinated benefits.
- 2270 (13) Hospital indemnity or other fixed indemnity
- 2271 insurance, if offered as independent, noncoordinated benefits.
- 2272 (14) Benefits provided through a Medicare supplemental
- 2273 health insurance policy, as defined under s. 1882(g)(1) of the
- 2274 Social Security Act, coverage supplemental to the coverage
- 2275 provided under 10 U.S.C. chapter 55, and similar supplemental

2276 coverage provided to coverage under a group health plan, which  
 2277 are offered as a separate insurance policy and as independent,  
 2278 noncoordinated benefits.

2279 Section 82. Effective January 1, 2018, paragraph (j) of  
 2280 subsection (1) of section 641.185, Florida Statutes, is amended  
 2281 to read:

2282 641.185 Health maintenance organization subscriber  
 2283 protections.—

2284 (1) With respect to the provisions of this part and part  
 2285 III, the principles expressed in the following statements shall  
 2286 serve as standards to be followed by the commission, the office,  
 2287 the department, and the Agency for Health Care Administration in  
 2288 exercising their powers and duties, in exercising administrative  
 2289 discretion, in administrative interpretations of the law, in  
 2290 enforcing its provisions, and in adopting rules:

2291 ~~(j) A health maintenance organization should receive~~  
 2292 ~~timely and, if necessary, urgent review by an independent state~~  
 2293 ~~external review organization for unresolved grievances and~~  
 2294 ~~appeals pursuant to s. 408.7056.~~

2295 Section 83. Effective January 1, 2018, section 641.312,  
 2296 Florida Statutes, is amended to read:

2297 641.312 Scope.—The Office of Insurance Regulation may  
 2298 adopt rules to administer the provisions of the National  
 2299 Association of Insurance Commissioners' Uniform Health Carrier  
 2300 External Review Model Act, issued by the National Association of

2301 Insurance Commissioners and dated April 2010. This section does  
 2302 not apply to a ~~health maintenance contract that is subject to~~  
 2303 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~  
 2304 types of benefits or coverages provided under s. 627.6513(1)-  
 2305 (14) issued in any market.

2306 Section 84. Effective January 1, 2018, subsection (4) of  
 2307 section 641.3154, Florida Statutes, is amended to read:

2308 641.3154 Organization liability; provider billing  
 2309 prohibited.-

2310 (4) A provider or any representative of a provider,  
 2311 regardless of whether the provider is under contract with the  
 2312 health maintenance organization, may not collect or attempt to  
 2313 collect money from, maintain any action at law against, or  
 2314 report to a credit agency a subscriber of an organization for  
 2315 payment of services for which the organization is liable, if the  
 2316 provider in good faith knows or should know that the  
 2317 organization is liable. This prohibition applies during the  
 2318 pendency of any claim for payment made by the provider to the  
 2319 organization for payment of the services and any legal  
 2320 proceedings or dispute resolution process to determine whether  
 2321 the organization is liable for the services if the provider is  
 2322 informed that such proceedings are taking place. It is presumed  
 2323 that a provider does not know and should not know that an  
 2324 organization is liable unless:

2325 (a) The provider is informed by the organization that it

2326 accepts liability;

2327 (b) A court of competent jurisdiction determines that the  
 2328 organization is liable; or

2329 ~~(c) The office or agency makes a final determination that~~  
 2330 ~~the organization is required to pay for such services subsequent~~  
 2331 ~~to a recommendation made by the Subscriber Assistance Panel~~  
 2332 ~~pursuant to s. 408.7056; or~~

2333 (c)~~(d)~~ The agency issues a final order that the  
 2334 organization is required to pay for such services subsequent to  
 2335 a recommendation made by a resolution organization pursuant to  
 2336 s. 408.7057.

2337 Section 85. Effective January 1, 2018, paragraph (c) of  
 2338 subsection (5) of section 641.51, Florida Statutes, is amended  
 2339 to read:

2340 641.51 Quality assurance program; second medical opinion  
 2341 requirement.—

2342 (5)

2343 (c) For second opinions provided by contract physicians  
 2344 the organization is prohibited from charging a fee to the  
 2345 subscriber in an amount in excess of the subscriber fees  
 2346 established by contract for referral contract physicians. The  
 2347 organization shall pay the amount of all charges, which are  
 2348 usual, reasonable, and customary in the community, for second  
 2349 opinion services performed by a physician not under contract  
 2350 with the organization, but may require the subscriber to be

2351 responsible for up to 40 percent of such amount. The  
 2352 organization may require that any tests deemed necessary by a  
 2353 noncontract physician shall be conducted by the organization.  
 2354 The organization may deny reimbursement rights granted under  
 2355 this section in the event the subscriber seeks in excess of  
 2356 three such referrals per year if such subsequent referral costs  
 2357 are deemed by the organization to be evidence that the  
 2358 subscriber has unreasonably overutilized the second opinion  
 2359 privilege. A subscriber thus denied reimbursement under this  
 2360 section shall have recourse to grievance procedures as specified  
 2361 in ss. ~~408.7056~~, 641.495~~7~~, and 641.511. The organization's  
 2362 physician's professional judgment concerning the treatment of a  
 2363 subscriber derived after review of a second opinion shall be  
 2364 controlling as to the treatment obligations of the health  
 2365 maintenance organization. Treatment not authorized by the health  
 2366 maintenance organization shall be at the subscriber's expense.

2367 Section 86. Effective January 1, 2018, section 641.511,  
 2368 Florida Statutes, is amended to read:

2369 641.511 Subscriber grievance reporting and resolution  
 2370 requirements.—

2371 (1) Every organization must have a grievance procedure  
 2372 available to its subscribers for the purpose of addressing  
 2373 complaints and grievances. ~~Every organization must notify its~~  
 2374 ~~subscribers that a subscriber must submit a grievance within 1~~  
 2375 ~~year after the date of occurrence of the action that initiated~~

2376 | ~~the grievance, and may submit the grievance for review to the~~  
2377 | ~~Subscriber Assistance Program panel as provided in s. 408.7056~~  
2378 | ~~after receiving a final disposition of the grievance through the~~  
2379 | ~~organization's grievance process. An organization shall maintain~~  
2380 | ~~records of all grievances and shall report annually to the~~  
2381 | ~~agency the total number of grievances handled, a categorization~~  
2382 | ~~of the cases underlying the grievances, and the final~~  
2383 | ~~disposition of the grievances.~~

2384 |       (2) When an organization receives an initial complaint  
2385 | from a subscriber, the organization must respond to the  
2386 | complaint within a reasonable time after its submission. At the  
2387 | time of receipt of the initial complaint, the organization shall  
2388 | inform the subscriber that the subscriber has a right to file a  
2389 | written grievance at any time and that assistance in preparing  
2390 | the written grievance shall be provided by the organization.

2391 |       (3) Each organization's grievance procedure, as required  
2392 | under subsection (1), must include, at a minimum:

2393 |       (a) An explanation of how to pursue redress of a  
2394 | grievance.

2395 |       (b) The names of the appropriate employees or a list of  
2396 | grievance departments that are responsible for implementing the  
2397 | organization's grievance procedure. The list must include the  
2398 | address and the toll-free telephone number of each grievance  
2399 | department, the address of the agency and its toll-free  
2400 | telephone hotline number, and the address of the Subscriber



2401 Assistance Program and its toll-free telephone number.

2402 (c) The description of the process through which a  
 2403 subscriber may, at any time, contact the toll-free telephone  
 2404 hotline of the agency to inform it of the unresolved grievance.

2405 (d) A procedure for establishing methods for classifying  
 2406 grievances as urgent and for establishing time limits for an  
 2407 expedited review within which such grievances must be resolved.

2408 (e) A notice that a subscriber may voluntarily pursue  
 2409 binding arbitration in accordance with the terms of the contract  
 2410 if offered by the organization, after completing the  
 2411 organization's grievance procedure ~~and as an alternative to the~~  
 2412 ~~Subscriber Assistance Program~~. Such notice shall include an  
 2413 explanation that the subscriber may incur some costs if the  
 2414 subscriber pursues binding arbitration, depending upon the terms  
 2415 of the subscriber's contract.

2416 (f) A process whereby the grievance manager acknowledges  
 2417 the grievance and investigates the grievance in order to notify  
 2418 the subscriber of a final decision in writing.

2419 (g) A procedure for providing individuals who are unable  
 2420 to submit a written grievance with access to the grievance  
 2421 process, which shall include assistance by the organization in  
 2422 preparing the grievance and communicating back to the  
 2423 subscriber.

2424 (4) (a) With respect to a grievance concerning an adverse  
 2425 determination, an organization shall make available to the

2426 subscriber a review of the grievance by an internal review  
2427 panel; such review must be requested within 30 days after the  
2428 organization's transmittal of the final determination notice of  
2429 an adverse determination. A majority of the panel shall be  
2430 persons who previously were not involved in the initial adverse  
2431 determination. A person who previously was involved in the  
2432 adverse determination may appear before the panel to present  
2433 information or answer questions. The panel shall have the  
2434 authority to bind the organization to the panel's decision.

2435 (b) An organization shall ensure that a majority of the  
2436 persons reviewing a grievance involving an adverse determination  
2437 are providers who have appropriate expertise. An organization  
2438 shall issue a copy of the written decision of the review panel  
2439 to the subscriber and to the provider, if any, who submits a  
2440 grievance on behalf of a subscriber. In cases where there has  
2441 been a denial of coverage of service, the reviewing provider  
2442 shall not be a provider previously involved with the adverse  
2443 determination.

2444 (c) An organization shall establish written procedures for  
2445 a review of an adverse determination. Review procedures shall be  
2446 available to the subscriber and to a provider acting on behalf  
2447 of a subscriber.

2448 ~~(d) In any case when the review process does not resolve a~~  
2449 ~~difference of opinion between the organization and the~~  
2450 ~~subscriber or the provider acting on behalf of the subscriber,~~

2451 ~~the subscriber or the provider acting on behalf of the~~  
2452 ~~subscriber may submit a written grievance to the Subscriber~~  
2453 ~~Assistance Program.~~

2454 (5) Except as provided in subsection (6), the organization  
2455 shall resolve a grievance within 60 days after receipt of the  
2456 grievance, or within a maximum of 90 days if the grievance  
2457 involves the collection of information outside the service area.  
2458 These time limitations are tolled if the organization has  
2459 notified the subscriber, in writing, that additional information  
2460 is required for proper review of the grievance and that such  
2461 time limitations are tolled until such information is provided.  
2462 After the organization receives the requested information, the  
2463 time allowed for completion of the grievance process resumes.  
2464 The Employee Retirement Income Security Act of 1974, as  
2465 implemented by 29 C.F.R. s. 2560.503-1, is adopted and  
2466 incorporated by reference as applicable to all organizations  
2467 that administer small and large group health plans that are  
2468 subject to 29 C.F.R. s. 2560.503-1. The claims procedures of the  
2469 regulations of the Employee Retirement Income Security Act of  
2470 1974, as implemented by 29 C.F.R. s. 2560.503-1, shall be the  
2471 minimum standards for grievance processes for claims for  
2472 benefits for small and large group health plans that are subject  
2473 to 29 C.F.R. s. 2560.503-1.

2474 (6) (a) An organization shall establish written procedures  
2475 for the expedited review of an urgent grievance. A request for

2476 an expedited review may be submitted orally or in writing and  
2477 shall be subject to the review procedures of this section, if it  
2478 meets the criteria of this section. Unless it is submitted in  
2479 writing, for purposes of the grievance reporting requirements in  
2480 subsection (1), the request shall be considered an appeal of a  
2481 utilization review decision and not a grievance. Expedited  
2482 review procedures shall be available to a subscriber and to the  
2483 provider acting on behalf of a subscriber. For purposes of this  
2484 subsection, "subscriber" includes the legal representative of a  
2485 subscriber.

2486 (b) Expedited reviews shall be evaluated by an appropriate  
2487 clinical peer or peers. The clinical peer or peers shall not  
2488 have been involved in the initial adverse determination.

2489 (c) In an expedited review, all necessary information,  
2490 including the organization's decision, shall be transmitted  
2491 between the organization and the subscriber, or the provider  
2492 acting on behalf of the subscriber, by telephone, facsimile, or  
2493 the most expeditious method available.

2494 (d) In an expedited review, an organization shall make a  
2495 decision and notify the subscriber, or the provider acting on  
2496 behalf of the subscriber, as expeditiously as the subscriber's  
2497 medical condition requires, but in no event more than 72 hours  
2498 after receipt of the request for review. If the expedited review  
2499 is a concurrent review determination, the service shall be  
2500 continued without liability to the subscriber until the

2501 subscriber has been notified of the determination.

2502 (e) An organization shall provide written confirmation of  
 2503 its decision concerning an expedited review within 2 working  
 2504 days after providing notification of that decision, if the  
 2505 initial notification was not in writing.

2506 (f) An organization shall provide reasonable access, not  
 2507 to exceed 24 hours after receiving a request for an expedited  
 2508 review, to a clinical peer who can perform the expedited review.

2509 ~~(g) In any case when the expedited review process does not~~  
 2510 ~~resolve a difference of opinion between the organization and the~~  
 2511 ~~subscriber or the provider acting on behalf of the subscriber,~~  
 2512 ~~the subscriber or the provider acting on behalf of the~~  
 2513 ~~subscriber may submit a written grievance to the Subscriber~~  
 2514 ~~Assistance Program.~~

2515 (g)(h) An organization shall not provide an expedited  
 2516 retrospective review of an adverse determination.

2517 ~~(7) Each organization shall send to the agency a copy of~~  
 2518 ~~its quarterly grievance reports submitted to the office pursuant~~  
 2519 ~~to s. 408.7056(12).~~

2520 (7)(8) The agency shall investigate all reports of  
 2521 unresolved quality of care grievances received from:

2522 ~~(a)~~ Annual and quarterly grievance reports submitted by  
 2523 the organization to the office.

2524 ~~(b)~~ Review requests of subscribers whose grievances remain  
 2525 unresolved after the subscriber has followed the full grievance

2526 ~~procedure of the organization.~~

2527 ~~(9)(a) The agency shall advise subscribers with grievances~~  
2528 ~~to follow their organization's formal grievance process for~~  
2529 ~~resolution prior to review by the Subscriber Assistance Program.~~  
2530 ~~The subscriber may, however, submit a copy of the grievance to~~  
2531 ~~the agency at any time during the process.~~

2532 ~~(b) Requiring completion of the organization's grievance~~  
2533 ~~process before the Subscriber Assistance Program panel's review~~  
2534 ~~does not preclude the agency from investigating any complaint or~~  
2535 ~~grievance before the organization makes its final determination.~~

2536 ~~(10) Each organization must notify the subscriber in a~~  
2537 ~~final decision letter that the subscriber may request review of~~  
2538 ~~the organization's decision concerning the grievance by the~~  
2539 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~  
2540 ~~the grievance is not resolved to the satisfaction of the~~  
2541 ~~subscriber. The final decision letter must inform the subscriber~~  
2542 ~~that the request for review must be made within 365 days after~~  
2543 ~~receipt of the final decision letter, must explain how to~~  
2544 ~~initiate such a review, and must include the addresses and toll-~~  
2545 ~~free telephone numbers of the agency and the Subscriber~~  
2546 ~~Assistance Program.~~

2547 (8) ~~(11)~~ Each organization, as part of its contract with  
2548 any provider, must require the provider to post a consumer  
2549 assistance notice prominently displayed in the reception area of  
2550 the provider and clearly noticeable by all patients. The

2551 consumer assistance notice must state the addresses and toll-  
2552 free telephone numbers of the Agency for Health Care  
2553 Administration, ~~the Subscriber Assistance Program,~~ and the  
2554 Department of Financial Services. The consumer assistance notice  
2555 must also clearly state that the address and toll-free telephone  
2556 number of the organization's grievance department shall be  
2557 provided upon request. The agency may adopt rules to implement  
2558 this section.

2559 (9) ~~(12)~~ The agency may impose administrative sanction, in  
2560 accordance with s. 641.52, against an organization for  
2561 noncompliance with this section.

2562 Section 87. Effective January 1, 2018, subsection (1) of  
2563 section 641.515, Florida Statutes, is amended to read:

2564 641.515 Investigation by the agency.—

2565 (1) The agency shall investigate further any quality of  
2566 care issue contained in recommendations and reports submitted  
2567 pursuant to s. ~~ss. 408.7056 and~~ 641.511. The agency shall also  
2568 investigate further any information that indicates that the  
2569 organization does not meet accreditation standards or the  
2570 standards of the review organization performing the external  
2571 quality assurance assessment pursuant to reports submitted under  
2572 s. 641.512. Every organization shall submit its books and  
2573 records and take other appropriate action as may be necessary to  
2574 facilitate an examination. The agency shall have access to the  
2575 organization's medical records of individuals and records of

2576 employed and contracted physicians, with the consent of the  
2577 subscriber or by court order, as necessary to carry out the  
2578 provisions of this part.

2579 Section 88. Effective January 1, 2018, subsection (2) of  
2580 section 641.55, Florida Statutes, is amended to read:

2581 641.55 Internal risk management program.—

2582 (2) The risk management program shall be the  
2583 responsibility of the governing authority or board of the  
2584 organization. Every organization which has an annual premium  
2585 volume of \$10 million or more and which directly provides health  
2586 care in a building owned or leased by the organization shall  
2587 hire a risk manager, ~~certified under ss. 395.10971-395.10975,~~  
2588 who shall be responsible for implementation of the  
2589 organization's risk management program required by this section.  
2590 A part-time risk manager shall not be responsible for risk  
2591 management programs in more than four organizations or  
2592 facilities. Every organization which does not directly provide  
2593 health care in a building owned or leased by the organization  
2594 and every organization with an annual premium volume of less  
2595 than \$10 million shall designate an officer or employee of the  
2596 organization to serve as the risk manager.

2597  
2598 The gross data compiled under this section or s. 395.0197 shall  
2599 be furnished by the agency upon request to organizations to be  
2600 utilized for risk management purposes. The agency shall adopt



2601 rules necessary to carry out the provisions of this section.

2602 Section 89. Section 641.60, Florida Statutes, is repealed.

2603 Section 90. Section 641.70, Florida Statutes, is amended  
2604 to read:

2605 641.70 Agency duties relating to ~~the Statewide Managed~~  
2606 ~~Care Ombudsman Committee~~ and the district managed care ombudsman  
2607 committees.—

2608 (1) The agency shall adopt rules that specify:

2609 (a) Procedures by which ~~the statewide committee and~~  
2610 district committees receive reports of enrollee complaints from  
2611 the agency.

2612 (b) Procedures by which enrollee information shall be made  
2613 available ~~to members of the statewide committee and to the~~  
2614 district committees.

2615 (c) Procedures by which recommendations made by the  
2616 committees shall be considered for incorporation into policies  
2617 and procedures of the agency.

2618 ~~(d) Procedures by which statewide committee members shall~~  
2619 ~~be reimbursed for authorized expenditures.~~

2620 (d)(e) Any other procedures that are necessary to  
2621 administer this section and s. ss. 641.60 and 641.65.

2622 (2) The Agency for Health Care Administration shall  
2623 provide a meeting place for district committees in agency  
2624 offices and shall provide the necessary administrative support  
2625 to assist ~~the statewide committee and~~ district committees,

2626 | within available resources.

2627 |         (3) The secretary of the agency shall ensure the full  
 2628 | cooperation and assistance of agency employees with ~~members of~~  
 2629 | the ~~statewide committee and~~ district committees.

2630 |         Section 91. Subsection (3) of section 641.75, Florida  
 2631 | Statutes, is amended to read:

2632 |         641.75 Immunity from liability; limitation on testimony.—

2633 |         (3) Members of any state or district ombudsman committee  
 2634 | shall not be required to testify in any court with respect to  
 2635 | matters held to be confidential except as may be necessary to  
 2636 | enforce ss. 641.61-641.75 ~~641.60-641.75~~.

2637 |         Section 92. Paragraph (b) of subsection (6) of section  
 2638 | 766.118, Florida Statutes, is amended to read:

2639 |         766.118 Determination of noneconomic damages.—

2640 |         (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A  
 2641 | PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID  
 2642 | RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with  
 2643 | respect to a cause of action for personal injury or wrongful  
 2644 | death arising from medical negligence of a practitioner  
 2645 | committed in the course of providing medical services and  
 2646 | medical care to a Medicaid recipient, regardless of the number  
 2647 | of such practitioner defendants providing the services and care,  
 2648 | noneconomic damages may not exceed \$300,000 per claimant, unless  
 2649 | the claimant pleads and proves, by clear and convincing  
 2650 | evidence, that the practitioner acted in a wrongful manner. A

2651 practitioner providing medical services and medical care to a  
 2652 Medicaid recipient is not liable for more than \$200,000 in  
 2653 noneconomic damages, regardless of the number of claimants,  
 2654 unless the claimant pleads and proves, by clear and convincing  
 2655 evidence, that the practitioner acted in a wrongful manner. The  
 2656 fact that a claimant proves that a practitioner acted in a  
 2657 wrongful manner does not preclude the application of the  
 2658 limitation on noneconomic damages prescribed elsewhere in this  
 2659 section. For purposes of this subsection:

2660 (b) The term "practitioner," in addition to the meaning  
 2661 prescribed in subsection (1), includes any hospital or  
 2662 ambulatory surgical center, ~~or mobile surgical facility~~ as  
 2663 defined and licensed under chapter 395.

2664 Section 93. Subsection (4) of section 766.202, Florida  
 2665 Statutes, is amended to read:

2666 766.202 Definitions; ss. 766.201-766.212.—As used in ss.  
 2667 766.201-766.212, the term:

2668 (4) "Health care provider" means any hospital or  
 2669 ambulatory surgical center, ~~or mobile surgical facility~~ as  
 2670 defined and licensed under chapter 395; a birth center licensed  
 2671 under chapter 383; any person licensed under chapter 458,  
 2672 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 2673 part I of chapter 464, chapter 466, chapter 467, part XIV of  
 2674 chapter 468, or chapter 486; ~~a clinical lab licensed under~~  
 2675 ~~chapter 483~~; a health maintenance organization certificated

2676 | under part I of chapter 641; a blood bank; a plasma center; an  
 2677 | industrial clinic; a renal dialysis facility; or a professional  
 2678 | association partnership, corporation, joint venture, or other  
 2679 | association for professional activity by health care providers.

2680 | Section 94. Subsection (1) of section 945.36, Florida  
 2681 | Statutes, is amended to read:

2682 | 945.36 ~~Exemption from health testing regulations for Law~~  
 2683 | enforcement personnel authorized to conduct ~~conducting~~ drug  
 2684 | tests on inmates and releasees.-

2685 | (1) Any law enforcement officer, state or county probation  
 2686 | officer, or employee of the Department of Corrections, who is  
 2687 | certified by the Department of Corrections pursuant to  
 2688 | subsection (2) may administer, ~~is exempt from part I of chapter~~  
 2689 | ~~483, for the limited purpose of administering~~ a urine screen  
 2690 | drug test to:

- 2691 | (a) Persons during incarceration;
- 2692 | (b) Persons released as a condition of probation for  
 2693 | either a felony or misdemeanor;
- 2694 | (c) Persons released as a condition of community control;
- 2695 | (d) Persons released as a condition of conditional  
 2696 | release;
- 2697 | (e) Persons released as a condition of parole;
- 2698 | (f) Persons released as a condition of provisional  
 2699 | release;
- 2700 | (g) Persons released as a condition of pretrial release;

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2701 or

2702 (h) Persons released as a condition of control release.

2703 Section 95. Paragraph (b) of subsection (2) of section  
2704 1009.65, Florida Statutes, is amended to read:

2705 1009.65 Medical Education Reimbursement and Loan Repayment  
2706 Program.—

2707 (2) From the funds available, the Department of Health  
2708 shall make payments to selected medical professionals as  
2709 follows:

2710 (b) All payments shall be contingent on continued proof of  
2711 primary care practice in an area defined in s. 395.602(2)(b)  
2712 ~~395.602(2)(c)~~, or an underserved area designated by the  
2713 Department of Health, provided the practitioner accepts Medicaid  
2714 reimbursement if eligible for such reimbursement. Correctional  
2715 facilities, state hospitals, and other state institutions that  
2716 employ medical personnel shall be designated by the Department  
2717 of Health as underserved locations. Locations with high  
2718 incidences of infant mortality, high morbidity, or low Medicaid  
2719 participation by health care professionals may be designated as  
2720 underserved.

2721 Section 96. Except as otherwise expressly provided in this  
2722 act, this act shall take effect July 1, 2017.