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LEGISLATIVE ACTION

Senate	.	House
Comm: FC	.	
03/27/2017	.	
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The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(3) The following divisions of the Department of Health are
established:



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11 (g) Division of Medical Quality Assurance, which is
12 responsible for the following boards and professions established
13 within the division:

- 14 1. The Board of Acupuncture, created under chapter 457.
- 15 2. The Board of Medicine, created under chapter 458.
- 16 3. The Board of Osteopathic Medicine, created under chapter
17 459.
- 18 4. The Board of Chiropractic Medicine, created under
19 chapter 460.
- 20 5. The Board of Podiatric Medicine, created under chapter
21 461.
- 22 6. Naturopathy, as provided under chapter 462.
- 23 7. The Board of Optometry, created under chapter 463.
- 24 8. The Board of Nursing, created under part I of chapter
25 464.
- 26 9. Nursing assistants, as provided under part II of chapter
27 464.
- 28 10. The Board of Pharmacy, created under chapter 465.
- 29 11. The Board of Dentistry, created under chapter 466.
- 30 12. Midwifery, as provided under chapter 467.
- 31 13. The Board of Speech-Language Pathology and Audiology,
32 created under part I of chapter 468.
- 33 14. The Board of Nursing Home Administrators, created under
34 part II of chapter 468.
- 35 15. The Board of Occupational Therapy, created under part
36 III of chapter 468.
- 37 16. Respiratory therapy, as provided under part V of
38 chapter 468.
- 39 17. Dietetics and nutrition practice, as provided under



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40 part X of chapter 468.

41 18. The Board of Athletic Training, created under part XIII
42 of chapter 468.

43 19. The Board of Orthotists and Prosthetists, created under
44 part XIV of chapter 468.

45 20. Electrolysis, as provided under chapter 478.

46 21. The Board of Massage Therapy, created under chapter
47 480.

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

50 ~~22.23.~~ Medical physicists, as provided under part III ~~IV~~ of
51 chapter 483.

52 ~~23.24.~~ The Board of Opticianry, created under part I of
53 chapter 484.

54 ~~24.25.~~ The Board of Hearing Aid Specialists, created under
55 part II of chapter 484.

56 ~~25.26.~~ The Board of Physical Therapy Practice, created
57 under chapter 486.

58 ~~26.27.~~ The Board of Psychology, created under chapter 490.

59 ~~27.28.~~ School psychologists, as provided under chapter 490.

60 ~~28.29.~~ The Board of Clinical Social Work, Marriage and
61 Family Therapy, and Mental Health Counseling, created under
62 chapter 491.

63 ~~29.30.~~ Emergency medical technicians and paramedics, as
64 provided under part III of chapter 401.

65 Section 2. Paragraph (k) of subsection (2) of section
66 220.1845, Florida Statutes, is amended to read:

67 220.1845 Contaminated site rehabilitation tax credit.-

68 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.-



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69 (k) In order to encourage the construction and operation of
70 a new health care facility as defined in s. 408.032 or s.
71 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
72 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
73 may claim an additional 25 percent of the total site
74 rehabilitation costs, not to exceed \$500,000, if the applicant
75 meets the requirements of this paragraph. In order to receive
76 this additional tax credit, the applicant must provide
77 documentation indicating that the construction of the health
78 care facility or health care provider by the applicant on the
79 brownfield site has received a certificate of occupancy or a
80 license or certificate has been issued for the operation of the
81 health care facility or health care provider.

82 Section 3. Paragraph (f) of subsection (3) of section
83 376.30781, Florida Statutes, is amended to read:

84 376.30781 Tax credits for rehabilitation of drycleaning-
85 solvent-contaminated sites and brownfield sites in designated
86 brownfield areas; application process; rulemaking authority;
87 revocation authority.-

88 (3)

89 (f) In order to encourage the construction and operation of
90 a new health care facility or a health care provider, as defined
91 in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a brownfield
92 site, an applicant for a tax credit may claim an additional 25
93 percent of the total site rehabilitation costs, not to exceed
94 \$500,000, if the applicant meets the requirements of this
95 paragraph. In order to receive this additional tax credit, the
96 applicant must provide documentation indicating that the
97 construction of the health care facility or health care provider



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98 by the applicant on the brownfield site has received a
99 certificate of occupancy or a license or certificate has been
100 issued for the operation of the health care facility or health
101 care provider.

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

104 376.86 Brownfield Areas Loan Guarantee Program.—

105 (1) The Brownfield Areas Loan Guarantee Council is created
106 to review and approve or deny, by a majority vote of its
107 membership, the situations and circumstances for participation
108 in partnerships by agreements with local governments, financial
109 institutions, and others associated with the redevelopment of
110 brownfield areas pursuant to the Brownfields Redevelopment Act
111 for a limited state guaranty of up to 5 years of loan guarantees
112 or loan loss reserves issued pursuant to law. The limited state
113 loan guaranty applies only to 50 percent of the primary lenders
114 loans for redevelopment projects in brownfield areas. If the
115 redevelopment project is for affordable housing, as defined in
116 s. 420.0004, in a brownfield area, the limited state loan
117 guaranty applies to 75 percent of the primary lender's loan. If
118 the redevelopment project includes the construction and
119 operation of a new health care facility or a health care
120 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
121 ~~408.7056,~~ on a brownfield site and the applicant has obtained
122 documentation in accordance with s. 376.30781 indicating that
123 the construction of the health care facility or health care
124 provider by the applicant on the brownfield site has received a
125 certificate of occupancy or a license or certificate has been
126 issued for the operation of the health care facility or health



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127 care provider, the limited state loan guaranty applies to 75
128 percent of the primary lender's loan. A limited state guaranty
129 of private loans or a loan loss reserve is authorized for
130 lenders licensed to operate in the state upon a determination by
131 the council that such an arrangement would be in the public
132 interest and the likelihood of the success of the loan is great.

133 Section 5. Subsection (2) of section 381.0031, Florida
134 Statutes, is amended to read:

135 381.0031 Epidemiological research; report of diseases of
136 public health significance to department.—

137 (2) Any practitioner licensed in this state to practice
138 medicine, osteopathic medicine, chiropractic medicine,
139 naturopathy, or veterinary medicine; any hospital licensed under
140 part I of chapter 395; or any laboratory appropriately certified
141 by the Centers for Medicare and Medicaid Services under the
142 federal Clinical Laboratory Improvement Amendments of 1988 which
143 ~~licensed under chapter 483 that~~ diagnoses or suspects the
144 existence of a disease of public health significance shall
145 immediately report the fact to the Department of Health.

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

148 381.0034 Requirement for instruction on HIV and AIDS.—

149 (3) The department shall require, as a condition of
150 granting a license under chapter 467 or part II ~~III~~ of chapter
151 483, that an applicant making initial application for licensure
152 complete an educational course acceptable to the department on
153 human immunodeficiency virus and acquired immune deficiency
154 syndrome. Upon submission of an affidavit showing good cause, an
155 applicant who has not taken a course at the time of licensure



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156 shall be allowed 6 months to complete this requirement.

157 Section 7. Paragraph (c) of subsection (4) of section
158 381.004, Florida Statutes, is amended to read:

159 381.004 HIV testing.—

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

169 (c) The program shall have all laboratory procedures
170 performed in a laboratory appropriately certified by the Centers
171 for Medicare and Medicaid Services under the federal Clinical
172 Laboratory Improvement Amendments of 1988 ~~licensed under the~~
173 ~~provisions of chapter 483.~~

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

176 383.313 Performance of laboratory and surgical services;
177 use of anesthetic and chemical agents.—

178 (1) LABORATORY SERVICES.—A birth center may collect
179 specimens for those tests that are requested under protocol. A
180 birth center may perform simple laboratory tests, as defined by
181 rule of the agency, and is exempt from the requirements of
182 chapter 483, ~~provided no more than five physicians are employed~~
183 ~~by the birth center and testing is conducted exclusively in~~
184 ~~connection with the diagnosis and treatment of clients of the~~



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185 ~~birth center.~~

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

187 Section 10. Section 384.31, Florida Statutes, is amended to
188 read:

189 384.31 Testing of pregnant women; duty of the attendant.—

190 Every person, including every physician licensed under chapter

191 458 or chapter 459 or midwife licensed under part I of chapter

192 464 or chapter 467, attending a pregnant woman for conditions

193 relating to pregnancy during the period of gestation and

194 delivery shall cause the woman to be tested for sexually

195 transmissible diseases, including HIV, as specified by

196 department rule. Testing shall be performed by a laboratory

197 appropriately certified by the Centers for Medicare and Medicaid

198 Services under the federal Clinical Laboratory Improvement

199 Amendments of 1988 approved for such purposes under part I of

200 ~~chapter 483.~~ The woman shall be informed of the tests that will

201 be conducted and of her right to refuse testing. If a woman

202 objects to testing, a written statement of objection, signed by

203 the woman, shall be placed in the woman's medical record and no

204 testing shall occur.

205 Section 11. Subsection (2) of section 385.211, Florida

206 Statutes, is amended to read:

207 385.211 Refractory and intractable epilepsy treatment and

208 research at recognized medical centers.—

209 (2) Notwithstanding chapter 893, medical centers recognized

210 pursuant to s. 381.925, or an academic medical research

211 institution legally affiliated with a licensed children's

212 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~

213 that contracts with the Department of Health, may conduct



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214 research on cannabidiol and low-THC cannabis. This research may
215 include, but is not limited to, the agricultural development,
216 production, clinical research, and use of liquid medical
217 derivatives of cannabidiol and low-THC cannabis for the
218 treatment for refractory or intractable epilepsy. The authority
219 for recognized medical centers to conduct this research is
220 derived from 21 C.F.R. parts 312 and 316. Current state or
221 privately obtained research funds may be used to support the
222 activities described in this section.

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

225 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
226 394.4789.—As used in this section and ss. 394.4786, 394.4788,
227 and 394.4789:

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

231 Section 13. Section 395.001, Florida Statutes, is amended
232 to read:

233 395.001 Legislative intent.—It is the intent of the
234 Legislature to provide for the protection of public health and
235 safety in the establishment, construction, maintenance, and
236 operation of hospitals and ambulatory surgical centers, ~~and~~
237 ~~mobile surgical facilities~~ by providing for licensure of same
238 and for the development, establishment, and enforcement of
239 minimum standards with respect thereto.

240 Section 14. Present subsections (22) through (33) of
241 section 395.002, Florida Statutes, are renumbered as subsections
242 (21) through (32), respectively, and subsections (3) and (16)



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243 and present subsections (21) and (23) of that section are
244 amended, to read:

245 395.002 Definitions.—As used in this chapter:

246 (3) “Ambulatory surgical center” ~~or “mobile surgical~~
247 ~~facility”~~ means a facility the primary purpose of which is to
248 provide elective surgical care, in which the patient is admitted
249 to and discharged from such facility within the same working day
250 and is not permitted to stay overnight, and which is not part of
251 a hospital. However, a facility existing for the primary purpose
252 of performing terminations of pregnancy, an office maintained by
253 a physician for the practice of medicine, or an office
254 maintained for the practice of dentistry shall not be construed
255 to be an ambulatory surgical center, provided that any facility
256 or office which is certified or seeks certification as a
257 Medicare ambulatory surgical center shall be licensed as an
258 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
259 ~~or vehicle in which a physician maintains an office and~~
260 ~~practices surgery, and which can appear to the public to be a~~
261 ~~mobile office because the structure or vehicle operates at more~~
262 ~~than one address, shall be construed to be a mobile surgical~~
263 ~~facility.~~

264 (16) “Licensed facility” means a hospital or, ambulatory
265 surgical center, ~~or mobile surgical facility~~ licensed in
266 accordance with this chapter.

267 ~~(21) “Mobile surgical facility” is a mobile facility in~~
268 ~~which licensed health care professionals provide elective~~
269 ~~surgical care under contract with the Department of Corrections~~
270 ~~or a private correctional facility operating pursuant to chapter~~
271 ~~957 and in which inmate patients are admitted to and discharged~~



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272 ~~from said facility within the same working day and are not~~
273 ~~permitted to stay overnight. However, mobile surgical facilities~~
274 ~~may only provide health care services to the inmate patients of~~
275 ~~the Department of Corrections, or inmate patients of a private~~
276 ~~correctional facility operating pursuant to chapter 957, and not~~
277 ~~to the general public.~~

278 (22)-(23) "Premises" means those buildings, beds, and
279 equipment located at the address of the licensed facility and
280 all other buildings, beds, and equipment for the provision of
281 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
282 located in such reasonable proximity to the address of the
283 licensed facility as to appear to the public to be under the
284 dominion and control of the licensee. For any licensee that is a
285 teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
286 reasonable proximity includes any buildings, beds, services,
287 programs, and equipment under the dominion and control of the
288 licensee that are located at a site with a main address that is
289 within 1 mile of the main address of the licensed facility; and
290 all such buildings, beds, and equipment may, at the request of a
291 licensee or applicant, be included on the facility license as a
292 single premises.

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

296 395.003 Licensure; denial, suspension, and revocation.—

297 (1) (a) The requirements of part II of chapter 408 apply to
298 the provision of services that require licensure pursuant to ss.
299 395.001-395.1065 and part II of chapter 408 and to entities
300 licensed by or applying for such licensure from the Agency for



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301 Health Care Administration pursuant to ss. 395.001-395.1065. A
302 license issued by the agency is required in order to operate a
303 hospital or, ambulatory surgical center, ~~or mobile surgical~~
304 ~~facility~~ in this state.

305 (b)1. It is unlawful for a person to use or advertise to
306 the public, in any way or by any medium whatsoever, any facility
307 as a "hospital," or "ambulatory surgical center," ~~or "mobile~~
308 ~~surgical facility"~~ unless such facility has first secured a
309 license under the provisions of this part.

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

315 (2)

316 (b) The agency shall, at the request of a licensee that is
317 a teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
318 issue a single license to a licensee for facilities that have
319 been previously licensed as separate premises, provided such
320 separately licensed facilities, taken together, constitute the
321 same premises as defined in s. 395.002(22) ~~s. 395.002(23)~~. Such
322 license for the single premises shall include all of the beds,
323 services, and programs that were previously included on the
324 licenses for the separate premises. The granting of a single
325 license under this paragraph shall not in any manner reduce the
326 number of beds, services, or programs operated by the licensee.

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

329 395.009 Minimum standards for clinical laboratory test



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330 results and diagnostic X-ray results; prerequisite for issuance
331 or renewal of license.-

332 (1) As a requirement for issuance or renewal of its
333 license, each licensed facility shall require that all clinical
334 laboratory tests performed by or for the licensed facility be
335 performed by a clinical laboratory appropriately certified by
336 the Centers for Medicare and Medicaid Services under the federal
337 Clinical Laboratory Improvement Amendments of 1988 ~~licensed~~
338 ~~under the provisions of chapter 483.~~

339 Section 17. Section 395.0091, Florida Statutes, is created
340 to read:

341 395.0091 Alternate-site testing.-The agency, in
342 consultation with the Board of Clinical Laboratory Personnel,
343 shall adopt by rule the criteria for alternate-site testing to
344 be performed under the supervision of a clinical laboratory
345 director. The elements to be addressed in the rule include, but
346 are not limited to: a hospital internal needs assessment; a
347 protocol of implementation, including tests to be performed and
348 who will perform the tests; criteria to be used in selecting the
349 method of testing to be used for alternate-site testing; minimum
350 training and education requirements for those who will perform
351 alternate-site testing, such as documented training, licensure,
352 certification, or other medical professional backgrounds not
353 limited to laboratory professionals; documented inservice
354 training as well as initial and ongoing competency validation;
355 an appropriate internal and external quality control protocol;
356 an internal mechanism for identifying and tracking alternate-
357 site testing by the central laboratory; and recordkeeping
358 requirements. Alternate-site testing locations must register



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359 when the hospital applies to renew its license. For purposes of
360 this section, the term "alternate-site testing" means any
361 laboratory testing done under the administrative control of a
362 hospital but performed out of the physical or administrative
363 confines of the central laboratory.

364 Section 18. Paragraph (f) of subsection (1) of section
365 395.0161, Florida Statutes, is amended to read:

366 395.0161 Licensure inspection.—

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

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

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

377 395.0163 Construction inspections; plan submission and
378 approval; fees.—

379 ~~(3) In addition to the requirements of s. 408.811, the~~
380 ~~agency shall inspect a mobile surgical facility at initial~~
381 ~~licensure and at each time the facility establishes a new~~
382 ~~location, prior to admission of patients. However, such~~
383 ~~inspections shall not be required when a mobile surgical~~
384 ~~facility is moved temporarily to a location where medical~~
385 ~~treatment will not be provided.~~

386 Section 20. Subsection (2), paragraph (c) of subsection
387 (6), and subsections (16) and (17) of section 395.0197, Florida



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388 Statutes, are amended to read:

389 395.0197 Internal risk management program.—

390 (2) The internal risk management program is the
391 responsibility of the governing board of the health care
392 facility. Each licensed facility shall hire a risk manager,
393 ~~licensed under s. 395.10974,~~ who is responsible for
394 implementation and oversight of such facility's internal risk
395 management program and who demonstrates competence, by education
396 or experience, in the following areas: as required by this
397 ~~section. A risk manager must not be made responsible for more~~
398 ~~than four internal risk management programs in separate licensed~~
399 ~~facilities, unless the facilities are under one corporate~~
400 ~~ownership or the risk management programs are in rural~~
401 ~~hospitals.~~

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

403 (b) Applicable federal, state, and local health and safety
404 laws and rules.

405 (c) General risk management administration.

406 (d) Patient care.

407 (e) Medical care.

408 (f) Personal and social care.

409 (g) Accident prevention.

410 (h) Departmental organization and management.

411 (i) Community interrelationships.

412 (j) Medical terminology.

413 (6)

414 (c) The report submitted to the agency shall also contain
415 the name ~~and license number~~ of the risk manager of the licensed
416 facility, a copy of its policy and procedures which govern the



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417 measures taken by the facility and its risk manager to reduce
418 the risk of injuries and adverse incidents, and the results of
419 such measures. The annual report is confidential and is not
420 available to the public pursuant to s. 119.07(1) or any other
421 law providing access to public records. The annual report is not
422 discoverable or admissible in any civil or administrative
423 action, except in disciplinary proceedings by the agency or the
424 appropriate regulatory board. The annual report is not available
425 to the public as part of the record of investigation for and
426 prosecution in disciplinary proceedings made available to the
427 public by the agency or the appropriate regulatory board.
428 However, the agency or the appropriate regulatory board shall
429 make available, upon written request by a health care
430 professional against whom probable cause has been found, any
431 such records which form the basis of the determination of
432 probable cause.

433 (16) There shall be no monetary liability on the part of,
434 and no cause of action for damages shall arise against, any risk
435 manager, ~~licensed under s. 395.10974,~~ for the implementation and
436 oversight of the internal risk management program in a facility
437 licensed under this chapter or chapter 390 as required by this
438 section, for any act or proceeding undertaken or performed
439 within the scope of the functions of such internal risk
440 management program if the risk manager acts without intentional
441 fraud.

442 (17) A privilege against civil liability is hereby granted
443 to any ~~licensed~~ risk manager or licensed facility with regard to
444 information furnished pursuant to this chapter, unless the
445 ~~licensed~~ risk manager or facility acted in bad faith or with



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446 malice in providing such information.

447 Section 21. Section 395.1046, Florida Statutes, is
448 repealed.

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

452 395.1055 Rules and enforcement.—

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

456 (i) All hospitals providing pediatric cardiac
457 catheterization, pediatric open-heart surgery, organ
458 transplantation, neonatal intensive care services, psychiatric
459 services, or comprehensive medical rehabilitation meet the
460 minimum licensure requirements adopted by the agency. Such
461 licensure requirements shall include quality of care, nurse
462 staffing, physician staffing, physical plant, equipment,
463 emergency transportation, and data reporting standards.

464 (2) Separate standards may be provided for general and
465 specialty hospitals, ambulatory surgical centers, ~~mobile~~
466 ~~surgical facilities,~~ and statutory rural hospitals as defined in
467 s. 395.602.

468 Section 23. Section 395.10971, Florida Statutes, is
469 repealed.

470 Section 24. Section 395.10972, Florida Statutes, is
471 repealed.

472 Section 25. Section 395.10973, Florida Statutes, is amended
473 to read:

474 395.10973 Powers and duties of the agency.—It is the



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475 function of the agency to:

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

479 ~~(2) Develop, impose, and enforce specific standards within~~
480 ~~the scope of the general qualifications established by this part~~
481 ~~which must be met by individuals in order to receive licenses as~~
482 ~~health care risk managers. These standards shall be designed to~~
483 ~~ensure that health care risk managers are individuals of good~~
484 ~~character and otherwise suitable and, by training or experience~~
485 ~~in the field of health care risk management, qualified in~~
486 ~~accordance with the provisions of this part to serve as health~~
487 ~~care risk managers, within statutory requirements.~~

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

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

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

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

499 (2)~~(7)~~ Develop a model risk management program for health
500 care facilities which will satisfy the requirements of s.
501 395.0197.

502 (3)~~(8)~~ Enforce the special-occupancy provisions of the
503 Florida Building Code which apply to hospitals, intermediate



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504 residential treatment facilities, and ambulatory surgical
505 centers in conducting any inspection authorized by this chapter
506 and part II of chapter 408.

507 Section 26. Section 395.10974, Florida Statutes, is
508 repealed.

509 Section 27. Section 395.10975, Florida Statutes, is
510 repealed.

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

513 395.602 Rural hospitals.—

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

515 ~~(a) "Emergency care hospital" means a medical facility~~
516 ~~which provides:~~

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

518 ~~2. Inpatient care to ill or injured persons prior to their~~
519 ~~transportation to another hospital or provides inpatient medical~~
520 ~~care to persons needing care for a period of up to 96 hours. The~~
521 ~~96-hour limitation on inpatient care does not apply to respite,~~
522 ~~skilled nursing, hospice, or other nonacute care patients.~~

523 ~~(b) "Essential access community hospital" means any~~
524 ~~facility which:~~

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

526 ~~2. Is located more than 35 miles from any other essential~~
527 ~~access community hospital, rural referral center, or urban~~
528 ~~hospital meeting criteria for classification as a regional~~
529 ~~referral center;~~

530 ~~3. Is part of a network that includes rural primary care~~
531 ~~hospitals;~~

532 ~~4. Provides emergency and medical backup services to rural~~



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533 ~~primary care hospitals in its rural health network;~~
534 ~~5. Extends staff privileges to rural primary care hospital~~
535 ~~physicians in its network; and~~
536 ~~6. Accepts patients transferred from rural primary care~~
537 ~~hospitals in its network.~~
538 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
539 ~~care hospital bed, as defined in s. 395.002(13), that is~~
540 ~~inactive in that it cannot be occupied by acute care inpatients.~~
541 ~~(a)(d)~~ "Rural area health education center" means an area
542 health education center (AHEC), as authorized by Pub. L. No. 94-
543 484, which provides services in a county with a population
544 density of up to no greater than 100 persons per square mile.
545 ~~(b)(e)~~ "Rural hospital" means an acute care hospital
546 licensed under this chapter, having 100 or fewer licensed beds
547 and an emergency room, which is:
548 1. The sole provider within a county with a population
549 density of up to 100 persons per square mile;
550 2. An acute care hospital, in a county with a population
551 density of up to 100 persons per square mile, which is at least
552 30 minutes of travel time, on normally traveled roads under
553 normal traffic conditions, from any other acute care hospital
554 within the same county;
555 3. A hospital supported by a tax district or subdistrict
556 whose boundaries encompass a population of up to 100 persons per
557 square mile;
558 4. A hospital classified as a sole community hospital under
559 42 C.F.R. s. 412.92 which has up to 175 licensed beds;
560 5. A hospital with a service area that has a population of
561 up to 100 persons per square mile. As used in this subparagraph,



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562 the term "service area" means the fewest number of zip codes
563 that account for 75 percent of the hospital's discharges for the
564 most recent 5-year period, based on information available from
565 the hospital inpatient discharge database in the Florida Center
566 for Health Information and Transparency at the agency; or

567 6. A hospital designated as a critical access hospital, as
568 defined in s. 408.07.

569

570 Population densities used in this paragraph must be based upon
571 the most recently completed United States census. A hospital
572 that received funds under s. 409.9116 for a quarter beginning no
573 later than July 1, 2002, is deemed to have been and shall
574 continue to be a rural hospital from that date through June 30,
575 2021, if the hospital continues to have up to 100 licensed beds
576 and an emergency room. An acute care hospital that has not
577 previously been designated as a rural hospital and that meets
578 the criteria of this paragraph shall be granted such designation
579 upon application, including supporting documentation, to the
580 agency. A hospital that was licensed as a rural hospital during
581 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
582 rural hospital from the date of designation through June 30,
583 2021, if the hospital continues to have up to 100 licensed beds
584 and an emergency room.

585 ~~(f) "Rural primary care hospital" means any facility~~
586 ~~meeting the criteria in paragraph (e) or s. 395.605 which~~
587 ~~provides:~~

588 ~~1. Twenty-four-hour emergency medical care;~~

589 ~~2. Temporary inpatient care for periods of 72 hours or less~~
590 ~~to patients requiring stabilization before discharge or transfer~~



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591 ~~to another hospital. The 72-hour limitation does not apply to~~
592 ~~respite, skilled nursing, hospice, or other nonacute care~~
593 ~~patients; and~~

594 ~~3. Has no more than six licensed acute care inpatient beds.~~

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

599 Section 29. Section 395.603, Florida Statutes, is amended
600 to read:

601 395.603 ~~Deactivation of general hospital beds; Rural~~
602 ~~hospital impact statement.-~~

603 ~~(1) The agency shall establish, by rule, a process by which~~
604 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
605 ~~as a rural primary care hospital or as an emergency care~~
606 ~~hospital, or becomes a certified rural health clinic as defined~~
607 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
608 ~~a county health department, community health center, or other~~
609 ~~similar outpatient program that provides preventive and curative~~
610 ~~services, may deactivate general hospital beds. Rural primary~~
611 ~~care hospitals and emergency care hospitals shall maintain the~~
612 ~~number of actively licensed general hospital beds necessary for~~
613 ~~the facility to be certified for Medicare reimbursement.~~

614 ~~Hospitals that discontinue inpatient care to become rural health~~
615 ~~care clinics or primary care programs shall deactivate all~~
616 ~~licensed general hospital beds. All hospitals, clinics, and~~
617 ~~programs with inactive beds shall provide 24-hour emergency~~
618 ~~medical care by staffing an emergency room. Providers with~~
619 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~



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620 ~~The agency shall specify in rule requirements for making 24-hour~~
621 ~~emergency care available. Inactive general hospital beds shall~~
622 ~~be included in the acute care bed inventory, maintained by the~~
623 ~~agency for certificate of need purposes, for 10 years from the~~
624 ~~date of deactivation of the beds. After 10 years have elapsed,~~
625 ~~inactive beds shall be excluded from the inventory. The agency~~
626 ~~shall, at the request of the licensee, reactivate the inactive~~
627 ~~general beds upon a showing by the licensee that licensure~~
628 ~~requirements for the inactive general beds are met.~~

629 ~~(2)~~ In formulating and implementing policies and rules that
630 may have significant impact on the ability of rural hospitals to
631 continue to provide health care services in rural communities,
632 the agency, the department, or the respective regulatory board
633 adopting policies or rules regarding the licensure or
634 certification of health care professionals shall provide a rural
635 hospital impact statement. The rural hospital impact statement
636 shall assess the proposed action in light of the following
637 questions:

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

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

644 (3)~~(c)~~ What are the functions presently performed by the
645 affected health personnel, and are such functions presently
646 performed in rural hospitals?

647 (4)~~(d)~~ What impact will the proposed action have on the
648 ability of rural hospitals to recruit the affected personnel to



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649 practice in their facilities?

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

654 (6)~~(f)~~ Is there a less stringent requirement which could
655 apply to practice in rural hospitals?

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

659 Section 30. Section 395.604, Florida Statutes, is repealed.

660 Section 31. Section 395.605, Florida Statutes, is repealed.

661 Section 32. Paragraph (c) of subsection (1) of section
662 395.701, Florida Statutes, is amended to read:

663 395.701 Annual assessments on net operating revenues for
664 inpatient and outpatient services to fund public medical
665 assistance; administrative fines for failure to pay assessments
666 when due; exemption.—

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

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

671 Section 33. Paragraph (b) of subsection (2) of section
672 395.7015, Florida Statutes, is amended to read:

673 395.7015 Annual assessment on health care entities.—

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

676 (b) For the purpose of this section, "health care entities"
677 include the following:



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678 1. Ambulatory surgical centers and mobile surgical
679 facilities licensed under s. 395.003. This subsection shall only
680 apply to mobile surgical facilities operating under contracts
681 entered into on or after July 1, 1998.

682 2. Clinical laboratories licensed under s. 483.091,
683 excluding any hospital laboratory defined under s. 483.041(6),
684 any clinical laboratory operated by the state or a political
685 subdivision of the state, any clinical laboratory which
686 qualifies as an exempt organization under s. 501(c)(3) of the
687 Internal Revenue Code of 1986, as amended, and which receives 70
688 percent or more of its gross revenues from services to charity
689 patients or Medicaid patients, and any blood, plasma, or tissue
690 bank procuring, storing, or distributing blood, plasma, or
691 tissue either for future manufacture or research or distributed
692 on a nonprofit basis, and further excluding any clinical
693 laboratory which is wholly owned and operated by 6 or fewer
694 physicians who are licensed pursuant to chapter 458 or chapter
695 459 and who practice in the same group practice, and at which no
696 clinical laboratory work is performed for patients referred by
697 any health care provider who is not a member of the same group.

698 2.3. Diagnostic-imaging centers that are freestanding
699 outpatient facilities that provide specialized services for the
700 identification or determination of a disease through examination
701 and also provide sophisticated radiological services, and in
702 which services are rendered by a physician licensed by the Board
703 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
704 an osteopathic physician licensed by the Board of Osteopathic
705 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
706 paragraph, "sophisticated radiological services" means the



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707 following: magnetic resonance imaging; nuclear medicine;
708 angiography; arteriography; computed tomography; positron
709 emission tomography; digital vascular imaging; bronchography;
710 lymphangiography; splenography; ultrasound, excluding ultrasound
711 providers that are part of a private physician's office practice
712 or when ultrasound is provided by two or more physicians
713 licensed under chapter 458 or chapter 459 who are members of the
714 same professional association and who practice in the same
715 medical specialties; and such other sophisticated radiological
716 services, excluding mammography, as adopted in rule by the
717 board.

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

720 400.0625 Minimum standards for clinical laboratory test
721 results and diagnostic X-ray results.—

722 (1) Each nursing home, as a requirement for issuance or
723 renewal of its license, shall require that all clinical
724 laboratory tests performed for the nursing home be performed by
725 a licensed clinical laboratory ~~licensed under the provisions of~~
726 ~~chapter 483~~, except for such self-testing procedures as are
727 approved by the agency by rule. ~~Results of clinical laboratory~~
728 ~~tests performed prior to admission which meet the minimum~~
729 ~~standards provided in s. 483.181(3) shall be accepted in lieu of~~
730 ~~routine examinations required upon admission and clinical~~
731 ~~laboratory tests which may be ordered by a physician for~~
732 ~~residents of the nursing home.~~

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



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736 400.464 Home health agencies to be licensed; expiration of
737 license; exemptions; unlawful acts; penalties.—

738 (1) The requirements of part II of chapter 408 apply to the
739 provision of services that require licensure pursuant to this
740 part and part II of chapter 408 and entities licensed or
741 registered by or applying for such licensure or registration
742 from the Agency for Health Care Administration pursuant to this
743 part. A license issued by the agency is required in order to
744 operate a home health agency in this state. A license issued
745 after June 30, 2017, must specify the home health services that
746 the organization is authorized to perform and indicate whether
747 such specified services are considered skilled care. The
748 provision or advertising of services which require licensure
749 pursuant to this part without such services being specified on
750 the face of the license issued after June 30, 2017, constitutes
751 unlicensed activity as prohibited under s. 408.812.

752 (4)

753 (b) The operation or maintenance of an unlicensed home
754 health agency or the performance of any home health services in
755 violation of this part is declared a nuisance, inimical to the
756 public health, welfare, and safety. The agency or any state
757 attorney may, in addition to other remedies provided in this
758 part, bring an action for an injunction to restrain such
759 violation, or to enjoin the future operation or maintenance of
760 the home health agency or the provision of home health services
761 in violation of this part or part II of chapter 408, until
762 compliance with this part or the rules adopted under this part
763 has been demonstrated to the satisfaction of the agency.

764 (e) Any person who owns, operates, or maintains an



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765 unlicensed home health agency and who, ~~within 10 working days~~
766 after receiving notification from the agency, fails to cease
767 operation and apply for a license under this part commits a
768 misdemeanor of the second degree, punishable as provided in s.
769 775.082 or s. 775.083. Each day of continued operation is a
770 separate offense.

771 (f) Any home health agency that fails to cease operation
772 after agency notification may be fined in accordance with s.
773 408.812 \$500 for each day of noncompliance.

774 (6) Any person, entity, or organization providing home
775 health services which is exempt from licensure under subsection
776 (5) may voluntarily apply for a certificate of exemption from
777 licensure under its exempt status with the agency on a form that
778 sets forth its name or names and addresses, a statement of the
779 reasons why it is exempt from licensure as a home health agency,
780 and other information deemed necessary by the agency. A
781 certificate of exemption is valid for a period of not more than
782 2 years and is not transferable. The agency may charge an
783 applicant for a certificate of exemption in an amount equal to
784 \$100 or the actual cost of processing the certificate.

785 Section 36. Present subsections (7) through (10) of section
786 400.471, Florida Statutes, are redesignated as subsections (6)
787 through (9), respectively, and subsection (2), present
788 subsection (6), and present subsection (10) of that section are
789 amended, to read:

790 400.471 Application for license; fee.—

791 (2) In addition to the requirements of part II of chapter
792 408, the initial applicant, the applicant for a change of
793 ownership, and the applicant for the addition of skilled care



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794 services must file with the application satisfactory proof that
795 the home health agency is in compliance with this part and
796 applicable rules, including:

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

800 (b) The number and discipline of professional staff to be
801 employed.

802 ~~(c) Completion of questions concerning volume data on the~~
803 ~~renewal application as determined by rule.~~

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

807 ~~(d)~~(e) Evidence of contingency funding as required under s.
808 408.8065 ~~equal to 1 month's average operating expenses during~~
809 ~~the first year of operation.~~

810 ~~(e)~~(f) A balance sheet, income and expense statement, and
811 statement of cash flows for the first 2 years of operation which
812 provide evidence of having sufficient assets, credit, and
813 projected revenues to cover liabilities and expenses. The
814 applicant has demonstrated financial ability to operate if the
815 applicant's assets, credit, and projected revenues meet or
816 exceed projected liabilities and expenses. An applicant may not
817 project an operating margin of 15 percent or greater for any
818 month in the first year of operation. All documents required
819 under this paragraph must be prepared in accordance with
820 generally accepted accounting principles and compiled and signed
821 by a certified public accountant.

822 ~~(f)~~(g) All other ownership interests in health care



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823 entities for each controlling interest, as defined in part II of
824 chapter 408.

825 (g) ~~(h)~~ In the case of an application for initial licensure,
826 an application for a change of ownership, or an application for
827 the addition of skilled care services, documentation of
828 accreditation, or an application for accreditation, from an
829 accrediting organization that is recognized by the agency as
830 having standards comparable to those required by this part and
831 part II of chapter 408. A home health agency that ~~is not~~
832 ~~Medicare or Medicaid certified and~~ does not provide skilled care
833 is exempt from this paragraph. Notwithstanding s. 408.806, an
834 initial applicant that has applied for accreditation must
835 provide proof of accreditation that is not conditional or
836 provisional and submit a survey demonstrating compliance with
837 the requirements of this part, part II of chapter 408, and
838 applicable rules from an accrediting organization that is
839 recognized by the agency as having standards comparable to those
840 required by this part and part II of chapter 408 within 120 days
841 after the date of the agency's receipt of the application for
842 licensure ~~or the application shall be withdrawn from further~~
843 ~~consideration.~~ Such accreditation must be continuously
844 maintained by the home health agency to maintain licensure. The
845 agency shall accept, in lieu of its own periodic licensure
846 survey, the submission of the survey of an accrediting
847 organization that is recognized by the agency if the
848 accreditation of the licensed home health agency is not
849 provisional and if the licensed home health agency authorizes
850 releases of, and the agency receives the report of, the
851 accrediting organization.



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852 ~~(6) The agency may not issue a license designated as~~
853 ~~certified to a home health agency that fails to satisfy the~~
854 ~~requirements of a Medicare certification survey from the agency.~~

855 (9)~~(10)~~ The agency may not issue a renewal license for a
856 home health agency in any county having at least one licensed
857 home health agency and that has more than one home health agency
858 per 5,000 persons, as indicated by the most recent population
859 estimates published by the Legislature's Office of Economic and
860 Demographic Research, if the applicant or any controlling
861 interest has been administratively sanctioned by the agency
862 during the 2 years prior to the submission of the licensure
863 renewal application for one or more of the following acts:

864 (a) An intentional or negligent act that materially affects
865 the health or safety of a client of the provider;

866 (b) Knowingly providing home health services in an
867 unlicensed assisted living facility or unlicensed adult family-
868 care home, unless the home health agency or employee reports the
869 unlicensed facility or home to the agency within 72 hours after
870 providing the services;

871 (c) Preparing or maintaining fraudulent patient records,
872 such as, but not limited to, charting ahead, recording vital
873 signs or symptoms which were not personally obtained or observed
874 by the home health agency's staff at the time indicated,
875 borrowing patients or patient records from other home health
876 agencies to pass a survey or inspection, or falsifying
877 signatures;

878 (d) Failing to provide at least one service directly to a
879 patient for a period of 60 days;

880 (e) Demonstrating a pattern of falsifying documents



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881 relating to the training of home health aides or certified
882 nursing assistants or demonstrating a pattern of falsifying
883 health statements for staff who provide direct care to patients.
884 A pattern may be demonstrated by a showing of at least three
885 fraudulent entries or documents;

886 (f) Demonstrating a pattern of billing any payor for
887 services not provided. A pattern may be demonstrated by a
888 showing of at least three billings for services not provided
889 within a 12-month period;

890 (g) Demonstrating a pattern of failing to provide a service
891 specified in the home health agency's written agreement with a
892 patient or the patient's legal representative, or the plan of
893 care for that patient, except ~~unless a reduction in service is~~
894 ~~mandated by Medicare, Medicaid, or a state program~~ or as
895 provided in s. 400.492(3). A pattern may be demonstrated by a
896 showing of at least three incidents, regardless of the patient
897 or service, in which the home health agency did not provide a
898 service specified in a written agreement or plan of care during
899 a 3-month period;

900 (h) Giving remuneration to a case manager, discharge
901 planner, facility-based staff member, or third-party vendor who
902 is involved in the discharge planning process of a facility
903 licensed under chapter 395, chapter 429, or this chapter from
904 whom the home health agency receives referrals or gives
905 remuneration as prohibited in s. 400.474(6)(a);

906 (i) Giving cash, or its equivalent, to a Medicare or
907 Medicaid beneficiary;

908 (j) Demonstrating a pattern of billing the Medicaid program
909 for services to Medicaid recipients which are medically



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910 unnecessary as determined by a final order. A pattern may be
911 demonstrated by a showing of at least two such medically
912 unnecessary services within one Medicaid program integrity audit
913 period;

914 (k) Providing services to residents in an assisted living
915 facility for which the home health agency does not receive fair
916 market value remuneration; or

917 (l) Providing staffing to an assisted living facility for
918 which the home health agency does not receive fair market value
919 remuneration.

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

922 400.474 Administrative penalties.—

923 (5) The agency shall impose a fine of \$5,000 against a home
924 health agency that demonstrates a pattern of failing to provide
925 a service specified in the home health agency's written
926 agreement with a patient or the patient's legal representative,
927 or the plan of care for that patient, except ~~unless a reduction~~
928 ~~in service is mandated by Medicare, Medicaid, or a state program~~
929 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
930 by a showing of at least three incidences, regardless of the
931 patient or service, where the home health agency did not provide
932 a service specified in a written agreement or plan of care
933 during a 3-month period. The agency shall impose the fine for
934 each occurrence. The agency may also impose additional
935 administrative fines under s. 400.484 for the direct or indirect
936 harm to a patient, or deny, revoke, or suspend the license of
937 the home health agency for a pattern of failing to provide a
938 service specified in the home health agency's written agreement



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939 with a patient or the plan of care for that patient.

940 Section 38. Paragraph (c) of subsection (2) of section
941 400.476, Florida Statutes, is amended to read:

942 400.476 Staffing requirements; notifications; limitations
943 on staffing services.—

944 (2) DIRECTOR OF NURSING.—

945 (c) A home health agency that provides skilled nursing care
946 must ~~is not Medicare or Medicaid certified and does not provide~~
947 ~~skilled care or provides only physical, occupational, or speech~~
948 ~~therapy is not required to have a director of nursing and is~~
949 ~~exempt from paragraph (b).~~

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

952 400.484 Right of inspection; violations ~~deficiencies~~;
953 fines.—

954 (2) The agency shall impose fines for various classes of
955 violations ~~deficiencies~~ in accordance with the following
956 schedule:

957 (a) Class I violations are defined in s. 408.813 ~~A class I~~
958 ~~deficiency is any act, omission, or practice that results in a~~
959 ~~patient's death, disablement, or permanent injury, or places a~~
960 ~~patient at imminent risk of death, disablement, or permanent~~
961 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
962 shall impose an administrative fine in the amount of \$15,000 for
963 each occurrence and each day that the violation ~~deficiency~~
964 exists.

965 (b) Class II violations are defined in s. 408.813 ~~A class~~
966 ~~II deficiency is any act, omission, or practice that has a~~
967 ~~direct adverse effect on the health, safety, or security of a~~



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968 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
969 agency shall impose an administrative fine in the amount of
970 \$5,000 for each occurrence and each day that the violation
971 ~~deficiency~~ exists.

972 (c) Class III violations are defined in s. 408.813 ~~A class~~
973 ~~III deficiency is any act, omission, or practice that has an~~
974 ~~indirect, adverse effect on the health, safety, or security of a~~
975 ~~patient.~~ Upon finding an uncorrected or repeated class III
976 violation ~~deficiency~~, the agency shall impose an administrative
977 fine not to exceed \$1,000 for each occurrence and each day that
978 the uncorrected or repeated violation ~~deficiency~~ exists.

979 (d) Class IV violations are defined in s. 408.813 ~~A class~~
980 ~~IV deficiency is any act, omission, or practice related to~~
981 ~~required reports, forms, or documents which does not have the~~
982 ~~potential of negatively affecting patients.~~ These violations are
983 of a type that the agency determines do not threaten the health,
984 safety, or security of patients. Upon finding an uncorrected or
985 repeated class IV violation ~~deficiency~~, the agency shall impose
986 an administrative fine not to exceed \$500 for each occurrence
987 and each day that the uncorrected or repeated violation
988 ~~deficiency~~ exists.

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

991 400.497 Rules establishing minimum standards.—The agency
992 shall adopt, publish, and enforce rules to implement part II of
993 chapter 408 and this part, including, as applicable, ss. 400.506
994 and 400.509, which must provide reasonable and fair minimum
995 standards relating to:

996 (4) Licensure and certificate of exemption application and



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997 renewal.

998 Section 41. Subsection (5), paragraphs (d) and (e) of
999 subsection (6), paragraph (a) of subsection (15), and
1000 subsections (19) and (20) of section 400.506, Florida Statutes,
1001 are amended to read:

1002 400.506 Licensure of nurse registries; requirements;
1003 penalties.—

1004 (5) (a) In addition to the requirements of s. 408.812, any
1005 person who owns, operates, or maintains an unlicensed nurse
1006 registry and who, ~~within 10 working days~~ after receiving
1007 notification from the agency, fails to cease operation and apply
1008 for a license under this part commits a misdemeanor of the
1009 second degree, punishable as provided in s. 775.082 or s.
1010 775.083. Each day of continued operation is a separate offense.

1011 (b) If a nurse registry fails to cease operation after
1012 agency notification, the agency may impose a fine in accordance
1013 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1014 (6)

1015 (d) A registered nurse, licensed practical nurse, certified
1016 nursing assistant, companion or homemaker, or home health aide
1017 referred for contract under this chapter by a nurse registry is
1018 deemed an independent contractor and not an employee of the
1019 nurse registry under any chapter, regardless of the obligations
1020 imposed on a nurse registry under this chapter or chapter 408.

1021 (e) Upon referral of a registered nurse, licensed practical
1022 nurse, certified nursing assistant, companion or homemaker, or
1023 home health aide for contract in a private residence or
1024 facility, the nurse registry shall advise the patient, the
1025 patient's family, or any other person acting on behalf of the



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1026 patient, at the time of the contract for services, that the
1027 caregiver referred by the nurse registry is an independent
1028 contractor and that ~~the~~ ~~it is not the obligation of a nurse~~
1029 registry is not permitted to monitor, supervise, manage, or
1030 train a caregiver referred for contract under this chapter.

1031 (15) (a) The agency may deny, suspend, or revoke the license
1032 of a nurse registry and shall impose a fine of \$5,000 against a
1033 nurse registry that:

1034 1. Provides services to residents in an assisted living
1035 facility for which the nurse registry does not receive fair
1036 market value remuneration.

1037 2. Provides staffing to an assisted living facility for
1038 which the nurse registry does not receive fair market value
1039 remuneration.

1040 3. Fails to provide the agency, upon request, with copies
1041 of all contracts with assisted living facilities which were
1042 executed within the last 5 years.

1043 ~~4. Gives remuneration to a case manager, discharge planner,~~
1044 ~~facility-based staff member, or third party vendor who is~~
1045 ~~involved in the discharge planning process of a facility~~
1046 ~~licensed under chapter 395 or this chapter and from whom the~~
1047 ~~nurse registry receives referrals. A nurse registry is exempt~~
1048 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1049 ~~program or the Medicare program or share a controlling interest~~
1050 ~~with any entity licensed, registered, or certified under part II~~
1051 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1052 ~~Medicare program.~~

1053 ~~5. Gives remuneration to a physician, a member of the~~
1054 ~~physician's office staff, or an immediate family member of the~~



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1055 ~~physician, and the nurse registry received a patient referral in~~
1056 ~~the last 12 months from that physician or the physician's office~~
1057 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1058 ~~does not bill the Florida Medicaid program or the Medicare~~
1059 ~~program or share a controlling interest with any entity~~
1060 ~~licensed, registered, or certified under part II of chapter 408~~
1061 ~~that bills the Florida Medicaid program or the Medicare program.~~

1062 (19) ~~It is not the obligation of~~ A nurse registry is not
1063 permitted to monitor, supervise, manage, or train a registered
1064 nurse, licensed practical nurse, certified nursing assistant,
1065 companion or homemaker, or home health aide referred for
1066 contract under this chapter. In the event of a violation of this
1067 chapter or a violation of any other law of this state by a
1068 referred registered nurse, licensed practical nurse, certified
1069 nursing assistant, companion or homemaker, or home health aide,
1070 or a deficiency in credentials which comes to the attention of
1071 the nurse registry, the nurse registry shall advise the patient
1072 to terminate the referred person's contract, providing the
1073 reason for the suggested termination; cease referring the person
1074 to other patients or facilities; and, if practice violations are
1075 involved, notify the licensing board. This section does not
1076 affect or negate any other obligations imposed on a nurse
1077 registry under chapter 408.

1078 (20) Records required to be filed under this chapter with
1079 the nurse registry as a repository of records must be kept in
1080 accordance with rules adopted by the agency. The nurse registry
1081 is not permitted ~~has no obligation~~ to review or act upon such
1082 records except as specified in subsection (19).

1083 Section 42. Subsection (1) of section 400.606, Florida



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1084 Statutes, is amended to read:

1085 400.606 License; application; renewal; conditional license
1086 or permit; certificate of need.—

1087 (1) In addition to the requirements of part II of chapter
1088 408, the initial application and change of ownership application
1089 must be accompanied by a plan for the delivery of home,
1090 residential, and homelike inpatient hospice services to
1091 terminally ill persons and their families. Such plan must
1092 contain, but need not be limited to:

1093 (a) The estimated average number of terminally ill persons
1094 to be served monthly.

1095 (b) The geographic area in which hospice services will be
1096 available.

1097 (c) A listing of services which are or will be provided,
1098 either directly by the applicant or through contractual
1099 arrangements with existing providers.

1100 (d) Provisions for the implementation of hospice home care
1101 within 3 months after licensure.

1102 (e) Provisions for the implementation of hospice homelike
1103 inpatient care within 12 months after licensure.

1104 (f) The number and disciplines of professional staff to be
1105 employed.

1106 (g) The name and qualifications of any existing or
1107 potential contractee.

1108 (h) A plan for attracting and training volunteers.

1109

1110 ~~If the applicant is an existing licensed health care provider,~~
1111 ~~the application must be accompanied by a copy of the most recent~~
1112 ~~profit-loss statement and, if applicable, the most recent~~



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1113 ~~licensure inspection report.~~

1114 Section 43. Subsection (6) of section 400.925, Florida
1115 Statutes, is amended to read:

1116 400.925 Definitions.—As used in this part, the term:

1117 (6) "Home medical equipment" includes any product as
1118 defined by the Federal Drug Administration's Drugs, Devices and
1119 Cosmetics Act, any products reimbursed under the Medicare Part B
1120 Durable Medical Equipment benefits, or any products reimbursed
1121 under the Florida Medicaid durable medical equipment program.
1122 Home medical equipment includes:

1123 (a) Oxygen and related respiratory equipment; ~~manual,~~
1124 ~~motorized, or customized wheelchairs and related seating and~~
1125 ~~positioning, but does not include prosthetics or orthotics or~~
1126 ~~any splints, braces, or aids custom fabricated by a licensed~~
1127 ~~health care practitioner;~~

1128 (b) Motorized scooters;

1129 (c) Personal transfer systems; and

1130 (d) Specialty beds, for use by a person with a medical
1131 need; and

1132 (e) Manual, motorized, or customized wheelchairs and
1133 related seating and positioning, but does not include
1134 prosthetics, orthotics, or any splints, braces, or aids custom
1135 fabricated by a licensed health care practitioner.

1136 Section 44. Subsection (4) of section 400.931, Florida
1137 Statutes, is amended to read:

1138 400.931 Application for license; fee.—

1139 (4) When a change of the general manager of a home medical
1140 equipment provider occurs, the licensee must notify the agency
1141 of the change within the timeframes established in part II of



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1142 chapter 408 and applicable rules ~~45 days~~.

1143 Section 45. Subsection (2) of section 400.933, Florida
1144 Statutes, is amended to read:

1145 400.933 Licensure inspections and investigations.—

1146 (2) The agency shall accept, in lieu of its own periodic
1147 inspections for licensure, submission of the following:

1148 (a) The survey or inspection of an accrediting
1149 organization, provided the accreditation of the licensed home
1150 medical equipment provider is not provisional and provided the
1151 licensed home medical equipment provider authorizes release of,
1152 and the agency receives the report of, the accrediting
1153 organization; or

1154 (b) A copy of a valid medical oxygen retail establishment
1155 permit issued by the Department of Business and Professional
1156 Regulation Health, pursuant to chapter 499.

1157 Section 46. Subsection (2) of section 400.980, Florida
1158 Statutes, is amended to read:

1159 400.980 Health care services pools.—

1160 (2) The requirements of part II of chapter 408 apply to the
1161 provision of services that require licensure or registration
1162 pursuant to this part and part II of chapter 408 and to entities
1163 registered by or applying for such registration from the agency
1164 pursuant to this part. Registration or a license issued by the
1165 agency is required for the operation of a health care services
1166 pool in this state. In accordance with s. 408.805, an applicant
1167 or licensee shall pay a fee for each license application
1168 submitted using this part, part II of chapter 408, and
1169 applicable rules. The agency shall adopt rules and provide forms
1170 required for such registration and shall impose a registration



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1171 fee in an amount sufficient to cover the cost of administering
1172 this part and part II of chapter 408. In addition to the
1173 requirements in part II of chapter 408, the registrant must
1174 provide the agency with any change of information contained on
1175 the original registration application within the timeframes
1176 established in this part, part II of chapter 408, and applicable
1177 rules 14 days prior to the change.

1178 Section 47. Paragraphs (a) through (d) of subsection (4) of
1179 section 400.9905, Florida Statutes, are amended to read:

1180 400.9905 Definitions.—

1181 (4) "Clinic" means an entity where health care services are
1182 provided to individuals and which tenders charges for
1183 reimbursement for such services, including a mobile clinic and a
1184 portable equipment provider. As used in this part, the term does
1185 not include and the licensure requirements of this part do not
1186 apply to:

1187 (a) Entities licensed or registered by the state under
1188 chapter 395; entities licensed or registered by the state and
1189 providing only health care services within the scope of services
1190 authorized under their respective licenses under ss. 383.30-
1191 383.332 ~~ss. 383.30-383.335~~, chapter 390, chapter 394, chapter
1192 397, this chapter except part X, chapter 429, chapter 463,
1193 chapter 465, chapter 466, chapter 478, ~~part I of chapter 483,~~
1194 chapter 484, or chapter 651; end-stage renal disease providers
1195 authorized under 42 C.F.R. part 405, subpart U; providers
1196 certified under 42 C.F.R. part 485, subpart B or subpart H; or
1197 any entity that provides neonatal or pediatric hospital-based
1198 health care services or other health care services by licensed
1199 practitioners solely within a hospital licensed under chapter



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1200 395.

1201 (b) Entities that own, directly or indirectly, entities
1202 licensed or registered by the state pursuant to chapter 395;
1203 entities that own, directly or indirectly, entities licensed or
1204 registered by the state and providing only health care services
1205 within the scope of services authorized pursuant to their
1206 respective licenses under ss. 383.30-383.332 ~~ss. 383.30-383.335~~,
1207 chapter 390, chapter 394, chapter 397, this chapter except part
1208 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1209 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1210 stage renal disease providers authorized under 42 C.F.R. part
1211 405, subpart U; providers certified under 42 C.F.R. part 485,
1212 subpart B or subpart H; or any entity that provides neonatal or
1213 pediatric hospital-based health care services by licensed
1214 practitioners solely within a hospital licensed under chapter
1215 395.

1216 (c) Entities that are owned, directly or indirectly, by an
1217 entity licensed or registered by the state pursuant to chapter
1218 395; entities that are owned, directly or indirectly, by an
1219 entity licensed or registered by the state and providing only
1220 health care services within the scope of services authorized
1221 pursuant to their respective licenses under ss. 383.30-383.332
1222 ~~ss. 383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1223 chapter except part X, chapter 429, chapter 463, chapter 465,
1224 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1225 chapter 651; end-stage renal disease providers authorized under
1226 42 C.F.R. part 405, subpart U; providers certified under 42
1227 C.F.R. part 485, subpart B or subpart H; or any entity that
1228 provides neonatal or pediatric hospital-based health care



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1229 services by licensed practitioners solely within a hospital
1230 under chapter 395.

1231 (d) Entities that are under common ownership, directly or
1232 indirectly, with an entity licensed or registered by the state
1233 pursuant to chapter 395; entities that are under common
1234 ownership, directly or indirectly, with an entity licensed or
1235 registered by the state and providing only health care services
1236 within the scope of services authorized pursuant to their
1237 respective licenses under ss. 383.30-383.332 ~~ss. 383.30-383.335~~,
1238 chapter 390, chapter 394, chapter 397, this chapter except part
1239 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1240 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1241 stage renal disease providers authorized under 42 C.F.R. part
1242 405, subpart U; providers certified under 42 C.F.R. part 485,
1243 subpart B or subpart H; or any entity that provides neonatal or
1244 pediatric hospital-based health care services by licensed
1245 practitioners solely within a hospital licensed under chapter
1246 395.

1247
1248 Notwithstanding this subsection, an entity shall be deemed a
1249 clinic and must be licensed under this part in order to receive
1250 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1251 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1252 Section 48. Paragraph (a) of subsection (2) of section
1253 408.033, Florida Statutes, is amended to read:

1254 408.033 Local and state health planning.—

1255 (2) FUNDING.—

1256 (a) The Legislature intends that the cost of local health
1257 councils be borne by assessments on selected health care



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1258 facilities subject to facility licensure by the Agency for
1259 Health Care Administration, including abortion clinics, assisted
1260 living facilities, ambulatory surgical centers, birthing
1261 centers, ~~clinical laboratories except community nonprofit blood~~
1262 ~~banks and clinical laboratories operated by practitioners for~~
1263 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1264 hospices, hospitals, intermediate care facilities for the
1265 developmentally disabled, nursing homes, health care clinics,
1266 and multiphasic testing centers and by assessments on
1267 organizations subject to certification by the agency pursuant to
1268 chapter 641, part III, including health maintenance
1269 organizations and prepaid health clinics. Fees assessed may be
1270 collected prospectively at the time of licensure renewal and
1271 prorated for the licensure period.

1272 Section 49. Paragraph (e) and present paragraph (p) of
1273 subsection (3) of section 408.036, Florida Statutes, are amended
1274 to read:

1275 408.036 Projects subject to review; exemptions.—

1276 (3) EXEMPTIONS.—Upon request, the following projects are
1277 subject to exemption from the provisions of subsection (1):

1278 ~~(e) For mobile surgical facilities and related health care~~
1279 ~~services provided under contract with the Department of~~
1280 ~~Corrections or a private correctional facility operating~~
1281 ~~pursuant to chapter 957.~~

1282 (o) ~~(p)~~ For replacement of a licensed nursing home on the
1283 same site, or within 5 miles of the same site if within the same
1284 subdistrict, if the number of licensed beds does not increase
1285 except as permitted under paragraph (e) ~~(f)~~.

1286 Section 50. Subsection (4) of section 408.061, Florida



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1287 Statutes, is amended to read:

1288 408.061 Data collection; uniform systems of financial
1289 reporting; information relating to physician charges;
1290 confidential information; immunity.—

1291 (4) Within 120 days after the end of its fiscal year, each
1292 health care facility, excluding continuing care facilities as
1293 defined in s. 408.07(13), hospitals operated by state agencies,
1294 and nursing homes as defined in s. 408.07(36) s. 408.07(14) and
1295 (37), shall file with the agency, on forms adopted by the agency
1296 and based on the uniform system of financial reporting, its
1297 actual financial experience for that fiscal year, including
1298 expenditures, revenues, and statistical measures. Such data may
1299 be based on internal financial reports which are certified to be
1300 complete and accurate by the provider. However, hospitals'
1301 actual financial experience shall be their audited actual
1302 experience. Every nursing home shall submit to the agency, in a
1303 format designated by the agency, a statistical profile of the
1304 nursing home residents. The agency, in conjunction with the
1305 Department of Elderly Affairs and the Department of Health,
1306 shall review these statistical profiles and develop
1307 recommendations for the types of residents who might more
1308 appropriately be placed in their homes or other noninstitutional
1309 settings.

1310 Section 51. Subsection (11) of section 408.07, Florida
1311 Statutes, is amended to read:

1312 408.07 Definitions.—As used in this chapter, with the
1313 exception of ss. 408.031-408.045, the term:

1314 ~~(11) "Clinical laboratory" means a facility licensed under~~
1315 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~



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1316 ~~483.041(6); any clinical laboratory operated by the state or a~~
1317 ~~political subdivision of the state; any blood or tissue bank~~
1318 ~~where the majority of revenues are received from the sale of~~
1319 ~~blood or tissue and where blood, plasma, or tissue is procured~~
1320 ~~from volunteer donors and donated, processed, stored, or~~
1321 ~~distributed on a nonprofit basis; and any clinical laboratory~~
1322 ~~which is wholly owned and operated by physicians who are~~
1323 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
1324 ~~in the same group practice, and at which no clinical laboratory~~
1325 ~~work is performed for patients referred by any health care~~
1326 ~~provider who is not a member of that same group practice.~~

1327 Section 52. Subsection (4) of section 408.20, Florida
1328 Statutes, is amended to read:

1329 408.20 Assessments; Health Care Trust Fund.—

1330 (4) Hospitals operated by state agencies ~~the Department of~~
1331 ~~Children and Families, the Department of Health, or the~~
1332 ~~Department of Corrections~~ are exempt from the assessments
1333 required under this section.

1334 Section 53. Section 408.7056, Florida Statutes, is
1335 repealed.

1336 Section 54. Subsections (10), (11), and (27) of section
1337 408.802, Florida Statutes, are amended to read:

1338 408.802 Applicability.—The provisions of this part apply to
1339 the provision of services that require licensure as defined in
1340 this part and to the following entities licensed, registered, or
1341 certified by the agency, as described in chapters 112, 383, 390,
1342 394, 395, 400, 429, 440, 483, and 765:

1343 ~~(10) Mobile surgical facilities, as provided under part I~~
1344 ~~of chapter 395.~~



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1345 ~~(11) Health care risk managers, as provided under part I of~~
1346 ~~chapter 395.~~

1347 ~~(27) Clinical laboratories, as provided under part I of~~
1348 ~~chapter 483.~~

1349 Section 55. Present subsections (12) and (13) of section
1350 408.803, Florida Statutes, are renumbered as subsections (13)
1351 and (14), respectively, and a new subsection (12) is added to
1352 that section, to read:

1353 408.803 Definitions.—As used in this part, the term:

1354 (12) "Relative" means an individual who is the father,
1355 mother, stepfather, stepmother, son, daughter, brother, sister,
1356 grandmother, grandfather, great-grandmother, great-grandfather,
1357 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1358 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1359 daughter-in-law, brother-in-law, sister-in-law, stepson,
1360 stepdaughter, stepbrother, stepsister, half-brother, or half-
1361 sister of a patient or client.

1362 Section 56. Paragraph (a) of subsection (1) and paragraph
1363 (c) of subsection (7) of section 408.806, Florida Statutes, are
1364 amended, and subsection (9) is added to that section, to read:

1365 408.806 License application process.—

1366 (1) An application for licensure must be made to the agency
1367 on forms furnished by the agency, submitted under oath or
1368 attestation, and accompanied by the appropriate fee in order to
1369 be accepted and considered timely. The application must contain
1370 information required by authorizing statutes and applicable
1371 rules and must include:

1372 (a) The name, address, and social security number, or
1373 individual taxpayer identification number if a social security



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1374 number cannot legally be obtained, of:

1375 1. The applicant;

1376 2. The administrator or a similarly titled person who is
1377 responsible for the day-to-day operation of the provider;

1378 3. The financial officer or similarly titled person who is
1379 responsible for the financial operation of the licensee or
1380 provider; and

1381 4. Each controlling interest if the applicant or
1382 controlling interest is an individual.

1383

1384 The licensee shall ensure that no person who is ineligible for
1385 licensure under s. 408.809(4) has any direct or indirect
1386 ownership interest in the licensee, regardless of ownership
1387 structure. The licensee shall ensure that no person holds or has
1388 held any ownership interest, directly or indirectly, regardless
1389 of ownership structure, in a provider that has had a license or
1390 change of ownership application denied, revoked, or excluded
1391 pursuant to s. 408.815.

1392 (7)

1393 (c) If an inspection is required by the authorizing statute
1394 for a license application other than an initial application, the
1395 inspection must be unannounced. This paragraph does not apply to
1396 inspections required pursuant to ss. 383.324, 395.0161(4), ~~and~~
1397 ~~429.67(6), and 483.061(2).~~

1398 (9) A licensee that holds a license for multiple providers
1399 licensed by the agency may request that all related license
1400 expiration dates be aligned. Upon such a request, the agency may
1401 issue a license for an abbreviated licensure period with a
1402 prorated licensure fee.



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1403 Section 57. Subsection (8) of section 408.810, Florida
1404 Statutes, is amended, and subsection (11) is added to that
1405 section to read:

1406 408.810 Minimum licensure requirements.—In addition to the
1407 licensure requirements specified in this part, authorizing
1408 statutes, and applicable rules, each applicant and licensee must
1409 comply with the requirements of this section in order to obtain
1410 and maintain a license.

1411 (8) Upon application for initial licensure or change of
1412 ownership licensure, the applicant shall furnish satisfactory
1413 proof of the applicant's financial ability to operate in
1414 accordance with the requirements of this part, authorizing
1415 statutes, and applicable rules. The agency shall establish
1416 standards for this purpose, including information concerning the
1417 applicant's controlling interests. The agency shall also
1418 establish documentation requirements, to be completed by each
1419 applicant, that show anticipated provider revenues and
1420 expenditures, the basis for financing the anticipated cash-flow
1421 requirements of the provider, and an applicant's access to
1422 contingency financing. A current certificate of authority,
1423 pursuant to chapter 651, may be provided as proof of financial
1424 ability to operate. The agency may require a licensee to provide
1425 proof of financial ability to operate at any time if there is
1426 evidence of financial instability, including, but not limited
1427 to, unpaid expenses necessary for the basic operations of the
1428 provider. An applicant applying for change of ownership
1429 licensure is exempt from furnishing proof of the applicant's
1430 financial ability to operate if the provider has been licensed
1431 for at least 5 years and:



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1432 (a) The ownership change is a result of a corporate
1433 reorganization under which the controlling interest is unchanged
1434 and the applicant submits organizational charts that represent
1435 the current and proposed structure of the reorganized
1436 corporation; or

1437 (b) The ownership change is due solely to the death of a
1438 person holding a controlling interest, and the persons holding
1439 the surviving controlling interests continue to hold at least 51
1440 percent of ownership after the change of ownership.

1441 (11) The agency may adopt rules that govern the
1442 circumstances under which a controlling interest, an
1443 administrator, an employee, or a contractor, or a representative
1444 thereof, who is not a relative of the patient or client may act
1445 as a legal representative, agent, health care surrogate, power
1446 of attorney, or guardian of a patient or client. Such rules may
1447 include requirements related to disclosure, bonding,
1448 restrictions, and client protections.

1449 Section 58. Section 408.812, Florida Statutes, is amended
1450 to read:

1451 408.812 Unlicensed activity.—

1452 (1) A person or entity may not offer or advertise services
1453 that require licensure as defined by this part, authorizing
1454 statutes, or applicable rules to the public without obtaining a
1455 valid license from the agency. A licenseholder may not advertise
1456 or hold out to the public that he or she holds a license for
1457 other than that for which he or she actually holds the license.

1458 (2) The operation or maintenance of an unlicensed provider
1459 or the performance of any services that require licensure
1460 without proper licensure is a violation of this part and



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1461 authorizing statutes. Unlicensed activity constitutes harm that
1462 materially affects the health, safety, and welfare of clients,
1463 and abuse and neglect as defined in s. 415.102. The agency or
1464 any state attorney may, in addition to other remedies provided
1465 in this part, bring an action for an injunction to restrain such
1466 violation, or to enjoin the future operation or maintenance of
1467 the unlicensed provider or the performance of any services in
1468 violation of this part and authorizing statutes, until
1469 compliance with this part, authorizing statutes, and agency
1470 rules has been demonstrated to the satisfaction of the agency.

1471 (3) It is unlawful for any person or entity to own,
1472 operate, or maintain an unlicensed provider. If, after receiving
1473 notification from the agency, such person or entity fails to
1474 cease operation ~~and apply for a license under this part and~~
1475 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
1476 to penalties as prescribed by authorizing statutes and
1477 applicable rules. Each day of ~~continued~~ operation is a separate
1478 offense.

1479 (4) Any person or entity that fails to cease operation
1480 after agency notification may be fined \$1,000 for each day of
1481 noncompliance.

1482 (5) When a controlling interest or licensee has an interest
1483 in more than one provider and fails to license a provider
1484 rendering services that require licensure, the agency may revoke
1485 all licenses, ~~and~~ impose actions under s. 408.814, and,
1486 regardless of correction, impose a fine of \$1,000 per day,
1487 unless otherwise specified by authorizing statutes, against each
1488 licensee until such time as the appropriate license is obtained
1489 or the unlicensed activity ceases ~~for the unlicensed operation.~~



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1490 (6) In addition to granting injunctive relief pursuant to
1491 subsection (2), if the agency determines that a person or entity
1492 is operating or maintaining a provider without obtaining a
1493 license and determines that a condition exists that poses a
1494 threat to the health, safety, or welfare of a client of the
1495 provider, the person or entity is subject to the same actions
1496 and fines imposed against a licensee as specified in this part,
1497 authorizing statutes, and agency rules.

1498 (7) Any person aware of the operation of an unlicensed
1499 provider must report that provider to the agency.

1500 Section 59. Subsections (10), (11), (26), and (27) of
1501 section 408.820, Florida Statutes, are amended to read:

1502 408.820 Exemptions.—Except as prescribed in authorizing
1503 statutes, the following exemptions shall apply to specified
1504 requirements of this part:

1505 ~~(10) Mobile surgical facilities, as provided under part I~~
1506 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

1507 ~~(11) Health care risk managers, as provided under part I of~~
1508 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
1509 ~~and 408.811.~~

1510 ~~(26) Clinical laboratories, as provided under part I of~~
1511 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

1512 (24)~~(27)~~ Multiphasic health testing centers, as provided
1513 under part I ~~II~~ of chapter 483, are exempt from s. 408.810(5)-
1514 (10).

1515 Section 60. Subsection (7) of section 409.905, Florida
1516 Statutes, is amended to read:

1517 409.905 Mandatory Medicaid services.—The agency may make
1518 payments for the following services, which are required of the



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1519 state by Title XIX of the Social Security Act, furnished by
1520 Medicaid providers to recipients who are determined to be
1521 eligible on the dates on which the services were provided. Any
1522 service under this section shall be provided only when medically
1523 necessary and in accordance with state and federal law.
1524 Mandatory services rendered by providers in mobile units to
1525 Medicaid recipients may be restricted by the agency. Nothing in
1526 this section shall be construed to prevent or limit the agency
1527 from adjusting fees, reimbursement rates, lengths of stay,
1528 number of visits, number of services, or any other adjustments
1529 necessary to comply with the availability of moneys and any
1530 limitations or directions provided for in the General
1531 Appropriations Act or chapter 216.

1532 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
1533 for medically necessary diagnostic laboratory procedures ordered
1534 by a licensed physician or other licensed practitioner of the
1535 healing arts which are provided for a recipient in a laboratory
1536 that meets the requirements for Medicare participation and
1537 appropriately certified by the Centers for Medicare and Medicaid
1538 Services under the federal Clinical Laboratory Improvement
1539 Amendments of 1988 is licensed under chapter 483, if required.

1540 Section 61. Subsection (6) of section 409.9116, Florida
1541 Statutes, is amended to read:

1542 409.9116 Disproportionate share/financial assistance
1543 program for rural hospitals.—In addition to the payments made
1544 under s. 409.911, the Agency for Health Care Administration
1545 shall administer a federally matched disproportionate share
1546 program and a state-funded financial assistance program for
1547 statutory rural hospitals. The agency shall make



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1548 disproportionate share payments to statutory rural hospitals
1549 that qualify for such payments and financial assistance payments
1550 to statutory rural hospitals that do not qualify for
1551 disproportionate share payments. The disproportionate share
1552 program payments shall be limited by and conform with federal
1553 requirements. Funds shall be distributed quarterly in each
1554 fiscal year for which an appropriation is made. Notwithstanding
1555 the provisions of s. 409.915, counties are exempt from
1556 contributing toward the cost of this special reimbursement for
1557 hospitals serving a disproportionate share of low-income
1558 patients.

1559 (6) This section applies only to hospitals that were
1560 defined as statutory rural hospitals, or their successor-in-
1561 interest hospital, prior to January 1, 2001. Any additional
1562 hospital that is defined as a statutory rural hospital, or its
1563 successor-in-interest hospital, on or after January 1, 2001, is
1564 not eligible for programs under this section unless additional
1565 funds are appropriated each fiscal year specifically to the
1566 rural hospital disproportionate share and financial assistance
1567 programs in an amount necessary to prevent any hospital, or its
1568 successor-in-interest hospital, eligible for the programs prior
1569 to January 1, 2001, from incurring a reduction in payments
1570 because of the eligibility of an additional hospital to
1571 participate in the programs. A hospital, or its successor-in-
1572 interest hospital, which received funds pursuant to this section
1573 before January 1, 2001, and which qualifies under s.
1574 395.602(2)(b) ~~395.602(2)(e)~~, shall be included in the programs
1575 under this section and is not required to seek additional
1576 appropriations under this subsection.



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1577 Section 62. Paragraphs (a) and (b) of subsection (1) of
1578 section 409.975, Florida Statutes, are amended to read:

1579 409.975 Managed care plan accountability.—In addition to
1580 the requirements of s. 409.967, plans and providers
1581 participating in the managed medical assistance program shall
1582 comply with the requirements of this section.

1583 (1) PROVIDER NETWORKS.—Managed care plans must develop and
1584 maintain provider networks that meet the medical needs of their
1585 enrollees in accordance with standards established pursuant to
1586 s. 409.967(2)(c). Except as provided in this section, managed
1587 care plans may limit the providers in their networks based on
1588 credentials, quality indicators, and price.

1589 (a) Plans must include all providers in the region that are
1590 classified by the agency as essential Medicaid providers, unless
1591 the agency approves, in writing, an alternative arrangement for
1592 securing the types of services offered by the essential
1593 providers. Providers are essential for serving Medicaid
1594 enrollees if they offer services that are not available from any
1595 other provider within a reasonable access standard, or if they
1596 provided a substantial share of the total units of a particular
1597 service used by Medicaid patients within the region during the
1598 last 3 years and the combined capacity of other service
1599 providers in the region is insufficient to meet the total needs
1600 of the Medicaid patients. The agency may not classify physicians
1601 and other practitioners as essential providers. The agency, at a
1602 minimum, shall determine which providers in the following
1603 categories are essential Medicaid providers:

- 1604 1. Federally qualified health centers.
1605 2. Statutory teaching hospitals as defined in s. 408.07(44)



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1606 ~~408.07(45).~~

1607 3. Hospitals that are trauma centers as defined in s.
1608 395.4001(14).

1609 4. Hospitals located at least 25 miles from any other
1610 hospital with similar services.

1611
1612 Managed care plans that have not contracted with all essential
1613 providers in the region as of the first date of recipient
1614 enrollment, or with whom an essential provider has terminated
1615 its contract, must negotiate in good faith with such essential
1616 providers for 1 year or until an agreement is reached, whichever
1617 is first. Payments for services rendered by a nonparticipating
1618 essential provider shall be made at the applicable Medicaid rate
1619 as of the first day of the contract between the agency and the
1620 plan. A rate schedule for all essential providers shall be
1621 attached to the contract between the agency and the plan. After
1622 1 year, managed care plans that are unable to contract with
1623 essential providers shall notify the agency and propose an
1624 alternative arrangement for securing the essential services for
1625 Medicaid enrollees. The arrangement must rely on contracts with
1626 other participating providers, regardless of whether those
1627 providers are located within the same region as the
1628 nonparticipating essential service provider. If the alternative
1629 arrangement is approved by the agency, payments to
1630 nonparticipating essential providers after the date of the
1631 agency's approval shall equal 90 percent of the applicable
1632 Medicaid rate. Except for payment for emergency services, if the
1633 alternative arrangement is not approved by the agency, payment
1634 to nonparticipating essential providers shall equal 110 percent



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1635 of the applicable Medicaid rate.

1636 (b) Certain providers are statewide resources and essential
1637 providers for all managed care plans in all regions. All managed
1638 care plans must include these essential providers in their
1639 networks. Statewide essential providers include:

1640 1. Faculty plans of Florida medical schools.

1641 2. Regional perinatal intensive care centers as defined in
1642 s. 383.16(2).

1643 3. Hospitals licensed as specialty children's hospitals as
1644 defined in s. 395.002(27) ~~395.002(28)~~.

1645 4. Accredited and integrated systems serving medically
1646 complex children which comprise separately licensed, but
1647 commonly owned, health care providers delivering at least the
1648 following services: medical group home, in-home and outpatient
1649 nursing care and therapies, pharmacy services, durable medical
1650 equipment, and Prescribed Pediatric Extended Care.

1651
1652 Managed care plans that have not contracted with all statewide
1653 essential providers in all regions as of the first date of
1654 recipient enrollment must continue to negotiate in good faith.
1655 Payments to physicians on the faculty of nonparticipating
1656 Florida medical schools shall be made at the applicable Medicaid
1657 rate. Payments for services rendered by regional perinatal
1658 intensive care centers shall be made at the applicable Medicaid
1659 rate as of the first day of the contract between the agency and
1660 the plan. Except for payments for emergency services, payments
1661 to nonparticipating specialty children's hospitals shall equal
1662 the highest rate established by contract between that provider
1663 and any other Medicaid managed care plan.



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1664 Section 63. Subsections (5) and (17) of section 429.02,
1665 Florida Statutes, are amended to read:

1666 429.02 Definitions.—When used in this part, the term:

1667 (5) "Assisted living facility" means any building or
1668 buildings, section or distinct part of a building, private home,
1669 boarding home, home for the aged, or other residential facility,
1670 whether operated for profit or not, which, ~~undertakes~~ through
1671 its ownership or management, provides ~~to provide~~ housing, meals,
1672 and one or more personal services for a period exceeding 24
1673 hours to one or more adults who are not relatives of the owner
1674 or administrator.

1675 (17) "Personal services" means direct physical assistance
1676 with or supervision of the activities of daily living, ~~and~~ the
1677 self-administration of medication, ~~or~~ ~~and~~ other similar services
1678 which the department may define by rule. The term may "Personal
1679 services" ~~shall~~ not be construed to mean the provision of
1680 medical, nursing, dental, or mental health services, or, with
1681 the exception of authorized adult day care services provided
1682 within a licensed assisted living facility, personal services to
1683 individuals who are not residents of the facility.

1684 Section 64. Paragraphs (b) and (d) of subsection (2) of
1685 section 429.04, Florida Statutes, are amended, and subsection
1686 (3) is added to that section, to read:

1687 429.04 Facilities to be licensed; exemptions.—

1688 (2) The following are exempt from licensure under this
1689 part:

1690 (b) Any facility or part of a facility licensed by the
1691 Agency for Persons with Disabilities under chapter 393, a mental
1692 health facility licensed under ~~or~~ chapter 394, a hospital



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1693 licensed under chapter 395, a nursing home licensed under part
1694 II of chapter 400, an inpatient hospice licensed under part IV
1695 of chapter 400, a home for special services licensed under part
1696 V of chapter 400, an intermediate care facility licensed under
1697 part VIII of chapter 400, or a transitional living facility
1698 licensed under part XI of chapter 400.

1699 (d) Any person who provides housing, meals, and one or more
1700 personal services on a 24-hour basis in the person's own home to
1701 not more than two adults who do not receive optional state
1702 supplementation. The person who provides the housing, meals, and
1703 personal services must own or rent the home and must have
1704 established the home as his or her permanent residence. For
1705 purposes of this paragraph, any person holding a homestead
1706 exemption at an address other than that at which the person
1707 asserts this exemption is presumed to not have established
1708 permanent residence ~~reside therein~~. This exemption does not
1709 apply to a person or entity that previously held a license
1710 issued by the agency which was revoked or for which renewal was
1711 denied by final order of the agency, or when the person or
1712 entity voluntarily relinquished the license during agency
1713 enforcement proceedings.

1714 (3) Upon agency investigation of unlicensed activity, any
1715 person or entity asserting an exemption pursuant to this section
1716 has the burden of providing documentation substantiating that
1717 the person or entity is entitled to the exemption.

1718 Section 65. Paragraphs (b) and (d) of subsection (1) of
1719 section 429.08, Florida Statutes, are amended, to read:

1720 429.08 Unlicensed facilities; referral of person for
1721 residency to unlicensed facility; penalties.-



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

(d) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed assisted living facility after receiving notice from the agency due to a change in this part or a modification in rule within 6 months after the effective date of such change and who, within 10 working days after receiving notification from the agency, ~~fails to cease operation or apply for a license under this part~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of continued operation is a separate offense.

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

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

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



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1751 429.41 Rules establishing standards.-

1752 (1) It is the intent of the Legislature that rules
1753 published and enforced pursuant to this section shall include
1754 criteria by which a reasonable and consistent quality of
1755 resident care and quality of life may be ensured and the results
1756 of such resident care may be demonstrated. Such rules shall also
1757 ensure a safe and sanitary environment that is residential and
1758 noninstitutional in design or nature. It is further intended
1759 that reasonable efforts be made to accommodate the needs and
1760 preferences of residents to enhance the quality of life in a
1761 facility. Uniform firesafety standards for assisted living
1762 facilities shall be established by the State Fire Marshal
1763 pursuant to s. 633.206. The agency, in consultation with the
1764 department, may adopt rules to administer the requirements of
1765 part II of chapter 408. In order to provide safe and sanitary
1766 facilities and the highest quality of resident care
1767 accommodating the needs and preferences of residents, the
1768 department, in consultation with the agency, the Department of
1769 Children and Families, and the Department of Health, shall adopt
1770 rules, policies, and procedures to administer this part, which
1771 must include reasonable and fair minimum standards in relation
1772 to:

1773 (h) The care and maintenance of residents, which must
1774 include, but is not limited to:

1775 1. The supervision of residents;

1776 2. The provision of personal services. With the exception
1777 of authorized adult day care services provided within a licensed
1778 assisted living facility, an assisted living facility may not
1779 provide personal services to individuals who are not residents



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1780 of the facility;

1781 3. The provision of, or arrangement for, social and leisure
1782 activities;

1783 4. The arrangement for appointments and transportation to
1784 appropriate medical, dental, nursing, or mental health services,
1785 as needed by residents;

1786 5. The management of medication;

1787 6. The nutritional needs of residents;

1788 7. Resident records; and

1789 8. Internal risk management and quality assurance.

1790 Section 68. Subsection (4) of section 456.001, Florida
1791 Statutes, is amended to read:

1792 456.001 Definitions.—As used in this chapter, the term:

1793 (4) "Health care practitioner" means any person licensed
1794 under chapter 457; chapter 458; chapter 459; chapter 460;
1795 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
1796 chapter 466; chapter 467; part I, part II, part III, part V,
1797 part X, part XIII, or part XIV of chapter 468; chapter 478;
1798 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
1799 chapter 484; chapter 486; chapter 490; or chapter 491.

1800 Section 69. Paragraphs (h) and (i) of subsection (2) of
1801 section 456.057, Florida Statutes, are amended to read:

1802 456.057 Ownership and control of patient records; report or
1803 copies of records to be furnished; disclosure of information.—

1804 (2) As used in this section, the terms "records owner,"
1805 "health care practitioner," and "health care practitioner's
1806 employer" do not include any of the following persons or
1807 entities; furthermore, the following persons or entities are not
1808 authorized to acquire or own medical records, but are authorized



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1809 under the confidentiality and disclosure requirements of this
1810 section to maintain those documents required by the part or
1811 chapter under which they are licensed or regulated:

1812 (h) Clinical laboratory personnel licensed under part II
1813 ~~III~~ of chapter 483.

1814 (i) Medical physicists licensed under part III ~~IV~~ of
1815 chapter 483.

1816 Section 70. Subsection (2) of section 458.307, Florida
1817 Statutes, is amended to read:

1818 458.307 Board of Medicine.—

1819 (2) Twelve members of the board must be licensed physicians
1820 in good standing in this state who are residents of the state
1821 and who have been engaged in the active practice or teaching of
1822 medicine for at least 4 years immediately preceding their
1823 appointment. One of the physicians must be on the full-time
1824 faculty of a medical school in this state, and one of the
1825 physicians must be in private practice and on the full-time
1826 staff of a statutory teaching hospital in this state as defined
1827 in s. 408.07. At least one of the physicians must be a graduate
1828 of a foreign medical school. The remaining three members must be
1829 residents of the state who are not, and never have been,
1830 licensed health care practitioners. One member must be a health
1831 care risk manager ~~licensed under s. 395.10974~~. At least one
1832 member of the board must be 60 years of age or older.

1833 Section 71. Subsection (1) of section 458.345, Florida
1834 Statutes, is amended to read:

1835 458.345 Registration of resident physicians, interns, and
1836 fellows; list of hospital employees; prescribing of medicinal
1837 drugs; penalty.—



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1838 (1) Any person desiring to practice as a resident
1839 physician, assistant resident physician, house physician,
1840 intern, or fellow in fellowship training which leads to
1841 subspecialty board certification in this state, or any person
1842 desiring to practice as a resident physician, assistant resident
1843 physician, house physician, intern, or fellow in fellowship
1844 training in a teaching hospital in this state as defined in s.
1845 408.07(44) ~~408.07(45)~~ or s. 395.805(2), who does not hold a
1846 valid, active license issued under this chapter shall apply to
1847 the department to be registered and shall remit a fee not to
1848 exceed \$300 as set by the board. The department shall register
1849 any applicant the board certifies has met the following
1850 requirements:

1851 (a) Is at least 21 years of age.

1852 (b) Has not committed any act or offense within or without
1853 the state which would constitute the basis for refusal to
1854 certify an application for licensure pursuant to s. 458.331.

1855 (c) Is a graduate of a medical school or college as
1856 specified in s. 458.311(1)(f).

1857 Section 72. Subsection (1) of section 459.021, Florida
1858 Statutes, is amended to read:

1859 459.021 Registration of resident physicians, interns, and
1860 fellows; list of hospital employees; penalty.—

1861 (1) Any person who holds a degree of Doctor of Osteopathic
1862 Medicine from a college of osteopathic medicine recognized and
1863 approved by the American Osteopathic Association who desires to
1864 practice as a resident physician, intern, or fellow in
1865 fellowship training which leads to subspecialty board
1866 certification in this state, or any person desiring to practice



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1867 as a resident physician, intern, or fellow in fellowship
1868 training in a teaching hospital in this state as defined in s.
1869 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
1870 active license issued under this chapter shall apply to the
1871 department to be registered, on an application provided by the
1872 department, before commencing such a training program and shall
1873 remit a fee not to exceed \$300 as set by the board.

1874 Section 73. Part I of chapter 483, Florida Statutes,
1875 consisting of sections 483.011, 483.021, 483.031, 483.035,
1876 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
1877 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
1878 is repealed.

1879 Section 74. Section 483.294, Florida Statutes, is amended
1880 to read:

1881 483.294 Inspection of centers.—In accordance with s.
1882 408.811, the agency shall, ~~at least once annually,~~ inspect the
1883 premises and operations of all centers subject to licensure
1884 under this part.

1885 Section 75. Subsection (3) of section 483.801, Florida
1886 Statutes, is amended to read:

1887 483.801 Exemptions.—This part applies to all clinical
1888 laboratories and clinical laboratory personnel within this
1889 state, except:

1890 (3) Persons engaged in testing performed by laboratories
1891 that are wholly owned and operated by one or more practitioners
1892 licensed under chapter 458, chapter 459, chapter 460, chapter
1893 461, chapter 462, chapter 463, or chapter 466 who practice in
1894 the same group practice, and in which no clinical laboratory
1895 work is performed for patients referred by any health care



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1896 provider who is not a member of that group practice regulated
1897 under s. 483.035(1) or exempt from regulation under s.
1898 483.031(2).

1899 Section 76. Subsections (2), (3), and (4) of section
1900 483.803, Florida Statutes, are amended to read:

1901 483.803 Definitions.—As used in this part, the term:

1902 ~~(2) "Clinical laboratory" means a clinical laboratory as~~
1903 ~~defined in s. 483.041.~~

1904 ~~(3) "Clinical laboratory examination" means a clinical~~
1905 ~~laboratory examination as defined in s. 483.041.~~

1906 (2)(4) "Clinical laboratory personnel" includes a clinical
1907 laboratory director, supervisor, technologist, blood gas
1908 analyst, or technician who performs or is responsible for
1909 laboratory test procedures, but the term does not include
1910 trainees, persons who perform screening for blood banks or
1911 plasmapheresis centers, phlebotomists, or persons employed by a
1912 clinical laboratory to perform manual pretesting duties or
1913 clerical, personnel, or other administrative responsibilities,
1914 ~~or persons engaged in testing performed by laboratories~~
1915 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
1916 ~~483.031(2).~~

1917 Section 77. Section 483.813, Florida Statutes, is amended
1918 to read:

1919 483.813 Clinical laboratory personnel license.—A person may
1920 not conduct a clinical laboratory examination or report the
1921 results of such examination unless such person is licensed under
1922 this part to perform such procedures. However, this provision
1923 does not apply to any practitioner of the healing arts
1924 authorized to practice in this state ~~or to persons engaged in~~



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1925 ~~testing performed by laboratories regulated under s. 483.035(1)~~
1926 ~~or exempt from regulation under s. 483.031(2).~~ The department
1927 may grant a temporary license to any candidate it deems properly
1928 qualified, for a period not to exceed 1 year.

1929 Section 78. Paragraph (c) of subsection (7), paragraph (c)
1930 of subsection (8), and paragraph (c) of subsection (9) of
1931 section 491.003, Florida Statutes, are amended to read:

1932 491.003 Definitions.—As used in this chapter:

1933 (7) The "practice of clinical social work" is defined as
1934 the use of scientific and applied knowledge, theories, and
1935 methods for the purpose of describing, preventing, evaluating,
1936 and treating individual, couple, marital, family, or group
1937 behavior, based on the person-in-situation perspective of
1938 psychosocial development, normal and abnormal behavior,
1939 psychopathology, unconscious motivation, interpersonal
1940 relationships, environmental stress, differential assessment,
1941 differential planning, and data gathering. The purpose of such
1942 services is the prevention and treatment of undesired behavior
1943 and enhancement of mental health. The practice of clinical
1944 social work includes methods of a psychological nature used to
1945 evaluate, assess, diagnose, treat, and prevent emotional and
1946 mental disorders and dysfunctions (whether cognitive, affective,
1947 or behavioral), sexual dysfunction, behavioral disorders,
1948 alcoholism, and substance abuse. The practice of clinical social
1949 work includes, but is not limited to, psychotherapy,
1950 hypnotherapy, and sex therapy. The practice of clinical social
1951 work also includes counseling, behavior modification,
1952 consultation, client-centered advocacy, crisis intervention, and
1953 the provision of needed information and education to clients,



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1954 when using methods of a psychological nature to evaluate,
1955 assess, diagnose, treat, and prevent emotional and mental
1956 disorders and dysfunctions (whether cognitive, affective, or
1957 behavioral), sexual dysfunction, behavioral disorders,
1958 alcoholism, or substance abuse. The practice of clinical social
1959 work may also include clinical research into more effective
1960 psychotherapeutic modalities for the treatment and prevention of
1961 such conditions.

1962 (c) The terms "diagnose" and "treat," as used in this
1963 chapter, when considered in isolation or in conjunction with any
1964 provision of the rules of the board, may ~~shall~~ not be construed
1965 to permit the performance of any act which clinical social
1966 workers are not educated and trained to perform, including, but
1967 not limited to, admitting persons to hospitals for treatment of
1968 the foregoing conditions, treating persons in hospitals without
1969 medical supervision, prescribing medicinal drugs as defined in
1970 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
1971 ~~to chapter 483~~, or radiological procedures, or use of
1972 electroconvulsive therapy. In addition, this definition shall
1973 not be construed to permit any person licensed, provisionally
1974 licensed, registered, or certified pursuant to this chapter to
1975 describe or label any test, report, or procedure as
1976 "psychological," except to relate specifically to the definition
1977 of practice authorized in this subsection.

1978 (8) The "practice of marriage and family therapy" is
1979 defined as the use of scientific and applied marriage and family
1980 theories, methods, and procedures for the purpose of describing,
1981 evaluating, and modifying marital, family, and individual
1982 behavior, within the context of marital and family systems,



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1983 including the context of marital formation and dissolution, and
1984 is based on marriage and family systems theory, marriage and
1985 family development, human development, normal and abnormal
1986 behavior, psychopathology, human sexuality, psychotherapeutic
1987 and marriage and family therapy theories and techniques. The
1988 practice of marriage and family therapy includes methods of a
1989 psychological nature used to evaluate, assess, diagnose, treat,
1990 and prevent emotional and mental disorders or dysfunctions
1991 (whether cognitive, affective, or behavioral), sexual
1992 dysfunction, behavioral disorders, alcoholism, and substance
1993 abuse. The practice of marriage and family therapy includes, but
1994 is not limited to, marriage and family therapy, psychotherapy,
1995 including behavioral family therapy, hypnotherapy, and sex
1996 therapy. The practice of marriage and family therapy also
1997 includes counseling, behavior modification, consultation,
1998 client-centered advocacy, crisis intervention, and the provision
1999 of needed information and education to clients, when using
2000 methods of a psychological nature to evaluate, assess, diagnose,
2001 treat, and prevent emotional and mental disorders and
2002 dysfunctions (whether cognitive, affective, or behavioral),
2003 sexual dysfunction, behavioral disorders, alcoholism, or
2004 substance abuse. The practice of marriage and family therapy may
2005 also include clinical research into more effective
2006 psychotherapeutic modalities for the treatment and prevention of
2007 such conditions.

2008 (c) The terms "diagnose" and "treat," as used in this
2009 chapter, when considered in isolation or in conjunction with any
2010 provision of the rules of the board, shall not be construed to
2011 permit the performance of any act which marriage and family



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2012 therapists are not educated and trained to perform, including,
2013 but not limited to, admitting persons to hospitals for treatment
2014 of the foregoing conditions, treating persons in hospitals
2015 without medical supervision, prescribing medicinal drugs as
2016 defined in chapter 465, authorizing clinical laboratory
2017 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2018 or use of electroconvulsive therapy. In addition, this
2019 definition shall not be construed to permit any person licensed,
2020 provisionally licensed, registered, or certified pursuant to
2021 this chapter to describe or label any test, report, or procedure
2022 as "psychological," except to relate specifically to the
2023 definition of practice authorized in this subsection.

2024 (9) The "practice of mental health counseling" is defined
2025 as the use of scientific and applied behavioral science
2026 theories, methods, and techniques for the purpose of describing,
2027 preventing, and treating undesired behavior and enhancing mental
2028 health and human development and is based on the person-in-
2029 situation perspectives derived from research and theory in
2030 personality, family, group, and organizational dynamics and
2031 development, career planning, cultural diversity, human growth
2032 and development, human sexuality, normal and abnormal behavior,
2033 psychopathology, psychotherapy, and rehabilitation. The practice
2034 of mental health counseling includes methods of a psychological
2035 nature used to evaluate, assess, diagnose, and treat emotional
2036 and mental dysfunctions or disorders (whether cognitive,
2037 affective, or behavioral), behavioral disorders, interpersonal
2038 relationships, sexual dysfunction, alcoholism, and substance
2039 abuse. The practice of mental health counseling includes, but is
2040 not limited to, psychotherapy, hypnotherapy, and sex therapy.



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2041 The practice of mental health counseling also includes
2042 counseling, behavior modification, consultation, client-centered
2043 advocacy, crisis intervention, and the provision of needed
2044 information and education to clients, when using methods of a
2045 psychological nature to evaluate, assess, diagnose, treat, and
2046 prevent emotional and mental disorders and dysfunctions (whether
2047 cognitive, affective, or behavioral), behavioral disorders,
2048 sexual dysfunction, alcoholism, or substance abuse. The practice
2049 of mental health counseling may also include clinical research
2050 into more effective psychotherapeutic modalities for the
2051 treatment and prevention of such conditions.

2052 (c) The terms "diagnose" and "treat," as used in this
2053 chapter, when considered in isolation or in conjunction with any
2054 provision of the rules of the board, shall not be construed to
2055 permit the performance of any act which mental health counselors
2056 are not educated and trained to perform, including, but not
2057 limited to, admitting persons to hospitals for treatment of the
2058 foregoing conditions, treating persons in hospitals without
2059 medical supervision, prescribing medicinal drugs as defined in
2060 chapter 465, authorizing clinical laboratory procedures pursuant
2061 to ~~chapter 483~~, or radiological procedures, or use of
2062 electroconvulsive therapy. In addition, this definition shall
2063 not be construed to permit any person licensed, provisionally
2064 licensed, registered, or certified pursuant to this chapter to
2065 describe or label any test, report, or procedure as
2066 "psychological," except to relate specifically to the definition
2067 of practice authorized in this subsection.

2068 Section 79. Paragraph (h) of subsection (4) of section
2069 627.351, Florida Statutes, is amended to read:



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2070 627.351 Insurance risk apportionment plans.—
2071 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—
2072 (h) As used in this subsection:
2073 1. "Health care provider" means hospitals licensed under
2074 chapter 395; physicians licensed under chapter 458; osteopathic
2075 physicians licensed under chapter 459; podiatric physicians
2076 licensed under chapter 461; dentists licensed under chapter 466;
2077 chiropractic physicians licensed under chapter 460; naturopaths
2078 licensed under chapter 462; nurses licensed under part I of
2079 chapter 464; midwives licensed under chapter 467; ~~clinical~~
2080 ~~laboratories registered under chapter 483;~~ physician assistants
2081 licensed under chapter 458 or chapter 459; physical therapists
2082 and physical therapist assistants licensed under chapter 486;
2083 health maintenance organizations certificated under part I of
2084 chapter 641; ambulatory surgical centers licensed under chapter
2085 395; other medical facilities as defined in subparagraph 2.;
2086 blood banks, plasma centers, industrial clinics, and renal
2087 dialysis facilities; or professional associations, partnerships,
2088 corporations, joint ventures, or other associations for
2089 professional activity by health care providers.
2090 2. "Other medical facility" means a facility the primary
2091 purpose of which is to provide human medical diagnostic services
2092 or a facility providing nonsurgical human medical treatment, to
2093 which facility the patient is admitted and from which facility
2094 the patient is discharged within the same working day, and which
2095 facility is not part of a hospital. However, a facility existing
2096 for the primary purpose of performing terminations of pregnancy
2097 or an office maintained by a physician or dentist for the
2098 practice of medicine shall not be construed to be an "other



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2099 medical facility.”

2100 3. “Health care facility” means any hospital licensed under
2101 chapter 395, health maintenance organization certificated under
2102 part I of chapter 641, ambulatory surgical center licensed under
2103 chapter 395, or other medical facility as defined in
2104 subparagraph 2.

2105 Section 80. Paragraph (h) of subsection (1) of section
2106 627.602, Florida Statutes, is amended to read:

2107 627.602 Scope, format of policy.—

2108 (1) Each health insurance policy delivered or issued for
2109 delivery to any person in this state must comply with all
2110 applicable provisions of this code and all of the following
2111 requirements:

2112 (h) Section 641.312 and the provisions of the Employee
2113 Retirement Income Security Act of 1974, as implemented by 29
2114 C.F.R. s. 2560.503-1, relating to internal grievances. This
2115 paragraph does not apply ~~to a health insurance policy that is~~
2116 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
2117 ~~or~~ to the types of benefits or coverages provided under s.
2118 627.6513(1)-(14) issued in any market.

2119 Section 81. Paragraphs (b) and (e) of subsection (1) of
2120 section 627.64194, Florida Statutes, are amended to read:

2121 627.64194 Coverage requirements for services provided by
2122 nonparticipating providers; payment collection limitations.—

2123 (1) As used in this section, the term:

2124 (b) “Facility” means a licensed facility as defined in s.
2125 395.002(16) and an urgent care center as defined in s.
2126 395.002(29) ~~s. 395.002(30)~~.

2127 (e) “Nonparticipating provider” means a provider who is not



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2128 a preferred provider as defined in s. 627.6471 or a provider who
2129 is not an exclusive provider as defined in s. 627.6472. For
2130 purposes of covered emergency services under this section, a
2131 facility licensed under chapter 395 or an urgent care center
2132 defined in s. 395.002(29) ~~395.002(30)~~ is a nonparticipating
2133 provider if the facility has not contracted with an insurer to
2134 provide emergency services to its insureds at a specified rate.

2135 Section 82. Section 627.6513, Florida Statutes, is amended
2136 to read:

2137 627.6513 Scope.—Section 641.312 and the provisions of the
2138 Employee Retirement Income Security Act of 1974, as implemented
2139 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
2140 apply to all group health insurance policies issued under this
2141 part. This section does not apply to ~~a group health insurance~~
2142 ~~policy that is subject to the Subscriber Assistance Program in~~
2143 ~~s. 408.7056 or to:~~

- 2144 (1) Coverage only for accident insurance, or disability
2145 income insurance, or any combination thereof.
- 2146 (2) Coverage issued as a supplement to liability insurance.
- 2147 (3) Liability insurance, including general liability
2148 insurance and automobile liability insurance.
- 2149 (4) Workers' compensation or similar insurance.
- 2150 (5) Automobile medical payment insurance.
- 2151 (6) Credit-only insurance.
- 2152 (7) Coverage for onsite medical clinics, including prepaid
2153 health clinics under part II of chapter 641.
- 2154 (8) Other similar insurance coverage, specified in rules
2155 adopted by the commission, under which benefits for medical care
2156 are secondary or incidental to other insurance benefits. To the



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2157 extent possible, such rules must be consistent with regulations
2158 adopted by the United States Department of Health and Human
2159 Services.

2160 (9) Limited scope dental or vision benefits, if offered
2161 separately.

2162 (10) Benefits for long-term care, nursing home care, home
2163 health care, or community-based care, or any combination
2164 thereof, if offered separately.

2165 (11) Other similar, limited benefits, if offered
2166 separately, as specified in rules adopted by the commission.

2167 (12) Coverage only for a specified disease or illness, if
2168 offered as independent, noncoordinated benefits.

2169 (13) Hospital indemnity or other fixed indemnity insurance,
2170 if offered as independent, noncoordinated benefits.

2171 (14) Benefits provided through a Medicare supplemental
2172 health insurance policy, as defined under s. 1882(g)(1) of the
2173 Social Security Act, coverage supplemental to the coverage
2174 provided under 10 U.S.C. chapter 55, and similar supplemental
2175 coverage provided to coverage under a group health plan, which
2176 are offered as a separate insurance policy and as independent,
2177 noncoordinated benefits.

2178 Section 83. Effective January 1, 2018, paragraph (j) of
2179 subsection (1) of section 641.185, Florida Statutes, is amended
2180 to read:

2181 641.185 Health maintenance organization subscriber
2182 protections.—

2183 (1) With respect to the provisions of this part and part
2184 III, the principles expressed in the following statements shall
2185 serve as standards to be followed by the commission, the office,



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2186 the department, and the Agency for Health Care Administration in
2187 exercising their powers and duties, in exercising administrative
2188 discretion, in administrative interpretations of the law, in
2189 enforcing its provisions, and in adopting rules:

2190 ~~(j) A health maintenance organization should receive timely~~
2191 ~~and, if necessary, urgent review by an independent state~~
2192 ~~external review organization for unresolved grievances and~~
2193 ~~appeals pursuant to s. 408.7056.~~

2194 Section 84. Effective January 1, 2018, section 641.312,
2195 Florida Statutes, is amended to read:

2196 641.312 Scope.—The Office of Insurance Regulation may adopt
2197 rules to administer the provisions of the National Association
2198 of Insurance Commissioners' Uniform Health Carrier External
2199 Review Model Act, issued by the National Association of
2200 Insurance Commissioners and dated April 2010. This section does
2201 not apply to a ~~health maintenance contract that is subject to~~
2202 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
2203 types of benefits or coverages provided under s. 627.6513(1)-
2204 (14) issued in any market.

2205 Section 85. Effective January 1, 2018, subsection (4) of
2206 section 641.3154, Florida Statutes, is amended to read:

2207 641.3154 Organization liability; provider billing
2208 prohibited.—

2209 (4) A provider or any representative of a provider,
2210 regardless of whether the provider is under contract with the
2211 health maintenance organization, may not collect or attempt to
2212 collect money from, maintain any action at law against, or
2213 report to a credit agency a subscriber of an organization for
2214 payment of services for which the organization is liable, if the



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2215 provider in good faith knows or should know that the
2216 organization is liable. This prohibition applies during the
2217 pendency of any claim for payment made by the provider to the
2218 organization for payment of the services and any legal
2219 proceedings or dispute resolution process to determine whether
2220 the organization is liable for the services if the provider is
2221 informed that such proceedings are taking place. It is presumed
2222 that a provider does not know and should not know that an
2223 organization is liable unless:

2224 (a) The provider is informed by the organization that it
2225 accepts liability;

2226 (b) A court of competent jurisdiction determines that the
2227 organization is liable; or

2228 ~~(c) The office or agency makes a final determination that~~
2229 ~~the organization is required to pay for such services subsequent~~
2230 ~~to a recommendation made by the Subscriber Assistance Panel~~
2231 ~~pursuant to s. 408.7056; or~~

2232 (c) ~~(d)~~ The agency issues a final order that the
2233 organization is required to pay for such services subsequent to
2234 a recommendation made by a resolution organization pursuant to
2235 s. 408.7057.

2236 Section 86. Effective January 1, 2018, paragraph (c) of
2237 subsection (5) of section 641.51, Florida Statutes, is amended
2238 to read:

2239 641.51 Quality assurance program; second medical opinion
2240 requirement.—

2241 (5)

2242 (c) For second opinions provided by contract physicians the
2243 organization is prohibited from charging a fee to the subscriber



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2244 in an amount in excess of the subscriber fees established by
2245 contract for referral contract physicians. The organization
2246 shall pay the amount of all charges, which are usual,
2247 reasonable, and customary in the community, for second opinion
2248 services performed by a physician not under contract with the
2249 organization, but may require the subscriber to be responsible
2250 for up to 40 percent of such amount. The organization may
2251 require that any tests deemed necessary by a noncontract
2252 physician shall be conducted by the organization. The
2253 organization may deny reimbursement rights granted under this
2254 section in the event the subscriber seeks in excess of three
2255 such referrals per year if such subsequent referral costs are
2256 deemed by the organization to be evidence that the subscriber
2257 has unreasonably overutilized the second opinion privilege. A
2258 subscriber thus denied reimbursement under this section shall
2259 have recourse to grievance procedures as specified in ss.
2260 ~~408.7056~~, 641.495, and 641.511. The organization's physician's
2261 professional judgment concerning the treatment of a subscriber
2262 derived after review of a second opinion shall be controlling as
2263 to the treatment obligations of the health maintenance
2264 organization. Treatment not authorized by the health maintenance
2265 organization shall be at the subscriber's expense.

2266 Section 87. Effective January 1, 2018, section 641.511,
2267 Florida Statutes, is amended to read:

2268 641.511 Subscriber grievance reporting and resolution
2269 requirements.—

2270 (1) Every organization must have a grievance procedure
2271 available to its subscribers for the purpose of addressing
2272 complaints and grievances. ~~Every organization must notify its~~



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2273 ~~subscribers that a subscriber must submit a grievance within 1~~
2274 ~~year after the date of occurrence of the action that initiated~~
2275 ~~the grievance, and may submit the grievance for review to the~~
2276 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
2277 ~~after receiving a final disposition of the grievance through the~~
2278 ~~organization's grievance process. An organization shall maintain~~
2279 ~~records of all grievances and shall report annually to the~~
2280 ~~agency the total number of grievances handled, a categorization~~
2281 ~~of the cases underlying the grievances, and the final~~
2282 ~~disposition of the grievances.~~

2283 (2) When an organization receives an initial complaint from
2284 a subscriber, the organization must respond to the complaint
2285 within a reasonable time after its submission. At the time of
2286 receipt of the initial complaint, the organization shall inform
2287 the subscriber that the subscriber has a right to file a written
2288 grievance at any time and that assistance in preparing the
2289 written grievance shall be provided by the organization.

2290 (3) Each organization's grievance procedure, as required
2291 under subsection (1), must include, at a minimum:

2292 (a) An explanation of how to pursue redress of a grievance.

2293 (b) The names of the appropriate employees or a list of
2294 grievance departments that are responsible for implementing the
2295 organization's grievance procedure. The list must include the
2296 address and the toll-free telephone number of each grievance
2297 department, the address of the agency and its toll-free
2298 telephone hotline number, and the address of the Subscriber
2299 Assistance Program and its toll-free telephone number.

2300 (c) The description of the process through which a
2301 subscriber may, at any time, contact the toll-free telephone



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2302 hotline of the agency to inform it of the unresolved grievance.

2303 (d) A procedure for establishing methods for classifying
2304 grievances as urgent and for establishing time limits for an
2305 expedited review within which such grievances must be resolved.

2306 (e) A notice that a subscriber may voluntarily pursue
2307 binding arbitration in accordance with the terms of the contract
2308 if offered by the organization, after completing the
2309 organization's grievance procedure ~~and as an alternative to the~~
2310 ~~Subscriber Assistance Program~~. Such notice shall include an
2311 explanation that the subscriber may incur some costs if the
2312 subscriber pursues binding arbitration, depending upon the terms
2313 of the subscriber's contract.

2314 (f) A process whereby the grievance manager acknowledges
2315 the grievance and investigates the grievance in order to notify
2316 the subscriber of a final decision in writing.

2317 (g) A procedure for providing individuals who are unable to
2318 submit a written grievance with access to the grievance process,
2319 which shall include assistance by the organization in preparing
2320 the grievance and communicating back to the subscriber.

2321 (4) (a) With respect to a grievance concerning an adverse
2322 determination, an organization shall make available to the
2323 subscriber a review of the grievance by an internal review
2324 panel; such review must be requested within 30 days after the
2325 organization's transmittal of the final determination notice of
2326 an adverse determination. A majority of the panel shall be
2327 persons who previously were not involved in the initial adverse
2328 determination. A person who previously was involved in the
2329 adverse determination may appear before the panel to present
2330 information or answer questions. The panel shall have the



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2331 authority to bind the organization to the panel's decision.

2332 (b) An organization shall ensure that a majority of the
2333 persons reviewing a grievance involving an adverse determination
2334 are providers who have appropriate expertise. An organization
2335 shall issue a copy of the written decision of the review panel
2336 to the subscriber and to the provider, if any, who submits a
2337 grievance on behalf of a subscriber. In cases where there has
2338 been a denial of coverage of service, the reviewing provider
2339 shall not be a provider previously involved with the adverse
2340 determination.

2341 (c) An organization shall establish written procedures for
2342 a review of an adverse determination. Review procedures shall be
2343 available to the subscriber and to a provider acting on behalf
2344 of a subscriber.

2345 ~~(d) In any case when the review process does not resolve a~~
2346 ~~difference of opinion between the organization and the~~
2347 ~~subscriber or the provider acting on behalf of the subscriber,~~
2348 ~~the subscriber or the provider acting on behalf of the~~
2349 ~~subscriber may submit a written grievance to the Subscriber~~
2350 ~~Assistance Program.~~

2351 (5) Except as provided in subsection (6), the organization
2352 shall resolve a grievance within 60 days after receipt of the
2353 grievance, or within a maximum of 90 days if the grievance
2354 involves the collection of information outside the service area.
2355 These time limitations are tolled if the organization has
2356 notified the subscriber, in writing, that additional information
2357 is required for proper review of the grievance and that such
2358 time limitations are tolled until such information is provided.
2359 After the organization receives the requested information, the



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2360 time allowed for completion of the grievance process resumes.
2361 The Employee Retirement Income Security Act of 1974, as
2362 implemented by 29 C.F.R. s. 2560.503-1, is adopted and
2363 incorporated by reference as applicable to all organizations
2364 that administer small and large group health plans that are
2365 subject to 29 C.F.R. s. 2560.503-1. The claims procedures of the
2366 regulations of the Employee Retirement Income Security Act of
2367 1974, as implemented by 29 C.F.R. s. 2560.503-1, shall be the
2368 minimum standards for grievance processes for claims for
2369 benefits for small and large group health plans that are subject
2370 to 29 C.F.R. s. 2560.503-1.

2371 (6) (a) An organization shall establish written procedures
2372 for the expedited review of an urgent grievance. A request for
2373 an expedited review may be submitted orally or in writing and
2374 shall be subject to the review procedures of this section, if it
2375 meets the criteria of this section. Unless it is submitted in
2376 writing, for purposes of the grievance reporting requirements in
2377 subsection (1), the request shall be considered an appeal of a
2378 utilization review decision and not a grievance. Expedited
2379 review procedures shall be available to a subscriber and to the
2380 provider acting on behalf of a subscriber. For purposes of this
2381 subsection, "subscriber" includes the legal representative of a
2382 subscriber.

2383 (b) Expedited reviews shall be evaluated by an appropriate
2384 clinical peer or peers. The clinical peer or peers shall not
2385 have been involved in the initial adverse determination.

2386 (c) In an expedited review, all necessary information,
2387 including the organization's decision, shall be transmitted
2388 between the organization and the subscriber, or the provider



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2389 acting on behalf of the subscriber, by telephone, facsimile, or
2390 the most expeditious method available.

2391 (d) In an expedited review, an organization shall make a
2392 decision and notify the subscriber, or the provider acting on
2393 behalf of the subscriber, as expeditiously as the subscriber's
2394 medical condition requires, but in no event more than 72 hours
2395 after receipt of the request for review. If the expedited review
2396 is a concurrent review determination, the service shall be
2397 continued without liability to the subscriber until the
2398 subscriber has been notified of the determination.

2399 (e) An organization shall provide written confirmation of
2400 its decision concerning an expedited review within 2 working
2401 days after providing notification of that decision, if the
2402 initial notification was not in writing.

2403 (f) An organization shall provide reasonable access, not to
2404 exceed 24 hours after receiving a request for an expedited
2405 review, to a clinical peer who can perform the expedited review.

2406 ~~(g) In any case when the expedited review process does not
2407 resolve a difference of opinion between the organization and the
2408 subscriber or the provider acting on behalf of the subscriber,
2409 the subscriber or the provider acting on behalf of the
2410 subscriber may submit a written grievance to the Subscriber
2411 Assistance Program.~~

2412 ~~(g)(h)~~ An organization shall not provide an expedited
2413 retrospective review of an adverse determination.

2414 ~~(7) Each organization shall send to the agency a copy of
2415 its quarterly grievance reports submitted to the office pursuant
2416 to s. 408.7056(12).~~

2417 ~~(7)(8)~~ The agency shall investigate all reports of



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2418 unresolved quality of care grievances received from:

2419 ~~(a)~~ annual and quarterly grievance reports submitted by the

2420 organization to the office.

2421 ~~(b)~~ Review requests of subscribers whose grievances remain

2422 unresolved after the subscriber has followed the full grievance

2423 procedure of the organization.

2424 ~~(9)~~ (a) The agency shall advise subscribers with grievances

2425 to follow their organization's formal grievance process for

2426 resolution prior to review by the Subscriber Assistance Program.

2427 The subscriber may, however, submit a copy of the grievance to

2428 the agency at any time during the process.

2429 ~~(b)~~ Requiring completion of the organization's grievance

2430 process before the Subscriber Assistance Program panel's review

2431 does not preclude the agency from investigating any complaint or

2432 grievance before the organization makes its final determination.

2433 ~~(10)~~ Each organization must notify the subscriber in a

2434 final decision letter that the subscriber may request review of

2435 the organization's decision concerning the grievance by the

2436 Subscriber Assistance Program, as provided in s. 408.7056, if

2437 the grievance is not resolved to the satisfaction of the

2438 subscriber. The final decision letter must inform the subscriber

2439 that the request for review must be made within 365 days after

2440 receipt of the final decision letter, must explain how to

2441 initiate such a review, and must include the addresses and toll-

2442 free telephone numbers of the agency and the Subscriber

2443 Assistance Program.

2444 (8) ~~(11)~~ Each organization, as part of its contract with any

2445 provider, must require the provider to post a consumer

2446 assistance notice prominently displayed in the reception area of



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2447 the provider and clearly noticeable by all patients. The
2448 consumer assistance notice must state the addresses and toll-
2449 free telephone numbers of the Agency for Health Care
2450 Administration, ~~the Subscriber Assistance Program,~~ and the
2451 Department of Financial Services. The consumer assistance notice
2452 must also clearly state that the address and toll-free telephone
2453 number of the organization's grievance department shall be
2454 provided upon request. The agency may adopt rules to implement
2455 this section.

2456 (9) ~~(12)~~ The agency may impose administrative sanction, in
2457 accordance with s. 641.52, against an organization for
2458 noncompliance with this section.

2459 Section 88. Effective January 1, 2018, subsection (1) of
2460 section 641.515, Florida Statutes, is amended to read:

2461 641.515 Investigation by the agency.—

2462 (1) The agency shall investigate further any quality of
2463 care issue contained in recommendations and reports submitted
2464 pursuant to s. 641.511 ~~ss. 408.7056 and 641.511~~. The agency
2465 shall also investigate further any information that indicates
2466 that the organization does not meet accreditation standards or
2467 the standards of the review organization performing the external
2468 quality assurance assessment pursuant to reports submitted under
2469 s. 641.512. Every organization shall submit its books and
2470 records and take other appropriate action as may be necessary to
2471 facilitate an examination. The agency shall have access to the
2472 organization's medical records of individuals and records of
2473 employed and contracted physicians, with the consent of the
2474 subscriber or by court order, as necessary to carry out the
2475 provisions of this part.



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2476 Section 89. Effective January 1, 2018, subsection (2) of
2477 section 641.55, Florida Statutes, is amended to read:
2478 641.55 Internal risk management program.—
2479 (2) The risk management program shall be the responsibility
2480 of the governing authority or board of the organization. Every
2481 organization which has an annual premium volume of \$10 million
2482 or more and which directly provides health care in a building
2483 owned or leased by the organization shall hire a risk manager,
2484 ~~certified under ss. 395.10971-395.10975,~~ who shall be
2485 responsible for implementation of the organization's risk
2486 management program required by this section. A part-time risk
2487 manager shall not be responsible for risk management programs in
2488 more than four organizations or facilities. Every organization
2489 which does not directly provide health care in a building owned
2490 or leased by the organization and every organization with an
2491 annual premium volume of less than \$10 million shall designate
2492 an officer or employee of the organization to serve as the risk
2493 manager.
2494
2495 The gross data compiled under this section or s. 395.0197 shall
2496 be furnished by the agency upon request to organizations to be
2497 utilized for risk management purposes. The agency shall adopt
2498 rules necessary to carry out the provisions of this section.
2499 Section 90. Section 641.60, Florida Statutes, is repealed.
2500 Section 91. Section 641.70, Florida Statutes, is amended to
2501 read:
2502 641.70 Agency duties relating to ~~the Statewide Managed Care~~
2503 ~~Ombudsman Committee~~ and the district managed care ombudsman
2504 committees.—



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2505 (1) The agency shall adopt rules that specify:
2506 (a) Procedures by which ~~the statewide committee and~~
2507 district committees receive reports of enrollee complaints from
2508 the agency.
2509 (b) Procedures by which enrollee information shall be made
2510 available ~~to members of the statewide committee and~~ to the
2511 district committees.
2512 (c) Procedures by which recommendations made by the
2513 committees shall be considered for incorporation into policies
2514 and procedures of the agency.
2515 ~~(d) Procedures by which statewide committee members shall~~
2516 ~~be reimbursed for authorized expenditures.~~
2517 (d) ~~(e)~~ Any other procedures that are necessary to
2518 administer this section and s. 641.65 ~~ss. 641.60 and 641.65.~~
2519 (2) The Agency for Health Care Administration shall provide
2520 a meeting place for district committees in agency offices and
2521 shall provide the necessary administrative support to assist ~~the~~
2522 ~~statewide committee and~~ district committees, within available
2523 resources.
2524 (3) The secretary of the agency shall ensure the full
2525 cooperation and assistance of agency employees with ~~members of~~
2526 the ~~statewide committee and~~ district committees.
2527 Section 92. Subsection (3) of section 641.75, Florida
2528 Statutes, is amended to read:
2529 641.75 Immunity from liability; limitation on testimony.—
2530 (3) Members of any state or district ombudsman committee
2531 shall not be required to testify in any court with respect to
2532 matters held to be confidential except as may be necessary to
2533 enforce ss. 641.61-641.75 ~~ss. 641.60-641.75.~~



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2534 Section 93. Paragraph (b) of subsection (6) of section
2535 766.118, Florida Statutes, is amended to read:

2536 766.118 Determination of noneconomic damages.—

2537 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
2538 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
2539 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
2540 respect to a cause of action for personal injury or wrongful
2541 death arising from medical negligence of a practitioner
2542 committed in the course of providing medical services and
2543 medical care to a Medicaid recipient, regardless of the number
2544 of such practitioner defendants providing the services and care,
2545 noneconomic damages may not exceed \$300,000 per claimant, unless
2546 the claimant pleads and proves, by clear and convincing
2547 evidence, that the practitioner acted in a wrongful manner. A
2548 practitioner providing medical services and medical care to a
2549 Medicaid recipient is not liable for more than \$200,000 in
2550 noneconomic damages, regardless of the number of claimants,
2551 unless the claimant pleads and proves, by clear and convincing
2552 evidence, that the practitioner acted in a wrongful manner. The
2553 fact that a claimant proves that a practitioner acted in a
2554 wrongful manner does not preclude the application of the
2555 limitation on noneconomic damages prescribed elsewhere in this
2556 section. For purposes of this subsection:

2557 (b) The term "practitioner," in addition to the meaning
2558 prescribed in subsection (1), includes any hospital or
2559 ambulatory surgical center, ~~or mobile surgical facility~~ as
2560 defined and licensed under chapter 395.

2561 Section 94. Subsection (4) of section 766.202, Florida
2562 Statutes, is amended to read:



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2563 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
2564 766.201-766.212, the term:

2565 (4) "Health care provider" means any hospital or
2566 ambulatory surgical center, ~~or mobile surgical facility~~ as
2567 defined and licensed under chapter 395; a birth center licensed
2568 under chapter 383; any person licensed under chapter 458,
2569 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
2570 part I of chapter 464, chapter 466, chapter 467, part XIV of
2571 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
2572 ~~chapter 483~~; a health maintenance organization certificated
2573 under part I of chapter 641; a blood bank; a plasma center; an
2574 industrial clinic; a renal dialysis facility; or a professional
2575 association partnership, corporation, joint venture, or other
2576 association for professional activity by health care providers.

2577 Section 95. Subsection (1) of section 945.36, Florida
2578 Statutes, is amended to read:

2579 945.36 ~~Exemption from health testing regulations for~~ Law
2580 enforcement personnel authorized to conduct ~~conducting~~ drug
2581 tests on inmates and releasees.—

2582 (1) Any law enforcement officer, state or county probation
2583 officer, or employee of the Department of Corrections, who is
2584 certified by the Department of Corrections pursuant to
2585 subsection (2), may administer ~~is exempt from part I of chapter~~
2586 ~~483, for the limited purpose of administering~~ a urine screen
2587 drug test to:

2588 (a) Persons during incarceration;

2589 (b) Persons released as a condition of probation for either
2590 a felony or misdemeanor;

2591 (c) Persons released as a condition of community control;



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- 2592 (d) Persons released as a condition of conditional release;
- 2593 (e) Persons released as a condition of parole;
- 2594 (f) Persons released as a condition of provisional release;
- 2595 (g) Persons released as a condition of pretrial release; or
- 2596 (h) Persons released as a condition of control release.

2597 Section 96. Paragraph (b) of subsection (2) of section
2598 1009.65, Florida Statutes, is amended to read:

2599 1009.65 Medical Education Reimbursement and Loan Repayment
2600 Program.—

2601 (2) From the funds available, the Department of Health
2602 shall make payments to selected medical professionals as
2603 follows:

2604 (b) All payments shall be contingent on continued proof of
2605 primary care practice in an area defined in s. 395.602(2)(b)
2606 ~~395.602(2)(c)~~, or an underserved area designated by the
2607 Department of Health, provided the practitioner accepts Medicaid
2608 reimbursement if eligible for such reimbursement. Correctional
2609 facilities, state hospitals, and other state institutions that
2610 employ medical personnel shall be designated by the Department
2611 of Health as underserved locations. Locations with high
2612 incidences of infant mortality, high morbidity, or low Medicaid
2613 participation by health care professionals may be designated as
2614 underserved.

2615 Section 97. Paragraph (e) of subsection (2) of section
2616 1011.52, Florida Statutes, is amended to read:

2617 1011.52 Appropriation to first accredited medical school.—

2618 (2) In order for a medical school to qualify under the
2619 provisions of this section and to be entitled to the benefits
2620 herein, such medical school:



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2621 (a) Must be primarily operated and established to offer,
2622 afford, and render a medical education to residents of the state
2623 qualifying for admission to such institution;

2624 (b) Must be operated by a municipality or county of this
2625 state, or by a nonprofit organization heretofore or hereafter
2626 established exclusively for educational purposes;

2627 (c) Must, upon the formation and establishment of an
2628 accredited medical school, transmit and file with the Department
2629 of Education documentary proof evidencing the facts that such
2630 institution has been certified and approved by the council on
2631 medical education and hospitals of the American Medical
2632 Association and has adequately met the requirements of that
2633 council in regard to its administrative facilities,
2634 administrative plant, clinical facilities, curriculum, and all
2635 other such requirements as may be necessary to qualify with the
2636 council as a recognized, approved, and accredited medical
2637 school;

2638 (d) Must certify to the Department of Education the name,
2639 address, and educational history of each student approved and
2640 accepted for enrollment in such institution for the ensuing
2641 school year; and

2642 (e) Must have in place an operating agreement with a
2643 government-owned hospital that is located in the same county as
2644 the medical school and that is a statutory teaching hospital as
2645 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
2646 shall provide for the medical school to maintain the same level
2647 of affiliation with the hospital, including the level of
2648 services to indigent and charity care patients served by the
2649 hospital, which was in place in the prior fiscal year. Each



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2650 year, documentation demonstrating that an operating agreement is
2651 in effect shall be submitted jointly to the Department of
2652 Education by the hospital and the medical school prior to the
2653 payment of moneys from the annual appropriation.

2654 Section 98. Except as otherwise expressly provided in this
2655 act, this act shall take effect July 1, 2017.

2656

2657 ===== T I T L E A M E N D M E N T =====

2658 And the title is amended as follows:

2659 Delete everything before the enacting clause
2660 and insert:

2661 A bill to be entitled
2662 An act relating to health care facility regulation;
2663 amending ss. 381.0031, 381.004, 384.31, 395.009, and
2664 409.905, F.S.; eliminating state licensure
2665 requirements for clinical laboratories; requiring
2666 clinical laboratories to be federally certified;
2667 amending s. 383.313, F.S.; revising requirements for a
2668 birth center to perform certain laboratory tests;
2669 repealing s. 383.335, F.S., relating to partial
2670 exemptions from licensure requirements for certain
2671 facilities that provide obstetrical and gynecological
2672 surgical services; amending s. 395.002, F.S.; revising
2673 and deleting definitions; creating s. 395.0091, F.S.;
2674 authorizing the Agency for Health Care Administration
2675 to adopt rules establishing criteria for alternate-
2676 site laboratory testing; defining the term "alternate-
2677 site testing"; amending ss. 395.0161 and 395.0163,
2678 F.S.; deleting licensure and inspection requirements



2679 for mobile surgical facilities to conform to changes
2680 made by the act; amending s. 395.0197, F.S.; requiring
2681 the manager of a hospital or ambulatory surgical
2682 center internal risk management program to demonstrate
2683 competence in certain administrative and health care
2684 service areas; conforming references; repealing s.
2685 395.1046, F.S., relating to hospital complaint
2686 investigation procedures; amending s. 395.1055, F.S.;
2687 requiring hospitals providing specified services to
2688 meet agency licensure requirements; conforming a
2689 reference; repealing ss. 395.10971 and 395.10972,
2690 F.S., relating to the purpose and establishment of the
2691 Health Care Risk Manager Advisory Council; amending s.
2692 395.10973, F.S.; deleting duties of the agency
2693 relating to health care risk managers; repealing s.
2694 395.10974, F.S., relating to licensure of health care
2695 risk managers; repealing s. 395.10975, F.S., relating
2696 to grounds for denial, suspension, or revocation of a
2697 health care risk manager's license; amending s.
2698 395.602, F.S.; deleting definitions; amending s.
2699 395.603, F.S.; deleting provisions relating to
2700 deactivation of general hospital beds by certain rural
2701 and emergency care hospitals; repealing s. 395.604,
2702 F.S., relating to other rural hospital programs;
2703 repealing s. 395.605, F.S., relating to emergency care
2704 hospitals; amending s. 395.701, F.S.; revising the
2705 definition of the term "hospital" to exclude hospitals
2706 operated by state agencies; amending s. 400.464, F.S.;
2707 revising licensure requirements for a home health



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2708 agency; providing conditions for advertising certain
2709 services that require licensure; providing for a fine;
2710 providing conditions for application for a certificate
2711 of exemption from licensure as a home health agency;
2712 specifying the duration of the certificate of
2713 exemption; authorizing a fee; amending s. 400.471,
2714 F.S.; revising home health agency licensure
2715 requirements; providing requirements for proof of
2716 accreditation for home health agencies applying for
2717 change of ownership or addition of skilled care
2718 services; amending s. 400.474, F.S.; revising
2719 conditions for the imposition of a fine against a home
2720 health agency; amending s. 400.476, F.S.; requiring a
2721 home health agency providing skilled nursing care to
2722 have a director of nursing; amending s. 400.484, F.S.;
2723 providing for the imposition of administrative fines
2724 on home health agencies for specified classes of
2725 violations; amending s. 400.497, F.S.; authorizing the
2726 agency to adopt rules establishing standards for
2727 certificate of exemption applications; amending s.
2728 400.506, F.S.; revising penalties for a nurse registry
2729 directed by the agency to cease operation; providing
2730 that registered nurses, licensed practical nurses,
2731 certified nursing assistants, companions or
2732 homemakers, and home health aides are independent
2733 contractors and not employees of the nurse registries
2734 that referred them; requiring a nurse registry to
2735 inform the patient, the patient's family, or a person
2736 acting on behalf of the patient that the referred



2737 caregiver is an independent contractor and that the
2738 nurse registry is not permitted to monitor, supervise,
2739 manage, or train the referred caregiver; revising
2740 provisions relating to activities for which the agency
2741 is authorized to deny, suspend, or revoke a nurse
2742 registry license and impose fines; providing that a
2743 nurse registry is not permitted to review or act upon
2744 certain records except under certain circumstances;
2745 amending s. 400.606, F.S.; revising content
2746 requirements of the plan accompanying an initial or
2747 change of ownership application for a hospice;
2748 amending s. 400.925, F.S.; revising the definition of
2749 the term "home medical equipment"; amending s.
2750 400.931, F.S.; providing a timeframe for a home
2751 medical equipment provider to notify the agency of
2752 certain personnel changes; amending s. 400.933, F.S.;
2753 authorizing the agency to accept certain medical
2754 oxygen permits issued by the Department of Business
2755 and Professional Regulation in lieu of agency
2756 licensure inspections; amending s. 400.980, F.S.;
2757 revising timeframe requirements for change of
2758 registration information submitted to the agency by a
2759 health care services pool; amending s. 408.061, F.S.;
2760 excluding hospitals operated by state agencies from
2761 certain financial reporting requirements; conforming a
2762 cross-reference; amending s. 408.07, F.S.; deleting
2763 the definition of the term "clinical laboratory";
2764 amending s. 408.20, F.S.; exempting hospitals operated
2765 by state agencies from assessments against the Health



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2766 Care Trust Fund to fund certain agency activities;
2767 repealing s. 408.7056, F.S., relating to the
2768 Subscriber Assistance Program; amending s. 408.803,
2769 F.S.; defining the term "relative" for the Health Care
2770 Licensing Procedures Act; amending s. 408.806, F.S.;
2771 requiring additional information on a licensure
2772 application; authorizing licensees who hold licenses
2773 for multiple providers to request that the agency
2774 align related license expiration dates; authorizing
2775 the agency to issue licenses for an abbreviated
2776 licensure period and to charge prorated fees; amending
2777 s. 408.810, F.S.; exempting certain applicants for
2778 change of ownership from furnishing proof of financial
2779 ability to operate; authorizing the agency to adopt
2780 rules governing circumstances under which a
2781 controlling interest may act in certain legal
2782 capacities on behalf of a patient or client; amending
2783 s. 408.812, F.S.; providing that unlicensed activity
2784 by a provider constitutes abuse and neglect;
2785 authorizing the agency to impose a fine under certain
2786 circumstances; amending s. 429.02, F.S.; revising a
2787 definition; conforming a cross reference amending s.
2788 429.04, F.S.; providing additional exemptions from
2789 licensure as an assisted living facility; imposing a
2790 burden of proof on the person or entity asserting the
2791 exemption; providing applicability; amending s.
2792 429.08, F.S.; providing criminal penalties and fines
2793 for ownership, rental, or maintenance of a real
2794 property used as an unlicensed assisted living



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2795 facility; providing that engaging a third party to
2796 provide certain services at an unlicensed location
2797 constitutes unlicensed activity; amending s. 429.176,
2798 F.S.; prohibiting an assisted living facility from
2799 operating beyond a specified period without an
2800 administrator who has completed certain educational
2801 requirements; amending s. 429.41, F.S.; prohibiting an
2802 assisted living facility from providing personal
2803 services to nonresidents; repealing part I of ch. 483,
2804 F.S., relating to clinical laboratories; amending s.
2805 483.294, F.S.; revising agency inspection schedules
2806 for multiphasic health testing centers; amending s.
2807 483.801, F.S.; revising an exemption from regulation
2808 for persons employed by certain laboratories; amending
2809 s. 483.803, F.S.; deleting definitions; conforming
2810 provisions to changes made by the act; amending s.
2811 641.511, F.S.; revising health maintenance
2812 organization subscriber grievance reporting
2813 requirements; conforming a provision to changes made
2814 by the act; repealing s. 641.60, F.S., relating to the
2815 Statewide Managed Care Ombudsman Committee; amending
2816 s. 945.36, F.S.; authorizing law enforcement personnel
2817 to conduct drug tests on certain inmates and
2818 releasees; amending ss. 20.43, 220.1845, 376.30781,
2819 376.86, 381.0034, 385.211, 394.4787, 395.001, 395.003,
2820 395.7015, 400.0625, 400.9905, 408.033, 408.036,
2821 408.802, 408.820, 409.9116, 409.975, 456.001, 456.057,
2822 458.307, 458.345, 459.021, 483.813, 491.003, 627.351,
2823 627.602, 627.64194, 627.6513, 641.185, 641.312,



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2824 641.3154, 641.51, 641.515, 641.55, 641.70, 641.75,
2825 766.118, 766.202, 1009.65, and 1011.52, F.S. ;
2826 conforming provisions to changes made by the act ;
2827 providing effective dates.