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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to health care facility regulation;
creating s. 154.13, F.S.; providing that a designated
facility owned or operated by a public health trust
and located within the boundaries of a municipality is
under the exclusive jurisdiction of the county
creating the public health trust; amending ss.
381.0031, 381.004, 384.31, 395.009, 400.0625, and
409.905, F.S.; eliminating state licensure
requirements for clinical laboratories; requiring
clinical laboratories to be federally certified;
amending s. 383.313, F.S.; revising requirements that
a birth center perform certain laboratory tests;
repealing s. 383.335, F.S., relating to partial
exemptions from licensure requirements for certain
facilities that provide obstetrical and gynecological
surgical services; amending s. 395.002, F.S.; revising
and deleting definitions; creating s. 395.0091, F.S.;
authorizing the Agency for Health Care Administration
to adopt rules establishing criteria for alternate-
site laboratory testing; defining the term "alternate-
site testing"; amending ss. 395.0161 and 395.0163,
F.S.; deleting licensure and inspection requirements
for mobile surgical facilities to conform to changes
made by the act; amending s. 408.809, F.S.; making
additional persons subject to background screening
requirements; amending s. 409.907, F.S.; removing the



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28 agency's authority to consider certain factors in
29 determining whether to enter into, and in maintaining,
30 a Medicaid provider agreement; amending s. 435.04
31 F.S.; providing that security background
32 investigations must ensure that a person has not been
33 arrested for, and is not awaiting final disposition
34 of, certain offenses; specifying offenses under
35 federal law or any state law that security background
36 investigations must screen for; requiring that
37 security background investigations screen for
38 violations of federal or state law, rule, or
39 regulation governing any state Medicaid program, the
40 Medicare program, or any other publicly funded federal
41 or state health care or health insurance program;
42 amending s. 395.0197, F.S.; requiring the manager of a
43 hospital or ambulatory surgical center internal risk
44 management program to demonstrate competence in
45 certain administrative and health care service areas;
46 conforming provisions to changes made by the act;
47 repealing s. 395.1046, F.S., relating to hospital
48 complaint investigation procedures; amending s.
49 395.1055, F.S.; requiring hospitals that provide
50 specified services to meet agency licensure
51 requirements; conforming a provision to changes made
52 by the act; repealing ss. 395.10971 and 395.10972,
53 F.S., relating to the purpose and establishment of the
54 Health Care Risk Manager Advisory Council; amending s.
55 395.10973, F.S.; deleting duties of the agency
56 relating to health care risk managers, to conform to



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57 changes made by the act; repealing s. 395.10974, F.S.,
58 relating to licensure of health care risk managers;
59 repealing s. 395.10975, F.S., relating to grounds for
60 denial, suspension, or revocation of a health care
61 risk manager's license; amending s. 395.602, F.S.;
62 deleting definitions; amending s. 395.603, F.S.;
63 deleting provisions relating to deactivation of
64 general hospital beds by certain rural and emergency
65 care hospitals; repealing s. 395.604, F.S., relating
66 to other rural hospital programs; repealing s.
67 395.605, F.S., relating to emergency care hospitals;
68 amending s. 395.701, F.S.; revising the definition of
69 the term "hospital" to exclude hospitals operated by
70 state agencies; amending s. 400.464, F.S.; requiring
71 that a license issued on or after a specified date to
72 a home health agency specify the services the
73 organization is authorized to perform and whether the
74 services constitute skilled care; providing that the
75 provision or advertising of certain services
76 constitutes unlicensed activity; providing that
77 certain persons, entities or organizations providing
78 home health services may voluntarily apply for a
79 certificate of exemption from licensure; requiring
80 that certain information be provided to the agency;
81 specifying the duration of the certificate of
82 exemption; providing that the certificate is
83 nontransferable; authorizing the agency to charge a
84 fee for the certificate, not to exceed a certain
85 amount; amending s. 400.471, F.S.; revising home



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86 health agency licensure requirements; providing
87 requirements for proof of accreditation for home
88 health agencies applying for change of ownership or
89 the addition of skilled care services; amending s.
90 400.474, F.S.; revising conditions for the imposition
91 of a fine against a home health agency; amending s.
92 400.476, F.S.; requiring a home health agency
93 providing skilled nursing care to have a director of
94 nursing; amending s. 400.484, F.S.; providing for the
95 imposition of administrative fines on home health
96 agencies for specified classes of violations; amending
97 s. 400.497, F.S.; requiring the agency to adopt,
98 publish, and enforce rules establishing standards for
99 certificates of exemption; amending s. 400.506, F.S.;
100 revising provisions imposing a fine on nurse
101 registries that fail to cease operation after
102 notification by the agency; revising circumstances
103 under which the agency may take certain action or must
104 impose a fine; amending s. 400.606, F.S.; revising
105 content requirements of the plan accompanying an
106 initial or change-of-ownership application for a
107 hospice; amending s. 400.925, F.S.; revising the
108 definition of the term "home medical equipment";
109 amending s. 400.931, F.S.; providing a timeframe for a
110 home medical equipment provider to notify the agency
111 of certain personnel changes; amending s. 400.933,
112 F.S.; authorizing the agency to accept certain medical
113 oxygen permits issued by the Department of Business
114 and Professional Regulation in lieu of agency



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115 licensure inspections; amending s. 400.980, F.S.;

116 revising the timeframe within which a health care

117 services pool registrant must provide the agency with

118 certain changes of information; amending s. 400.9935,

119 F.S.; providing that a voluntary certificate of

120 exemption is not valid for more than 2 years; amending

121 s. 408.061, F.S.; excluding hospitals operated by

122 state agencies from certain financial reporting

123 requirements; conforming a cross-reference; amending

124 s. 408.07, F.S.; deleting the term "clinical

125 laboratory"; amending s. 408.20, F.S.; exempting

126 hospitals operated by state agencies from assessments

127 against the Health Care Trust Fund to fund certain

128 agency activities; repealing s. 408.7056, F.S.,

129 relating to the Subscriber Assistance Program;

130 amending s. 408.803, F.S.; defining the term

131 "relative" for the Health Care Licensing Procedures

132 Act; amending s. 408.806, F.S.; authorizing licensees

133 who hold licenses for multiple providers to request

134 that the agency align related license expiration

135 dates; authorizing the agency to issue licenses for an

136 abbreviated licensure period and to charge prorated

137 fees; amending s. 408.810, F.S.; exempting an

138 applicant for change of ownership from furnishing

139 proof of financial ability to operate under certain

140 conditions; authorizing the agency to adopt rules

141 governing circumstances under which a controlling

142 interest may act in certain legal capacities on behalf

143 of a patient or client; amending s. 408.812, F.S.;



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144 providing that certain unlicensed activity by a
145 provider constitutes abuse and neglect; authorizing
146 the agency to impose a fine under certain
147 circumstances; amending s. 408.820, F.S.; deleting
148 certain exemptions from part II of ch. 408, F.S. for
149 specified providers; amending s. 429.02, F.S.;
150 revising definitions; amending s. 429.04, F.S.;
151 providing additional exemptions from licensure as an
152 assisted living facility; requiring a person or entity
153 asserting the exemption to provide documentation that
154 substantiates the claim; amending s. 429.08, F.S.;
155 providing criminal penalties and fines for a person
156 who rents or otherwise maintains a building or
157 property that operates or maintains an unlicensed
158 assisted living facility; amending s. 429.176, F.S.;
159 prohibiting an assisted living facility from operating
160 without an administrator who has completed certain
161 educational requirements for more than a specified
162 period of time; amending s. 429.24, F.S.; providing
163 that 30-day written notice of rate increase is not
164 required in certain situations; amending s. 429.256,
165 F.S.; requiring that certain information on a
166 medication label be read aloud in the presence of a
167 resident; amending s. 429.28, F.S.; revising the
168 resident bill of rights to include assistance with
169 obtaining access to adequate and appropriate health
170 care; defining the term "adequate and appropriate
171 health care"; deleting a requirement that the agency
172 conduct at least one monitoring visit in certain



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173 circumstances; removing the authority of the agency to
174 perform followup inspections in certain circumstances;
175 removing the authority of the agency to conduct
176 complaint investigations; amending s. 429.294, F.S.;
177 deleting a specified timeframe within which a facility
178 must provide certain records; amending s. 429.34,
179 F.S.; authorizing the agency to perform inspections
180 and investigations to ensure compliance; authorizing
181 the agency to perform monitoring visits in certain
182 circumstances; amending s. 429.52, F.S.; requiring a
183 facility administrator to complete required training
184 and education within a certain timeframe; amending s.
185 435.12, F.S.; extending the screening renewal period
186 for individuals screened after a certain date in
187 certain circumstances; extending the period for which
188 fingerprints must be retained by the Department of Law
189 Enforcement; repealing part I of ch. 483, F.S.,
190 relating to clinical laboratories; amending s.
191 483.294, F.S.; revising agency inspection schedules
192 for multiphasic health testing centers; amending s.
193 483.801, F.S.; providing an exemption from regulation
194 for persons employed by certain laboratories; amending
195 s. 483.803, F.S.; revising definitions; conforming a
196 cross-reference; amending s. 641.511, F.S.; revising
197 health maintenance organization subscriber grievance
198 reporting requirements; repealing s. 641.60, F.S.,
199 relating to the Statewide Managed Care Ombudsman
200 Committee; repealing s. 641.65, F.S., relating to
201 district managed care ombudsman committees; repealing



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202 s. 641.67, F.S., relating to a district managed care
203 ombudsman committee, exemption from public records
204 requirements, and exceptions; repealing s. 641.68,
205 F.S., relating to a district managed care ombudsman
206 committee and exemption from public meeting
207 requirements; repealing s. 641.70, F.S., relating to
208 agency duties relating to the Statewide Managed Care
209 Ombudsman Committee and the district managed care
210 ombudsman committees; repealing s. 641.75, F.S.,
211 relating to immunity from liability and limitation on
212 testimony; amending s. 945.36, F.S.; authorizing law
213 enforcement personnel to conduct drug tests on certain
214 inmates and releasees; amending ss. 20.43, 220.1845,
215 376.30781, 376.86, 381.0034, 381.0405, 383.30,
216 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
217 394.4787, 395.001, 395.003, 395.7015, 400.9905,
218 408.033, 408.036, 408.802, 409.9116, 409.975, 429.19,
219 456.001, 456.057, 458.307, 458.345, 459.021, 483.813,
220 483.823, 491.003, 627.351, 627.602, 627.6406,
221 627.64194, 627.6513, 627.6574, 641.185, 641.31,
222 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
223 766.202, 1009.65, and 1011.52, F.S.; conforming
224 provisions to changes made by the act; providing an
225 effective date.

226
227 Be It Enacted by the Legislature of the State of Florida:

228
229 Section 1. Paragraph (g) of subsection (3) of section
230 20.43, Florida Statutes, is amended to read:



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231 20.43 Department of Health.—There is created a Department
232 of Health.

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

235 (g) Division of Medical Quality Assurance, which is
236 responsible for the following boards and professions established
237 within the division:

238 1. The Board of Acupuncture, created under chapter 457.

239 2. The Board of Medicine, created under chapter 458.

240 3. The Board of Osteopathic Medicine, created under chapter
241 459.

242 4. The Board of Chiropractic Medicine, created under
243 chapter 460.

244 5. The Board of Podiatric Medicine, created under chapter
245 461.

246 6. Naturopathy, as provided under chapter 462.

247 7. The Board of Optometry, created under chapter 463.

248 8. The Board of Nursing, created under part I of chapter
249 464.

250 9. Nursing assistants, as provided under part II of chapter
251 464.

252 10. The Board of Pharmacy, created under chapter 465.

253 11. The Board of Dentistry, created under chapter 466.

254 12. Midwifery, as provided under chapter 467.

255 13. The Board of Speech-Language Pathology and Audiology,
256 created under part I of chapter 468.

257 14. The Board of Nursing Home Administrators, created under
258 part II of chapter 468.

259 15. The Board of Occupational Therapy, created under part



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- 260 III of chapter 468.
- 261 16. Respiratory therapy, as provided under part V of
262 chapter 468.
- 263 17. Dietetics and nutrition practice, as provided under
264 part X of chapter 468.
- 265 18. The Board of Athletic Training, created under part XIII
266 of chapter 468.
- 267 19. The Board of Orthotists and Prosthetists, created under
268 part XIV of chapter 468.
- 269 20. Electrolysis, as provided under chapter 478.
- 270 21. The Board of Massage Therapy, created under chapter
271 480.
- 272 22. The Board of Clinical Laboratory Personnel, created
273 under part II ~~III~~ of chapter 483.
- 274 23. Medical physicists, as provided under part IV of
275 chapter 483.
- 276 24. The Board of Opticianry, created under part I of
277 chapter 484.
- 278 25. The Board of Hearing Aid Specialists, created under
279 part II of chapter 484.
- 280 26. The Board of Physical Therapy Practice, created under
281 chapter 486.
- 282 27. The Board of Psychology, created under chapter 490.
- 283 28. School psychologists, as provided under chapter 490.
- 284 29. The Board of Clinical Social Work, Marriage and Family
285 Therapy, and Mental Health Counseling, created under chapter
286 491.
- 287 30. Emergency medical technicians and paramedics, as
288 provided under part III of chapter 401.



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289 Section 2. Section 154.13, Florida Statutes, is created to
290 read:

291 154.13 Designated facilities; jurisdiction.—Any designated
292 facility owned or operated by a public health trust and located
293 within the boundaries of a municipality is under the exclusive
294 jurisdiction of the county creating the public health trust and
295 is not within the jurisdiction of the municipality.

296 Section 3. Paragraph (k) of subsection (2) of section
297 220.1845, Florida Statutes, is amended to read:

298 220.1845 Contaminated site rehabilitation tax credit.—

299 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

300 (k) In order to encourage the construction and operation of
301 a new health care facility as defined in s. 408.032 or s.
302 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
303 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
304 may claim an additional 25 percent of the total site
305 rehabilitation costs, not to exceed \$500,000, if the applicant
306 meets the requirements of this paragraph. In order to receive
307 this additional tax credit, the applicant must provide
308 documentation indicating that the construction of the health
309 care facility or health care provider by the applicant on the
310 brownfield site has received a certificate of occupancy or a
311 license or certificate has been issued for the operation of the
312 health care facility or health care provider.

313 Section 4. Paragraph (f) of subsection (3) of section
314 376.30781, Florida Statutes, is amended to read:

315 376.30781 Tax credits for rehabilitation of drycleaning-
316 solvent-contaminated sites and brownfield sites in designated
317 brownfield areas; application process; rulemaking authority;



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318 revocation authority.-

319 (3)

320 (f) In order to encourage the construction and operation of
321 a new health care facility or a health care provider, as defined
322 in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a brownfield
323 site, an applicant for a tax credit may claim an additional 25
324 percent of the total site rehabilitation costs, not to exceed
325 \$500,000, if the applicant meets the requirements of this
326 paragraph. In order to receive this additional tax credit, the
327 applicant must provide documentation indicating that the
328 construction of the health care facility or health care provider
329 by the applicant on the brownfield site has received a
330 certificate of occupancy or a license or certificate has been
331 issued for the operation of the health care facility or health
332 care provider.

333 Section 5. Subsection (1) of section 376.86, Florida
334 Statutes, is amended to read:

335 376.86 Brownfield Areas Loan Guarantee Program.-

336 (1) The Brownfield Areas Loan Guarantee Council is created
337 to review and approve or deny, by a majority vote of its
338 membership, the situations and circumstances for participation
339 in partnerships by agreements with local governments, financial
340 institutions, and others associated with the redevelopment of
341 brownfield areas pursuant to the Brownfields Redevelopment Act
342 for a limited state guaranty of up to 5 years of loan guarantees
343 or loan loss reserves issued pursuant to law. The limited state
344 loan guaranty applies only to 50 percent of the primary lenders
345 loans for redevelopment projects in brownfield areas. If the
346 redevelopment project is for affordable housing, as defined in



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347 s. 420.0004, in a brownfield area, the limited state loan
348 guaranty applies to 75 percent of the primary lender's loan. If
349 the redevelopment project includes the construction and
350 operation of a new health care facility or a health care
351 provider, as defined in s. 408.032 ~~or~~ s. 408.07, ~~or s.~~
352 ~~408.7056~~, on a brownfield site and the applicant has obtained
353 documentation in accordance with s. 376.30781 indicating that
354 the construction of the health care facility or health care
355 provider by the applicant on the brownfield site has received a
356 certificate of occupancy or a license or certificate has been
357 issued for the operation of the health care facility or health
358 care provider, the limited state loan guaranty applies to 75
359 percent of the primary lender's loan. A limited state guaranty
360 of private loans or a loan loss reserve is authorized for
361 lenders licensed to operate in the state upon a determination by
362 the council that such an arrangement would be in the public
363 interest and the likelihood of the success of the loan is great.

364 Section 6. Subsection (2) of section 381.0031, Florida
365 Statutes, is amended to read:

366 381.0031 Epidemiological research; report of diseases of
367 public health significance to department.—

368 (2) Any practitioner licensed in this state to practice
369 medicine, osteopathic medicine, chiropractic medicine,
370 naturopathy, or veterinary medicine; any hospital licensed under
371 part I of chapter 395; or any laboratory appropriately certified
372 by the Centers for Medicare and Medicaid Services under the
373 federal Clinical Laboratory Improvement Amendments and the
374 federal rules adopted thereunder which licensed under chapter
375 ~~483 that~~ diagnoses or suspects the existence of a disease of



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376 public health significance shall immediately report the fact to
377 the Department of Health.

378 Section 7. Subsection (3) of section 381.0034, Florida
379 Statutes, is amended to read:

380 381.0034 Requirement for instruction on HIV and AIDS.—

381 (3) The department shall require, as a condition of
382 granting a license under chapter 467 or part II ~~III~~ of chapter
383 483, that an applicant making initial application for licensure
384 complete an educational course acceptable to the department on
385 human immunodeficiency virus and acquired immune deficiency
386 syndrome. Upon submission of an affidavit showing good cause, an
387 applicant who has not taken a course at the time of licensure
388 shall be allowed 6 months to complete this requirement.

389 Section 8. Paragraph (c) of subsection (4) of section
390 381.004, Florida Statutes, is amended to read:

391 381.004 HIV testing.—

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

401 (c) The program shall have all laboratory procedures
402 performed in a laboratory appropriately certified by the Centers
403 for Medicare and Medicaid Services under the federal Clinical
404 Laboratory Improvement Amendments and the federal rules adopted



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405 ~~thereunder licensed under the provisions of chapter 483.~~

406 Section 9. Paragraph (f) of subsection (4) of section
407 381.0405, Florida Statutes, is amended to read:

408 381.0405 Office of Rural Health.—

409 (4) COORDINATION.—The office shall:

410 (f) Assume responsibility for state coordination of the
411 Rural Hospital Transition Grant Program, ~~the Essential Access~~
412 ~~Community Hospital Program,~~ and other federal rural health care
413 programs.

414 Section 10. Section 383.30, Florida Statutes, is amended to
415 read:

416 383.30 Birth Center Licensure Act; short title.—Sections
417 383.30-383.332 ~~383.335~~ shall be known and may be cited as the
418 "Birth Center Licensure Act."

419 Section 11. Section 383.301, Florida Statutes, is amended
420 to read:

421 383.301 Licensure and regulation of birth centers;
422 legislative intent.—It is the intent of the Legislature to
423 provide for the protection of public health and safety in the
424 establishment, maintenance, and operation of birth centers by
425 providing for licensure of birth centers and for the
426 development, establishment, and enforcement of minimum standards
427 with respect to birth centers. The requirements of part II of
428 chapter 408 shall apply to the provision of services that
429 require licensure pursuant to ss. 383.30-383.332 ~~383.335~~ and
430 part II of chapter 408 and to entities licensed by or applying
431 for such licensure from the Agency for Health Care
432 Administration pursuant to ss. 383.30-383.332 ~~383.335~~. A license
433 issued by the agency is required in order to operate a birth



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434 center in this state.

435 Section 12. Section 383.302, Florida Statutes, is amended
436 to read:

437 383.302 Definitions of terms used in ss. 383.30-383.332
438 ~~383.335~~.-As used in ss. 383.30-383.332 ~~383.335~~, the term:

439 (1) "Agency" means the Agency for Health Care
440 Administration.

441 (2) "Birth center" means any facility, institution, or
442 place, which is not an ambulatory surgical center or a hospital
443 or in a hospital, in which births are planned to occur away from
444 the mother's usual residence following a normal, uncomplicated,
445 low-risk pregnancy.

446 (3) "Clinical staff" means individuals employed full time
447 or part time by a birth center who are licensed or certified to
448 provide care at childbirth.

449 (4) "Consultant" means a physician licensed pursuant to
450 chapter 458 or chapter 459 who agrees to provide advice and
451 services to a birth center and who either:

452 (a) Is certified or eligible for certification by the
453 American Board of Obstetrics and Gynecology, or

454 (b) Has hospital obstetrical privileges.

455 (5) "Governing body" means any individual, group,
456 corporation, or institution which is responsible for the overall
457 operation and maintenance of a birth center.

458 (6) "Governmental unit" means the state or any county,
459 municipality, or other political subdivision or any department,
460 division, board, or other agency of any of the foregoing.

461 (7) "Licensed facility" means a facility licensed in
462 accordance with s. 383.305.



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463 (8) "Low-risk pregnancy" means a pregnancy which is
464 expected to result in an uncomplicated birth, as determined
465 through risk criteria developed by rule of the department, and
466 which is accompanied by adequate prenatal care.

467 (9) "Person" means any individual, firm, partnership,
468 corporation, company, association, institution, or joint stock
469 association and means any legal successor of any of the
470 foregoing.

471 (10) "Premises" means those buildings, beds, and facilities
472 located at the main address of the licensee and all other
473 buildings, beds, and facilities for the provision of maternity
474 care located in such reasonable proximity to the main address of
475 the licensee as to appear to the public to be under the dominion
476 and control of the licensee.

477 Section 13. Subsection (1) of section 383.305, Florida
478 Statutes, is amended to read:

479 383.305 Licensure; fees.—

480 (1) In accordance with s. 408.805, an applicant or a
481 licensee shall pay a fee for each license application submitted
482 under ss. 383.30-383.332 ~~383.335~~ and part II of chapter 408. The
483 amount of the fee shall be established by rule.

484 Section 14. Subsection (1) of section 383.309, Florida
485 Statutes, is amended to read:

486 383.309 Minimum standards for birth centers; rules and
487 enforcement.—

488 (1) The agency shall adopt and enforce rules to administer
489 ss. 383.30-383.332 ~~383.335~~ and part II of chapter 408, which
490 rules shall include, but are not limited to, reasonable and fair
491 minimum standards for ensuring that:



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492 (a) Sufficient numbers and qualified types of personnel and
493 occupational disciplines are available at all times to provide
494 necessary and adequate patient care and safety.

495 (b) Infection control, housekeeping, sanitary conditions,
496 disaster plan, and medical record procedures that will
497 adequately protect patient care and provide safety are
498 established and implemented.

499 (c) Licensed facilities are established, organized, and
500 operated consistent with established programmatic standards.

501 Section 15. Subsection (1) of section 383.313, Florida
502 Statutes, is amended to read:

503 383.313 Performance of laboratory and surgical services;
504 use of anesthetic and chemical agents.—

505 (1) LABORATORY SERVICES.—A birth center may collect
506 specimens for those tests that are requested under protocol. A
507 birth center must obtain and continuously maintain certification
508 by the Centers for Medicare and Medicaid Services under the
509 federal Clinical Laboratory Improvements Amendments and rules
510 adopted thereunder in order to may perform simple laboratory
511 tests specified, as defined by rule of the agency, and which are
512 appropriate to meet the needs of the patient is exempt from the
513 requirements of chapter 483, provided no more than five
514 physicians are employed by the birth center and testing is
515 conducted exclusively in connection with the diagnosis and
516 treatment of clients of the birth center.

517 Section 16. Subsection (1) and paragraph (a) of subsection
518 (2) of section 383.33, Florida Statutes, are amended to read:

519 383.33 Administrative penalties; moratorium on admissions.—

520 (1) In addition to the requirements of part II of chapter



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521 408, the agency may impose an administrative fine not to exceed
522 \$500 per violation per day for the violation of any provision of
523 ss. ~~383.30-383.332~~ 383.335, part II of chapter 408, or
524 applicable rules.

525 (2) In determining the amount of the fine to be levied for
526 a violation, as provided in this section, the following factors
527 shall be considered:

528 (a) The severity of the violation, including the
529 probability that death or serious harm to the health or safety
530 of any person will result or has resulted; the severity of the
531 actual or potential harm; and the extent to which the provisions
532 of ss. ~~383.30-383.332~~ 383.335, part II of chapter 408, or
533 applicable rules were violated.

534 Section 17. Section 383.335, Florida Statutes, is repealed.

535 Section 18. Section 384.31, Florida Statutes, is amended to
536 read:

537 384.31 Testing of pregnant women; duty of the attendant.—
538 Every person, including every physician licensed under chapter
539 458 or chapter 459 or midwife licensed under part I of chapter
540 464 or chapter 467, attending a pregnant woman for conditions
541 relating to pregnancy during the period of gestation and
542 delivery shall cause the woman to be tested for sexually
543 transmissible diseases, including HIV, as specified by
544 department rule. Testing shall be performed by a laboratory
545 appropriately certified by the Centers for Medicare and Medicaid
546 Services under the federal Clinical Laboratory Improvement
547 Amendments and the federal rules adopted thereunder ~~approved~~ for
548 such purposes ~~under part I of chapter 483~~. The woman shall be
549 informed of the tests that will be conducted and of her right to



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550 refuse testing. If a woman objects to testing, a written
551 statement of objection, signed by the woman, shall be placed in
552 the woman's medical record and no testing shall occur.

553 Section 19. Subsection (2) of section 385.211, Florida
554 Statutes, is amended to read:

555 385.211 Refractory and intractable epilepsy treatment and
556 research at recognized medical centers.—

557 (2) Notwithstanding chapter 893, medical centers recognized
558 pursuant to s. 381.925, or an academic medical research
559 institution legally affiliated with a licensed children's
560 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~
561 that contracts with the Department of Health, may conduct
562 research on cannabidiol and low-THC cannabis. This research may
563 include, but is not limited to, the agricultural development,
564 production, clinical research, and use of liquid medical
565 derivatives of cannabidiol and low-THC cannabis for the
566 treatment for refractory or intractable epilepsy. The authority
567 for recognized medical centers to conduct this research is
568 derived from 21 C.F.R. parts 312 and 316. Current state or
569 privately obtained research funds may be used to support the
570 activities described in this section.

571 Section 20. Subsection (7) of section 394.4787, Florida
572 Statutes, is amended to read:

573 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
574 394.4789.—As used in this section and ss. 394.4786, 394.4788,
575 and 394.4789:

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



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579 Section 21. Section 395.001, Florida Statutes, is amended
580 to read:

581 395.001 Legislative intent.—It is the intent of the
582 Legislature to provide for the protection of public health and
583 safety in the establishment, construction, maintenance, and
584 operation of hospitals and ambulatory surgical centers, ~~and~~
585 ~~mobile surgical facilities~~ by providing for licensure of same
586 and for the development, establishment, and enforcement of
587 minimum standards with respect thereto.

588 Section 22. Present subsections (22) through (33) of
589 section 395.002, Florida Statutes, are renumbered as subsections
590 (21) through (32), respectively, and subsections (3) and (16)
591 and present subsections (21) and (23) of that section are
592 amended, to read:

593 395.002 Definitions.—As used in this chapter:

594 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
595 ~~facility"~~ means a facility the primary purpose of which is to
596 provide elective surgical care, in which the patient is admitted
597 to and discharged from such facility within the same working day
598 and is not permitted to stay overnight, and which is not part of
599 a hospital. However, a facility existing for the primary purpose
600 of performing terminations of pregnancy, an office maintained by
601 a physician for the practice of medicine, or an office
602 maintained for the practice of dentistry shall not be construed
603 to be an ambulatory surgical center, provided that any facility
604 or office which is certified or seeks certification as a
605 Medicare ambulatory surgical center shall be licensed as an
606 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
607 ~~or vehicle in which a physician maintains an office and~~



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608 ~~practices surgery, and which can appear to the public to be a~~
609 ~~mobile office because the structure or vehicle operates at more~~
610 ~~than one address, shall be construed to be a mobile surgical~~
611 ~~facility.~~

612 (16) "Licensed facility" means a hospital or, ambulatory
613 surgical center, ~~or mobile surgical facility~~ licensed in
614 accordance with this chapter.

615 ~~(21) "Mobile surgical facility" is a mobile facility in~~
616 ~~which licensed health care professionals provide elective~~
617 ~~surgical care under contract with the Department of Corrections~~
618 ~~or a private correctional facility operating pursuant to chapter~~
619 ~~957 and in which inmate patients are admitted to and discharged~~
620 ~~from said facility within the same working day and are not~~
621 ~~permitted to stay overnight. However, mobile surgical facilities~~
622 ~~may only provide health care services to the inmate patients of~~
623 ~~the Department of Corrections, or inmate patients of a private~~
624 ~~correctional facility operating pursuant to chapter 957, and not~~
625 ~~to the general public.~~

626 ~~(22)~~ (23) "Premises" means those buildings, beds, and
627 equipment located at the address of the licensed facility and
628 all other buildings, beds, and equipment for the provision of
629 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
630 located in such reasonable proximity to the address of the
631 licensed facility as to appear to the public to be under the
632 dominion and control of the licensee. For any licensee that is a
633 teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
634 reasonable proximity includes any buildings, beds, services,
635 programs, and equipment under the dominion and control of the
636 licensee that are located at a site with a main address that is



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637 within 1 mile of the main address of the licensed facility; and
638 all such buildings, beds, and equipment may, at the request of a
639 licensee or applicant, be included on the facility license as a
640 single premises.

641 Section 23. Paragraphs (a) and (b) of subsection (1) and
642 paragraph (b) of subsection (2) of section 395.003, Florida
643 Statutes, are amended to read:

644 395.003 Licensure; denial, suspension, and revocation.—

645 (1) (a) The requirements of part II of chapter 408 apply to
646 the provision of services that require licensure pursuant to ss.
647 395.001-395.1065 and part II of chapter 408 and to entities
648 licensed by or applying for such licensure from the Agency for
649 Health Care Administration pursuant to ss. 395.001-395.1065. A
650 license issued by the agency is required in order to operate a
651 hospital or, ambulatory surgical center, ~~or mobile surgical~~
652 ~~facility~~ in this state.

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

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

663 (2)

664 (b) The agency shall, at the request of a licensee that is
665 a teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,



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666 issue a single license to a licensee for facilities that have
667 been previously licensed as separate premises, provided such
668 separately licensed facilities, taken together, constitute the
669 same premises as defined in s. 395.002(22) ~~s. 395.002(23)~~. Such
670 license for the single premises shall include all of the beds,
671 services, and programs that were previously included on the
672 licenses for the separate premises. The granting of a single
673 license under this paragraph shall not in any manner reduce the
674 number of beds, services, or programs operated by the licensee.

675 Section 24. Subsection (1) of section 395.009, Florida
676 Statutes, is amended to read:

677 395.009 Minimum standards for clinical laboratory test
678 results and diagnostic X-ray results; prerequisite for issuance
679 or renewal of license.—

680 (1) As a requirement for issuance or renewal of its
681 license, each licensed facility shall require that all clinical
682 laboratory tests performed by or for the licensed facility be
683 performed by a clinical laboratory appropriately certified by
684 the Centers for Medicare and Medicaid Services under the federal
685 Clinical Laboratory Improvement Amendments and the federal rules
686 adopted thereunder licensed under the provisions of chapter 483.

687 Section 25. Section 395.0091, Florida Statutes, is created
688 to read:

689 395.0091 Alternate-site testing.—The agency, in
690 consultation with the Board of Clinical Laboratory Personnel,
691 shall adopt by rule the criteria for alternate-site testing to
692 be performed under the supervision of a clinical laboratory
693 director. At a minimum, the criteria must address: hospital
694 internal needs assessment; a protocol for implementation,



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695 including the identification of tests to be performed and who
696 will perform them; selection of the method of testing to be used
697 for alternate-site testing; minimum training and education
698 requirements for those who will perform alternate-site testing,
699 such as documented training, licensure, certification, or other
700 medical professional background not limited to laboratory
701 professionals; documented inservice training and initial and
702 ongoing competency validation; an appropriate internal and
703 external quality control protocol; an internal mechanism for the
704 central laboratory to identify and track alternate-site testing;
705 and recordkeeping requirements. Alternate-site testing locations
706 must register when the hospital applies to renew its license.
707 For purposes of this section, the term "alternate-site testing"
708 means any laboratory testing done under the administrative
709 control of a hospital, but performed out of the physical or
710 administrative confines of the central laboratory.

711 Section 26. Paragraph (f) of subsection (1) of section
712 395.0161, Florida Statutes, is amended to read:

713 395.0161 Licensure inspection.-

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

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

722 Section 27. Subsection (3) of section 395.0163, Florida
723 Statutes, is amended to read:



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724 395.0163 Construction inspections; plan submission and
725 approval; fees.-

726 ~~(3) In addition to the requirements of s. 408.811, the~~
727 ~~agency shall inspect a mobile surgical facility at initial~~
728 ~~licensure and at each time the facility establishes a new~~
729 ~~location, prior to admission of patients. However, such~~
730 ~~inspections shall not be required when a mobile surgical~~
731 ~~facility is moved temporarily to a location where medical~~
732 ~~treatment will not be provided.~~

733 Section 28. Subsection (2), paragraph (c) of subsection
734 (6), and subsections (16) and (17) of section 395.0197, Florida
735 Statutes, are amended to read:

736 395.0197 Internal risk management program.-

737 (2) The internal risk management program is the
738 responsibility of the governing board of the health care
739 facility. Each licensed facility shall hire a risk manager,
740 ~~licensed under s. 395.10974, who is responsible for~~
741 implementation and oversight of such facility's internal risk
742 management program and who demonstrates competence, by education
743 or experience, in all of the following areas: as required by
744 ~~this section. A risk manager must not be made responsible for~~
745 ~~more than four internal risk management programs in separate~~
746 ~~licensed facilities, unless the facilities are under one~~
747 ~~corporate ownership or the risk management programs are in rural~~
748 ~~hospitals.~~

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

750 (b) Applicable federal, state, and local health and safety
751 laws and rules.

752 (c) General risk management administration.



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753 (d) Patient care.

754 (e) Medical care.

755 (f) Personal and social care.

756 (g) Accident prevention.

757 (h) Departmental organization and management.

758 (i) Community interrelationships.

759 (j) Medical terminology.

760 (6)

761 (c) The report submitted to the agency shall also contain
762 the name ~~and license number~~ of the risk manager of the licensed
763 facility, a copy of its policy and procedures which govern the
764 measures taken by the facility and its risk manager to reduce
765 the risk of injuries and adverse incidents, and the results of
766 such measures. The annual report is confidential and is not
767 available to the public pursuant to s. 119.07(1) or any other
768 law providing access to public records. The annual report is not
769 discoverable or admissible in any civil or administrative
770 action, except in disciplinary proceedings by the agency or the
771 appropriate regulatory board. The annual report is not available
772 to the public as part of the record of investigation for and
773 prosecution in disciplinary proceedings made available to the
774 public by the agency or the appropriate regulatory board.
775 However, the agency or the appropriate regulatory board shall
776 make available, upon written request by a health care
777 professional against whom probable cause has been found, any
778 such records which form the basis of the determination of
779 probable cause.

780 (16) There shall be no monetary liability on the part of,
781 and no cause of action for damages shall arise against, any risk



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782 manager, ~~licensed under s. 395.10974,~~ for the implementation and
783 oversight of the internal risk management program in a facility
784 licensed under this chapter or chapter 390 as required by this
785 section, for any act or proceeding undertaken or performed
786 within the scope of the functions of such internal risk
787 management program if the risk manager acts without intentional
788 fraud.

789 (17) A privilege against civil liability is hereby granted
790 to any ~~licensed~~ risk manager or licensed facility with regard to
791 information furnished pursuant to this chapter, unless the
792 ~~licensed~~ risk manager or facility acted in bad faith or with
793 malice in providing such information.

794 Section 29. Section 395.1046, Florida Statutes, is
795 repealed.

796 Section 30. Subsections (2) and (3) of section 395.1055,
797 Florida Statutes, are amended, and paragraph (i) is added to
798 subsection (1), to read:

799 395.1055 Rules and enforcement.—

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

803 (i) All hospitals providing pediatric cardiac
804 catheterization, pediatric open-heart surgery, organ
805 transplantation, neonatal intensive care services, psychiatric
806 services, or comprehensive medical rehabilitation meet the
807 minimum licensure requirements adopted by the agency. Such
808 licensure requirements must include quality of care, nurse
809 staffing, physician staffing, physical plant, equipment,
810 emergency transportation, and data reporting standards.



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811 (2) Separate standards may be provided for general and
812 specialty hospitals, ambulatory surgical centers, ~~mobile~~
813 ~~surgical facilities,~~ and statutory rural hospitals as defined in
814 s. 395.602.

815 (3) The agency shall adopt rules with respect to the care
816 and treatment of patients residing in distinct part nursing
817 units of hospitals which are certified for participation in
818 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
819 Security Act skilled nursing facility program. Such rules shall
820 take into account the types of patients treated in hospital
821 skilled nursing units, including typical patient acuity levels
822 and the average length of stay in such units, and shall be
823 limited to the appropriate portions of the Omnibus Budget
824 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
825 1987), Title IV (Medicare, Medicaid, and Other Health-Related
826 Programs), Subtitle C (Nursing Home Reform), as amended. The
827 agency shall require level 2 background screening as specified
828 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
829 personnel of distinct part nursing units.

830 Section 31. Section 395.10971, Florida Statutes, is
831 repealed.

832 Section 32. Section 395.10972, Florida Statutes, is
833 repealed.

834 Section 33. Section 395.10973, Florida Statutes, is amended
835 to read:

836 395.10973 Powers and duties of the agency.—It is the
837 function of the agency to:

838 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
839 implement the provisions of this part and part II of chapter 408



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840 conferring duties upon it.

841 ~~(2) Develop, impose, and enforce specific standards within~~
842 ~~the scope of the general qualifications established by this part~~
843 ~~which must be met by individuals in order to receive licenses as~~
844 ~~health care risk managers. These standards shall be designed to~~
845 ~~ensure that health care risk managers are individuals of good~~
846 ~~character and otherwise suitable and, by training or experience~~
847 ~~in the field of health care risk management, qualified in~~
848 ~~accordance with the provisions of this part to serve as health~~
849 ~~care risk managers, within statutory requirements.~~

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

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

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

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

861 (2)~~(7)~~ Develop a model risk management program for health
862 care facilities which will satisfy the requirements of s.
863 395.0197.

864 (3)~~(8)~~ Enforce the special-occupancy provisions of the
865 Florida Building Code which apply to hospitals, intermediate
866 residential treatment facilities, and ambulatory surgical
867 centers in conducting any inspection authorized by this chapter
868 and part II of chapter 408.



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869 Section 34. Section 395.10974, Florida Statutes, is
870 repealed.

871 Section 35. Section 395.10975, Florida Statutes, is
872 repealed.

873 Section 36. Subsection (2) of section 395.602, Florida
874 Statutes, is amended to read:

875 395.602 Rural hospitals.—

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

877 ~~(a) "Emergency care hospital" means a medical facility~~
878 ~~which provides:~~

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

880 ~~2. Inpatient care to ill or injured persons prior to their~~
881 ~~transportation to another hospital or provides inpatient medical~~
882 ~~care to persons needing care for a period of up to 96 hours. The~~
883 ~~96-hour limitation on inpatient care does not apply to respite,~~
884 ~~skilled nursing, hospice, or other nonacute care patients.~~

885 ~~(b) "Essential access community hospital" means any~~
886 ~~facility which:~~

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

888 ~~2. Is located more than 35 miles from any other essential~~
889 ~~access community hospital, rural referral center, or urban~~
890 ~~hospital meeting criteria for classification as a regional~~
891 ~~referral center;~~

892 ~~3. Is part of a network that includes rural primary care~~
893 ~~hospitals;~~

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

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



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898 ~~6. Accepts patients transferred from rural primary care~~
899 ~~hospitals in its network.~~

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

903 ~~(a)-(d)~~ "Rural area health education center" means an area
904 health education center (AHEC), as authorized by Pub. L. No. 94-
905 484, which provides services in a county with a population
906 density of up to ~~no greater than~~ 100 persons per square mile.

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

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

912 2. An acute care hospital, in a county with a population
913 density of up to 100 persons per square mile, which is at least
914 30 minutes of travel time, on normally traveled roads under
915 normal traffic conditions, from any other acute care hospital
916 within the same county;

917 3. A hospital supported by a tax district or subdistrict
918 whose boundaries encompass a population of up to 100 persons per
919 square mile;

920 4. A hospital classified as a sole community hospital under
921 42 C.F.R. s. 412.92 which has up to 175 licensed beds;

922 5. A hospital with a service area that has a population of
923 up to 100 persons per square mile. As used in this subparagraph,
924 the term "service area" means the fewest number of zip codes
925 that account for 75 percent of the hospital's discharges for the
926 most recent 5-year period, based on information available from



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927 the hospital inpatient discharge database in the Florida Center
928 for Health Information and Transparency at the agency; or

929 6. A hospital designated as a critical access hospital, as
930 defined in s. 408.07.

931
932 Population densities used in this paragraph must be based upon
933 the most recently completed United States census. A hospital
934 that received funds under s. 409.9116 for a quarter beginning no
935 later than July 1, 2002, is deemed to have been and shall
936 continue to be a rural hospital from that date through June 30,
937 2021, if the hospital continues to have up to 100 licensed beds
938 and an emergency room. An acute care hospital that has not
939 previously been designated as a rural hospital and that meets
940 the criteria of this paragraph shall be granted such designation
941 upon application, including supporting documentation, to the
942 agency. A hospital that was licensed as a rural hospital during
943 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
944 rural hospital from the date of designation through June 30,
945 2021, if the hospital continues to have up to 100 licensed beds
946 and an emergency room.

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

- 950 ~~1. Twenty-four-hour emergency medical care;~~
951 ~~2. Temporary inpatient care for periods of 72 hours or less~~
952 ~~to patients requiring stabilization before discharge or transfer~~
953 ~~to another hospital. The 72-hour limitation does not apply to~~
954 ~~respite, skilled nursing, hospice, or other nonacute care~~
955 ~~patients; and~~



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

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

961 Section 37. Section 395.603, Florida Statutes, is amended
962 to read:

963 ~~395.603 Deactivation of general hospital beds; Rural~~
964 ~~hospital impact statement.-~~

965 ~~(1) The agency shall establish, by rule, a process by which~~
966 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
967 ~~as a rural primary care hospital or as an emergency care~~
968 ~~hospital, or becomes a certified rural health clinic as defined~~
969 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
970 ~~a county health department, community health center, or other~~
971 ~~similar outpatient program that provides preventive and curative~~
972 ~~services, may deactivate general hospital beds. Rural primary~~
973 ~~care hospitals and emergency care hospitals shall maintain the~~
974 ~~number of actively licensed general hospital beds necessary for~~
975 ~~the facility to be certified for Medicare reimbursement.~~

976 ~~Hospitals that discontinue inpatient care to become rural health~~
977 ~~care clinics or primary care programs shall deactivate all~~
978 ~~licensed general hospital beds. All hospitals, clinics, and~~
979 ~~programs with inactive beds shall provide 24-hour emergency~~
980 ~~medical care by staffing an emergency room. Providers with~~
981 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~
982 ~~The agency shall specify in rule requirements for making 24-hour~~
983 ~~emergency care available. Inactive general hospital beds shall~~
984 ~~be included in the acute care bed inventory, maintained by the~~



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985 ~~agency for certificate of need purposes, for 10 years from the~~
986 ~~date of deactivation of the beds. After 10 years have elapsed,~~
987 ~~inactive beds shall be excluded from the inventory. The agency~~
988 ~~shall, at the request of the licensee, reactivate the inactive~~
989 ~~general beds upon a showing by the licensee that licensure~~
990 ~~requirements for the inactive general beds are met.~~

991 ~~(2)~~ In formulating and implementing policies and rules that
992 may have significant impact on the ability of rural hospitals to
993 continue to provide health care services in rural communities,
994 the agency, the department, or the respective regulatory board
995 adopting policies or rules regarding the licensure or
996 certification of health care professionals shall provide a rural
997 hospital impact statement. The rural hospital impact statement
998 shall assess the proposed action in light of the following
999 questions:

1000 ~~(1)(a)~~ Do the health personnel affected by the proposed
1001 action currently practice in rural hospitals or are they likely
1002 to in the near future?

1003 ~~(2)(b)~~ What are the current numbers of the affected health
1004 personnel in this state, their geographic distribution, and the
1005 number practicing in rural hospitals?

1006 ~~(3)(c)~~ What are the functions presently performed by the
1007 affected health personnel, and are such functions presently
1008 performed in rural hospitals?

1009 ~~(4)(d)~~ What impact will the proposed action have on the
1010 ability of rural hospitals to recruit the affected personnel to
1011 practice in their facilities?

1012 ~~(5)(e)~~ What impact will the proposed action have on the
1013 limited financial resources of rural hospitals through increased



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1014 salaries and benefits necessary to recruit or retain such health
1015 personnel?

1016 (6)~~(f)~~ Is there a less stringent requirement which could
1017 apply to practice in rural hospitals?

1018 (7)~~(g)~~ Will this action create staffing shortages, which
1019 could result in a loss to the public of health care services in
1020 rural hospitals or result in closure of any rural hospitals?

1021 Section 38. Section 395.604, Florida Statutes, is repealed.

1022 Section 39. Section 395.605, Florida Statutes, is repealed.

1023 Section 40. Paragraph (c) of subsection (1) of section
1024 395.701, Florida Statutes, is amended to read:

1025 395.701 Annual assessments on net operating revenues for
1026 inpatient and outpatient services to fund public medical
1027 assistance; administrative fines for failure to pay assessments
1028 when due; exemption.—

1029 (1) For the purposes of this section, the term:

1030 (c) "Hospital" means a health care institution as defined
1031 in s. 395.002(12), but does not include any hospital operated by
1032 a state ~~the agency or the Department of Corrections.~~

1033 Section 41. Paragraph (b) of subsection (2) of section
1034 395.7015, Florida Statutes, is amended to read:

1035 395.7015 Annual assessment on health care entities.—

1036 (2) There is imposed an annual assessment against certain
1037 health care entities as described in this section:

1038 (b) For the purpose of this section, "health care entities"
1039 include the following:

1040 1. Ambulatory surgical centers ~~and mobile surgical~~
1041 ~~facilities licensed under s. 395.003. This subsection shall only~~
1042 ~~apply to mobile surgical facilities operating under contracts~~



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1043 ~~entered into on or after July 1, 1998.~~

1044 ~~2. Clinical laboratories licensed under s. 483.091,~~
1045 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
1046 ~~any clinical laboratory operated by the state or a political~~
1047 ~~subdivision of the state, any clinical laboratory which~~
1048 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
1049 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
1050 ~~percent or more of its gross revenues from services to charity~~
1051 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
1052 ~~bank procuring, storing, or distributing blood, plasma, or~~
1053 ~~tissue either for future manufacture or research or distributed~~
1054 ~~on a nonprofit basis, and further excluding any clinical~~
1055 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1056 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1057 ~~459 and who practice in the same group practice, and at which no~~
1058 ~~clinical laboratory work is performed for patients referred by~~
1059 ~~any health care provider who is not a member of the same group.~~

1060 2.3. Diagnostic-imaging centers that are freestanding
1061 outpatient facilities that provide specialized services for the
1062 identification or determination of a disease through examination
1063 and also provide sophisticated radiological services, and in
1064 which services are rendered by a physician licensed by the Board
1065 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1066 an osteopathic physician licensed by the Board of Osteopathic
1067 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1068 paragraph, "sophisticated radiological services" means the
1069 following: magnetic resonance imaging; nuclear medicine;
1070 angiography; arteriography; computed tomography; positron
1071 emission tomography; digital vascular imaging; bronchography;



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1072 lymphangiography; splenography; ultrasound, excluding ultrasound
1073 providers that are part of a private physician's office practice
1074 or when ultrasound is provided by two or more physicians
1075 licensed under chapter 458 or chapter 459 who are members of the
1076 same professional association and who practice in the same
1077 medical specialties; and such other sophisticated radiological
1078 services, excluding mammography, as adopted in rule by the
1079 board.

1080 Section 42. Subsection (1) of section 400.0625, Florida
1081 Statutes, is amended to read:

1082 400.0625 Minimum standards for clinical laboratory test
1083 results and diagnostic X-ray results.-

1084 (1) Each nursing home, as a requirement for issuance or
1085 renewal of its license, shall require that all clinical
1086 laboratory tests performed for the nursing home be performed by
1087 a ~~clinical~~ laboratory appropriately certified by the Centers for
1088 Medicare and Medicaid Services under the federal Clinical
1089 Laboratory Improvement Amendments and the federal rules adopted
1090 thereunder ~~licensed under the provisions of chapter 483~~, except
1091 for such self-testing procedures as are approved by the agency
1092 by rule. ~~Results of clinical laboratory tests performed prior to~~
1093 ~~admission which meet the minimum standards provided in s.~~
1094 ~~483.181(3) shall be accepted in lieu of routine examinations~~
1095 ~~required upon admission and clinical laboratory tests which may~~
1096 ~~be ordered by a physician for residents of the nursing home.~~

1097 Section 43. Subsection (1) and paragraphs (b), (e), and (f)
1098 of subsection (4) of section 400.464, Florida Statutes, are
1099 amended, and subsection (6) is added to that section, to read:

1100 400.464 Home health agencies to be licensed; expiration of



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1101 license; exemptions; unlawful acts; penalties.-

1102 (1) The requirements of part II of chapter 408 apply to the
1103 provision of services that require licensure pursuant to this
1104 part and part II of chapter 408 and entities licensed or
1105 registered by or applying for such licensure or registration
1106 from the Agency for Health Care Administration pursuant to this
1107 part. A license issued by the agency is required in order to
1108 operate a home health agency in this state. A license issued on
1109 or after July 1, 2017, must specify the home health services the
1110 organization is authorized to perform and indicate whether such
1111 specified services are considered skilled care. The provision or
1112 advertising of services that require licensure pursuant to this
1113 part without such services being specified on the face of the
1114 license issued on or after July 1, 2017, constitutes unlicensed
1115 activity as prohibited under s. 408.812.

1116 (4)

1117 (b) The operation or maintenance of an unlicensed home
1118 health agency or the performance of any home health services in
1119 violation of this part is declared a nuisance, inimical to the
1120 public health, welfare, and safety. The agency or any state
1121 attorney may, in addition to other remedies provided in this
1122 part, bring an action for an injunction to restrain such
1123 violation, or to enjoin the future operation or maintenance of
1124 the home health agency or the provision of home health services
1125 in violation of this part or part II of chapter 408, until
1126 compliance with this part or the rules adopted under this part
1127 has been demonstrated to the satisfaction of the agency.

1128 (e) Any person who owns, operates, or maintains an
1129 unlicensed home health agency and who, ~~within 10 working days~~



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1130 after receiving notification from the agency, fails to cease
1131 operation and apply for a license under this part commits a
1132 misdemeanor of the second degree, punishable as provided in s.
1133 775.082 or s. 775.083. Each day of continued operation is a
1134 separate offense.

1135 (f) Any home health agency that fails to cease operation
1136 after agency notification may be fined in accordance with s.
1137 408.812 \$500 for each day of noncompliance.

1138 (6) Any person, entity, or organization providing home
1139 health services which is exempt from licensure under subsection
1140 (5) may voluntarily apply for a certificate of exemption from
1141 licensure under its exempt status with the agency on a form that
1142 specifies its name or names and addresses, a statement of the
1143 reasons why it is exempt from licensure as a home health agency,
1144 and other information deemed necessary by the agency. A
1145 certificate of exemption is valid for a period of not more than
1146 2 years and is not transferable. The agency may charge an
1147 applicant for a certificate of exemption \$100 or the actual cost
1148 of processing the certificate.

1149 Section 44. Subsections (7) through (10) of section
1150 400.471, Florida Statutes, are redesignated as subsections (6)
1151 through (9), respectively, and subsection (2) and present
1152 subsections (6) and (10) of that section are amended, to read:

1153 400.471 Application for license; fee.-

1154 (2) In addition to the requirements of part II of chapter
1155 408, the initial applicant, the applicant for a change of
1156 ownership, and the applicant for the addition of skilled care
1157 services must file with the application satisfactory proof that
1158 the home health agency is in compliance with this part and



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1159 applicable rules, including:

1160 (a) A listing of services to be provided, either directly
1161 by the applicant or through contractual arrangements with
1162 existing providers.

1163 (b) The number and discipline of professional staff to be
1164 employed.

1165 ~~(c) Completion of questions concerning volume data on the~~
1166 ~~renewal application as determined by rule.~~

1167 ~~(c)(d)~~ A business plan, signed by the applicant, which
1168 details the home health agency's methods to obtain patients and
1169 its plan to recruit and maintain staff.

1170 ~~(d)(e)~~ Evidence of contingency funding as required under s.
1171 408.8065 equal to 1 month's average operating expenses during
1172 the first year of operation.

1173 ~~(e)(f)~~ A balance sheet, income and expense statement, and
1174 statement of cash flows for the first 2 years of operation which
1175 provide evidence of having sufficient assets, credit, and
1176 projected revenues to cover liabilities and expenses. The
1177 applicant has demonstrated financial ability to operate if the
1178 applicant's assets, credit, and projected revenues meet or
1179 exceed projected liabilities and expenses. An applicant may not
1180 project an operating margin of 15 percent or greater for any
1181 month in the first year of operation. All documents required
1182 under this paragraph must be prepared in accordance with
1183 generally accepted accounting principles and compiled and signed
1184 by a certified public accountant.

1185 ~~(f)(g)~~ All other ownership interests in health care
1186 entities for each controlling interest, as defined in part II of
1187 chapter 408.



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1188 (g) ~~(h)~~ In the case of an application for initial licensure,
1189 an application for a change of ownership, or an application for
1190 the addition of skilled care services, documentation of
1191 accreditation, or an application for accreditation, from an
1192 accrediting organization that is recognized by the agency as
1193 having standards comparable to those required by this part and
1194 part II of chapter 408. A home health agency that ~~is not~~
1195 ~~Medicare or Medicaid certified and~~ does not provide skilled care
1196 is exempt from this paragraph. Notwithstanding s. 408.806, an
1197 initial applicant ~~that has applied for accreditation~~ must
1198 provide proof of accreditation that is not conditional or
1199 provisional and a survey demonstrating compliance with the
1200 requirements of this part, part II of chapter 408, and
1201 applicable rules from an accrediting organization that is
1202 recognized by the agency as having standards comparable to those
1203 required by this part and part II of chapter 408 within 120 days
1204 after the date of the agency's receipt of the application for
1205 licensure ~~or the application shall be withdrawn from further~~
1206 ~~consideration.~~ Such accreditation must be continuously
1207 maintained by the home health agency to maintain licensure. The
1208 agency shall accept, in lieu of its own periodic licensure
1209 survey, the submission of the survey of an accrediting
1210 organization that is recognized by the agency if the
1211 accreditation of the licensed home health agency is not
1212 provisional and if the licensed home health agency authorizes
1213 releases of, and the agency receives the report of, the
1214 accrediting organization.

1215 ~~(6) The agency may not issue a license designated as~~
1216 ~~certified to a home health agency that fails to satisfy the~~



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1217 ~~requirements of a Medicare certification survey from the agency.~~

1218 (9) ~~(10)~~ The agency may not issue a renewal license for a
1219 home health agency in any county having at least one licensed
1220 home health agency and that has more than one home health agency
1221 per 5,000 persons, as indicated by the most recent population
1222 estimates published by the Legislature's Office of Economic and
1223 Demographic Research, if the applicant or any controlling
1224 interest has been administratively sanctioned by the agency
1225 during the 2 years prior to the submission of the licensure
1226 renewal application for one or more of the following acts:

1227 (a) An intentional or negligent act that materially affects
1228 the health or safety of a client of the provider;

1229 (b) Knowingly providing home health services in an
1230 unlicensed assisted living facility or unlicensed adult family-
1231 care home, unless the home health agency or employee reports the
1232 unlicensed facility or home to the agency within 72 hours after
1233 providing the services;

1234 (c) Preparing or maintaining fraudulent patient records,
1235 such as, but not limited to, charting ahead, recording vital
1236 signs or symptoms which were not personally obtained or observed
1237 by the home health agency's staff at the time indicated,
1238 borrowing patients or patient records from other home health
1239 agencies to pass a survey or inspection, or falsifying
1240 signatures;

1241 (d) Failing to provide at least one service directly to a
1242 patient for a period of 60 days;

1243 (e) Demonstrating a pattern of falsifying documents
1244 relating to the training of home health aides or certified
1245 nursing assistants or demonstrating a pattern of falsifying



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1246 health statements for staff who provide direct care to patients.
1247 A pattern may be demonstrated by a showing of at least three
1248 fraudulent entries or documents;

1249 (f) Demonstrating a pattern of billing any payor for
1250 services not provided. A pattern may be demonstrated by a
1251 showing of at least three billings for services not provided
1252 within a 12-month period;

1253 (g) Demonstrating a pattern of failing to provide a service
1254 specified in the home health agency's written agreement with a
1255 patient or the patient's legal representative, or the plan of
1256 care for that patient, ~~except unless a reduction in service is~~
1257 ~~mandated by Medicare, Medicaid, or a state program or as~~
1258 provided in s. 400.492(3). A pattern may be demonstrated by a
1259 showing of at least three incidents, regardless of the patient
1260 or service, in which the home health agency did not provide a
1261 service specified in a written agreement or plan of care during
1262 a 3-month period;

1263 (h) Giving remuneration to a case manager, discharge
1264 planner, facility-based staff member, or third-party vendor who
1265 is involved in the discharge planning process of a facility
1266 licensed under chapter 395, chapter 429, or this chapter from
1267 whom the home health agency receives referrals or gives
1268 remuneration as prohibited in s. 400.474(6)(a);

1269 (i) Giving cash, or its equivalent, to a Medicare or
1270 Medicaid beneficiary;

1271 (j) Demonstrating a pattern of billing the Medicaid program
1272 for services to Medicaid recipients which are medically
1273 unnecessary as determined by a final order. A pattern may be
1274 demonstrated by a showing of at least two such medically



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1275 unnecessary services within one Medicaid program integrity audit
1276 period;

1277 (k) Providing services to residents in an assisted living
1278 facility for which the home health agency does not receive fair
1279 market value remuneration; or

1280 (l) Providing staffing to an assisted living facility for
1281 which the home health agency does not receive fair market value
1282 remuneration.

1283 Section 45. Subsection (5) of section 400.474, Florida
1284 Statutes, is amended to read:

1285 400.474 Administrative penalties.—

1286 (5) The agency shall impose a fine of \$5,000 against a home
1287 health agency that demonstrates a pattern of failing to provide
1288 a service specified in the home health agency's written
1289 agreement with a patient or the patient's legal representative,
1290 or the plan of care for that patient, except ~~unless a reduction~~
1291 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1292 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1293 by a showing of at least three incidences, regardless of the
1294 patient or service, where the home health agency did not provide
1295 a service specified in a written agreement or plan of care
1296 during a 3-month period. The agency shall impose the fine for
1297 each occurrence. The agency may also impose additional
1298 administrative fines under s. 400.484 for the direct or indirect
1299 harm to a patient, or deny, revoke, or suspend the license of
1300 the home health agency for a pattern of failing to provide a
1301 service specified in the home health agency's written agreement
1302 with a patient or the plan of care for that patient.

1303 Section 46. Paragraph (c) of subsection (2) of section



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1304 400.476, Florida Statutes, is amended to read:

1305 400.476 Staffing requirements; notifications; limitations
1306 on staffing services.—

1307 (2) DIRECTOR OF NURSING.—

1308 (c) A home health agency that provides skilled nursing care
1309 must ~~is not Medicare or Medicaid certified and does not provide~~
1310 ~~skilled care or provides only physical, occupational, or speech~~
1311 ~~therapy is not required to have a director of nursing and is~~
1312 ~~exempt from paragraph (b).~~

1313 Section 47. Section 400.484, Florida Statutes, is amended
1314 to read:

1315 400.484 Right of inspection; violations ~~deficiencies~~;
1316 fines.—

1317 (1) In addition to the requirements of s. 408.811, the
1318 agency may make such inspections and investigations as are
1319 necessary in order to determine the state of compliance with
1320 this part, part II of chapter 408, and applicable rules.

1321 (2) The agency shall impose fines for various classes of
1322 violations ~~deficiencies~~ in accordance with the following
1323 schedule:

1324 (a) Class I violations are defined in s. 408.813 ~~A class I~~
1325 ~~deficiency is any act, omission, or practice that results in a~~
1326 ~~patient's death, disablement, or permanent injury, or places a~~
1327 ~~patient at imminent risk of death, disablement, or permanent~~
1328 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1329 shall impose an administrative fine in the amount of \$15,000 for
1330 each occurrence and each day that the violation ~~deficiency~~
1331 exists.

1332 (b) Class II violations are defined in s. 408.813 ~~A class~~



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1333 ~~II deficiency is any act, omission, or practice that has a~~
1334 ~~direct adverse effect on the health, safety, or security of a~~
1335 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1336 agency shall impose an administrative fine in the amount of
1337 \$5,000 for each occurrence and each day that the violation
1338 ~~deficiency~~ exists.

1339 (c) Class III violations are defined in s. 408.813 ~~A class~~
1340 ~~III deficiency is any act, omission, or practice that has an~~
1341 ~~indirect, adverse effect on the health, safety, or security of a~~
1342 ~~patient.~~ Upon finding an uncorrected or repeated class III
1343 violation ~~deficiency~~, the agency shall impose an administrative
1344 fine not to exceed \$1,000 for each occurrence and each day that
1345 the uncorrected or repeated violation ~~deficiency~~ exists.

1346 (d) Class IV violations are defined in s. 408.813 ~~A class~~
1347 ~~IV deficiency is any act, omission, or practice related to~~
1348 ~~required reports, forms, or documents which does not have the~~
1349 ~~potential of negatively affecting patients.~~ These violations are
1350 of a type that the agency determines do not threaten the health,
1351 safety, or security of patients. Upon finding an uncorrected or
1352 repeated class IV violation ~~deficiency~~, the agency shall impose
1353 an administrative fine not to exceed \$500 for each occurrence
1354 and each day that the uncorrected or repeated violation
1355 ~~deficiency~~ exists.

1356 (3) In addition to any other penalties imposed pursuant to
1357 this section or part, the agency may assess costs related to an
1358 investigation that results in a successful prosecution,
1359 excluding costs associated with an attorney's time.

1360 Section 48. Subsection (4) of section 400.497, Florida
1361 Statutes, is amended to read:



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1362 400.497 Rules establishing minimum standards.—The agency
1363 shall adopt, publish, and enforce rules to implement part II of
1364 chapter 408 and this part, including, as applicable, ss. 400.506
1365 and 400.509, which must provide reasonable and fair minimum
1366 standards relating to:

1367 (4) Licensure application and renewal and certificates of
1368 exemption.

1369 Section 49. Subsection (5) and paragraph (a) of subsection
1370 (15) of section 400.506, Florida Statutes, are amended to read:

1371 400.506 Licensure of nurse registries; requirements;
1372 penalties.—

1373 (5) (a) In addition to the requirements of s. 408.812, any
1374 person who owns, operates, or maintains an unlicensed nurse
1375 registry and who, ~~within 10 working days~~ after receiving
1376 notification from the agency, fails to cease operation and apply
1377 for a license under this part commits a misdemeanor of the
1378 second degree, punishable as provided in s. 775.082 or s.
1379 775.083. Each day of continued operation is a separate offense.

1380 (b) If a nurse registry fails to cease operation after
1381 agency notification, the agency may impose a fine in accordance
1382 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1383 (15) (a) The agency may deny, suspend, or revoke the license
1384 of a nurse registry and shall impose a fine of \$5,000 against a
1385 nurse registry that:

1386 1. Provides services to residents in an assisted living
1387 facility for which the nurse registry does not receive fair
1388 market value remuneration.

1389 2. Provides staffing to an assisted living facility for
1390 which the nurse registry does not receive fair market value



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1391 remuneration.

1392 3. Fails to provide the agency, upon request, with copies
1393 of all contracts with assisted living facilities which were
1394 executed within the last 5 years.

1395 ~~4. Gives remuneration to a case manager, discharge planner,~~
1396 ~~facility-based staff member, or third-party vendor who is~~
1397 ~~involved in the discharge planning process of a facility~~
1398 ~~licensed under chapter 395 or this chapter and from whom the~~
1399 ~~nurse registry receives referrals. A nurse registry is exempt~~
1400 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1401 ~~program or the Medicare program or share a controlling interest~~
1402 ~~with any entity licensed, registered, or certified under part II~~
1403 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1404 ~~Medicare program.~~

1405 ~~5. Gives remuneration to a physician, a member of the~~
1406 ~~physician's office staff, or an immediate family member of the~~
1407 ~~physician, and the nurse registry received a patient referral in~~
1408 ~~the last 12 months from that physician or the physician's office~~
1409 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1410 ~~does not bill the Florida Medicaid program or the Medicare~~
1411 ~~program or share a controlling interest with any entity~~
1412 ~~licensed, registered, or certified under part II of chapter 408~~
1413 ~~that bills the Florida Medicaid program or the Medicare program.~~

1414 Section 50. Subsection (1) of section 400.606, Florida
1415 Statutes, is amended to read:

1416 400.606 License; application; renewal; conditional license
1417 or permit; certificate of need.—

1418 (1) In addition to the requirements of part II of chapter
1419 408, the initial application and change of ownership application



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1420 must be accompanied by a plan for the delivery of home,
1421 residential, and homelike inpatient hospice services to
1422 terminally ill persons and their families. Such plan must
1423 contain, but need not be limited to:

1424 (a) The estimated average number of terminally ill persons
1425 to be served monthly.

1426 (b) The geographic area in which hospice services will be
1427 available.

1428 (c) A listing of services which are or will be provided,
1429 either directly by the applicant or through contractual
1430 arrangements with existing providers.

1431 (d) Provisions for the implementation of hospice home care
1432 within 3 months after licensure.

1433 (e) Provisions for the implementation of hospice homelike
1434 inpatient care within 12 months after licensure.

1435 (f) The number and disciplines of professional staff to be
1436 employed.

1437 (g) The name and qualifications of any existing or
1438 potential contractee.

1439 (h) A plan for attracting and training volunteers.

1440

1441 ~~If the applicant is an existing licensed health care provider,~~
1442 ~~the application must be accompanied by a copy of the most recent~~
1443 ~~profit-loss statement and, if applicable, the most recent~~
1444 ~~licensure inspection report.~~

1445 Section 51. Subsection (6) of section 400.925, Florida
1446 Statutes, is amended to read:

1447 400.925 Definitions.—As used in this part, the term:

1448 (6) "Home medical equipment" includes any product as



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1449 defined by the Federal Drug Administration's Drugs, Devices and
1450 Cosmetics Act, any products reimbursed under the Medicare Part B
1451 Durable Medical Equipment benefits, or any products reimbursed
1452 under the Florida Medicaid durable medical equipment program.
1453 Home medical equipment includes:

1454 (a) Oxygen and related respiratory equipment; ~~manual,~~
1455 ~~motorized, or customized wheelchairs and related seating and~~
1456 ~~positioning, but does not include prosthetics or orthotics or~~
1457 ~~any splints, braces, or aids custom fabricated by a licensed~~
1458 ~~health care practitioner;~~

1459 (b) Motorized scooters;

1460 (c) Personal transfer systems; ~~and~~

1461 (d) Specialty beds, for use by a person with a medical
1462 need; and

1463 (e) Manual, motorized, or customized wheelchairs and
1464 related seating and positioning, but does not include
1465 prosthetics or orthotics or any splints, braces, or aids custom
1466 fabricated by a licensed health care practitioner.

1467 Section 52. Subsection (4) of section 400.931, Florida
1468 Statutes, is amended to read:

1469 400.931 Application for license; fee.—

1470 (4) When a change of the general manager of a home medical
1471 equipment provider occurs, the licensee must notify the agency
1472 of the change within the timeframes established in part II of
1473 chapter 408 and applicable rules 45 days.

1474 Section 53. Subsection (2) of section 400.933, Florida
1475 Statutes, is amended to read:

1476 400.933 Licensure inspections and investigations.—

1477 (2) The agency shall accept, in lieu of its own periodic



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1478 inspections for licensure, submission of the following:

1479 (a) The survey or inspection of an accrediting
1480 organization, provided the accreditation of the licensed home
1481 medical equipment provider is not provisional and provided the
1482 licensed home medical equipment provider authorizes release of,
1483 and the agency receives the report of, the accrediting
1484 organization; or

1485 (b) A copy of a valid medical oxygen retail establishment
1486 permit issued by the Department of Business and Professional
1487 Regulation Health, pursuant to chapter 499.

1488 Section 54. Subsection (2) of section 400.980, Florida
1489 Statutes, is amended to read:

1490 400.980 Health care services pools.—

1491 (2) The requirements of part II of chapter 408 apply to the
1492 provision of services that require licensure or registration
1493 pursuant to this part and part II of chapter 408 and to entities
1494 registered by or applying for such registration from the agency
1495 pursuant to this part. Registration or a license issued by the
1496 agency is required for the operation of a health care services
1497 pool in this state. In accordance with s. 408.805, an applicant
1498 or licensee shall pay a fee for each license application
1499 submitted using this part, part II of chapter 408, and
1500 applicable rules. The agency shall adopt rules and provide forms
1501 required for such registration and shall impose a registration
1502 fee in an amount sufficient to cover the cost of administering
1503 this part and part II of chapter 408. In addition to the
1504 requirements in part II of chapter 408, the registrant must
1505 provide the agency with any change of information contained on
1506 the original registration application within the timeframes



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1507 established in this part, part II of chapter 408, and applicable
1508 rules 14 days prior to the change.

1509 Section 55. Paragraphs (a) through (d) of subsection (4) of
1510 section 400.9905, Florida Statutes, are amended to read:

1511 400.9905 Definitions.—

1512 (4) "Clinic" means an entity where health care services are
1513 provided to individuals and which tenders charges for
1514 reimbursement for such services, including a mobile clinic and a
1515 portable equipment provider. As used in this part, the term does
1516 not include and the licensure requirements of this part do not
1517 apply to:

1518 (a) Entities licensed or registered by the state under
1519 chapter 395; entities licensed or registered by the state and
1520 providing only health care services within the scope of services
1521 authorized under their respective licenses under ss. 383.30-
1522 383.332 ~~383.335~~, chapter 390, chapter 394, chapter 397, this
1523 chapter except part X, chapter 429, chapter 463, chapter 465,
1524 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1525 chapter 651; end-stage renal disease providers authorized under
1526 42 C.F.R. part 405, subpart U; providers certified under 42
1527 C.F.R. part 485, subpart B or subpart H; or any entity that
1528 provides neonatal or pediatric hospital-based health care
1529 services or other health care services by licensed practitioners
1530 solely within a hospital licensed under chapter 395.

1531 (b) Entities that own, directly or indirectly, entities
1532 licensed or registered by the state pursuant to chapter 395;
1533 entities that own, directly or indirectly, entities licensed or
1534 registered by the state and providing only health care services
1535 within the scope of services authorized pursuant to their



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1536 respective licenses under ss. 383.30-383.332 ~~383.335~~, chapter
1537 390, chapter 394, chapter 397, this chapter except part X,
1538 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1539 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage
1540 renal disease providers authorized under 42 C.F.R. part 405,
1541 subpart U; providers certified under 42 C.F.R. part 485, subpart
1542 B or subpart H; or any entity that provides neonatal or
1543 pediatric hospital-based health care services by licensed
1544 practitioners solely within a hospital licensed under chapter
1545 395.

1546 (c) Entities that are owned, directly or indirectly, by an
1547 entity licensed or registered by the state pursuant to chapter
1548 395; entities that are owned, directly or indirectly, by an
1549 entity licensed or registered by the state and providing only
1550 health care services within the scope of services authorized
1551 pursuant to their respective licenses under ss. 383.30-383.332
1552 ~~383.335~~, chapter 390, chapter 394, chapter 397, this chapter
1553 except part X, chapter 429, chapter 463, chapter 465, chapter
1554 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or chapter
1555 651; end-stage renal disease providers authorized under 42
1556 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
1557 part 485, subpart B or subpart H; or any entity that provides
1558 neonatal or pediatric hospital-based health care services by
1559 licensed practitioners solely within a hospital under chapter
1560 395.

1561 (d) Entities that are under common ownership, directly or
1562 indirectly, with an entity licensed or registered by the state
1563 pursuant to chapter 395; entities that are under common
1564 ownership, directly or indirectly, with an entity licensed or



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1565 registered by the state and providing only health care services
1566 within the scope of services authorized pursuant to their
1567 respective licenses under ss. 383.30-383.332 ~~383.335~~, chapter
1568 390, chapter 394, chapter 397, this chapter except part X,
1569 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1570 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage
1571 renal disease providers authorized under 42 C.F.R. part 405,
1572 subpart U; providers certified under 42 C.F.R. part 485, subpart
1573 B or subpart H; or any entity that provides neonatal or
1574 pediatric hospital-based health care services by licensed
1575 practitioners solely within a hospital licensed under chapter
1576 395.

1577
1578 Notwithstanding this subsection, an entity shall be deemed a
1579 clinic and must be licensed under this part in order to receive
1580 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1581 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1582 Section 56. Subsection (6) of section 400.9935, Florida
1583 Statutes, is amended to read:

1584 400.9935 Clinic responsibilities.—

1585 (6) Any person or entity providing health care services
1586 which is not a clinic, as defined under s. 400.9905, may
1587 voluntarily apply for a certificate of exemption from licensure
1588 under its exempt status with the agency on a form that sets
1589 forth its name or names and addresses, a statement of the
1590 reasons why it cannot be defined as a clinic, and other
1591 information deemed necessary by the agency. An exemption is
1592 valid for a period of not more than 2 years and is not
1593 transferable. The agency may charge an applicant for a



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1594 certificate of exemption in an amount equal to \$100 or the
1595 actual cost of processing the certificate, whichever is less. An
1596 entity seeking a certificate of exemption must publish and
1597 maintain a schedule of charges for the medical services offered
1598 to patients. The schedule must include the prices charged to an
1599 uninsured person paying for such services by cash, check, credit
1600 card, or debit card. The schedule must be posted in a
1601 conspicuous place in the reception area of the entity and must
1602 include, but is not limited to, the 50 services most frequently
1603 provided by the entity. The schedule may group services by three
1604 price levels, listing services in each price level. The posting
1605 must be at least 15 square feet in size. As a condition
1606 precedent to receiving a certificate of exemption, an applicant
1607 must provide to the agency documentation of compliance with
1608 these requirements.

1609 Section 57. Paragraph (a) of subsection (2) of section
1610 408.033, Florida Statutes, is amended to read:

1611 408.033 Local and state health planning.—

1612 (2) FUNDING.—

1613 (a) The Legislature intends that the cost of local health
1614 councils be borne by assessments on selected health care
1615 facilities subject to facility licensure by the Agency for
1616 Health Care Administration, including abortion clinics, assisted
1617 living facilities, ambulatory surgical centers, birthing
1618 centers, ~~clinical laboratories except community nonprofit blood~~
1619 ~~banks and clinical laboratories operated by practitioners for~~
1620 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1621 hospices, hospitals, intermediate care facilities for the
1622 developmentally disabled, nursing homes, health care clinics,



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1623 and multiphasic testing centers and by assessments on
1624 organizations subject to certification by the agency pursuant to
1625 chapter 641, part III, including health maintenance
1626 organizations and prepaid health clinics. Fees assessed may be
1627 collected prospectively at the time of licensure renewal and
1628 prorated for the licensure period.

1629 Section 58. Paragraphs (e) and (p) of subsection (3) of
1630 section 408.036, Florida Statutes, are amended to read:

1631 408.036 Projects subject to review; exemptions.—

1632 (3) EXEMPTIONS.—Upon request, the following projects are
1633 subject to exemption from the provisions of subsection (1):

1634 ~~(e) For mobile surgical facilities and related health care~~
1635 ~~services provided under contract with the Department of~~
1636 ~~Corrections or a private correctional facility operating~~
1637 ~~pursuant to chapter 957.~~

1638 ~~(o)~~ ~~(p)~~ For replacement of a licensed nursing home on the
1639 same site, or within 5 miles of the same site if within the same
1640 subdistrict, if the number of licensed beds does not increase
1641 except as permitted under paragraph (e) ~~(f)~~.

1642 Section 59. Subsection (4) of section 408.061, Florida
1643 Statutes, is amended to read:

1644 408.061 Data collection; uniform systems of financial
1645 reporting; information relating to physician charges;
1646 confidential information; immunity.—

1647 (4) Within 120 days after the end of its fiscal year, each
1648 health care facility, excluding continuing care facilities,
1649 hospitals operated by state agencies, and nursing homes as
1650 defined in s. 408.07(13) and (36) ~~s. 408.07(14) and (37)~~, shall
1651 file with the agency, on forms adopted by the agency and based



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1652 on the uniform system of financial reporting, its actual
1653 financial experience for that fiscal year, including
1654 expenditures, revenues, and statistical measures. Such data may
1655 be based on internal financial reports which are certified to be
1656 complete and accurate by the provider. However, hospitals'
1657 actual financial experience shall be their audited actual
1658 experience. Every nursing home shall submit to the agency, in a
1659 format designated by the agency, a statistical profile of the
1660 nursing home residents. The agency, in conjunction with the
1661 Department of Elderly Affairs and the Department of Health,
1662 shall review these statistical profiles and develop
1663 recommendations for the types of residents who might more
1664 appropriately be placed in their homes or other noninstitutional
1665 settings.

1666 Section 60. Subsection (11) of section 408.07, Florida
1667 Statutes, is amended to read:

1668 408.07 Definitions.—As used in this chapter, with the
1669 exception of ss. 408.031-408.045, the term:

1670 ~~(11) "Clinical laboratory" means a facility licensed under~~
1671 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
1672 ~~483.041(6); any clinical laboratory operated by the state or a~~
1673 ~~political subdivision of the state; any blood or tissue bank~~
1674 ~~where the majority of revenues are received from the sale of~~
1675 ~~blood or tissue and where blood, plasma, or tissue is procured~~
1676 ~~from volunteer donors and donated, processed, stored, or~~
1677 ~~distributed on a nonprofit basis; and any clinical laboratory~~
1678 ~~which is wholly owned and operated by physicians who are~~
1679 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
1680 ~~in the same group practice, and at which no clinical laboratory~~



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1681 ~~work is performed for patients referred by any health care~~
1682 ~~provider who is not a member of that same group practice.~~

1683 Section 61. Subsection (4) of section 408.20, Florida
1684 Statutes, is amended to read:

1685 408.20 Assessments; Health Care Trust Fund.—

1686 (4) Hospitals operated by a state agency ~~the Department of~~
1687 ~~Children and Families, the Department of Health, or the~~
1688 ~~Department of Corrections~~ are exempt from the assessments
1689 required under this section.

1690 Section 62. Section 408.7056, Florida Statutes, is
1691 repealed.

1692 Section 63. Subsections (10), (11), and (27) of section
1693 408.802, Florida Statutes, are amended to read:

1694 408.802 Applicability.—The provisions of this part apply to
1695 the provision of services that require licensure as defined in
1696 this part and to the following entities licensed, registered, or
1697 certified by the agency, as described in chapters 112, 383, 390,
1698 394, 395, 400, 429, 440, 483, and 765:

1699 ~~(10) Mobile surgical facilities, as provided under part I~~
1700 ~~of chapter 395.~~

1701 ~~(11) Health care risk managers, as provided under part I of~~
1702 ~~chapter 395.~~

1703 ~~(27) Clinical laboratories, as provided under part I of~~
1704 ~~chapter 483.~~

1705 Section 64. Subsections (12) and (13) of section 408.803,
1706 Florida Statutes, are renumbered as subsections (13) and (14),
1707 respectively, and a new subsection (12) is added to that
1708 section, to read:

1709 408.803 Definitions.—As used in this part, the term:



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1710 (12) "Relative" means an individual who is the father,
1711 mother, stepfather, stepmother, son, daughter, brother, sister,
1712 grandmother, grandfather, great-grandmother, great-grandfather,
1713 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1714 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1715 daughter-in-law, brother-in-law, sister-in-law, stepson,
1716 stepdaughter, stepbrother, stepsister, half-brother, or half-
1717 sister of a patient or client.

1718 Section 65. Paragraph (c) of subsection (7) of section
1719 408.806, Florida Statutes, is amended, and subsection (9) is
1720 added to that section, to read:

1721 408.806 License application process.—

1722 (7)

1723 (c) If an inspection is required by the authorizing statute
1724 for a license application other than an initial application, the
1725 inspection must be unannounced. This paragraph does not apply to
1726 inspections required pursuant to ss. 383.324, 395.0161(4) and
1727 429.67(6), and 483.061(2).

1728 (9) A licensee that holds a license for multiple providers
1729 licensed by the agency may request that all related license
1730 expiration dates be aligned. Upon such request, the agency may
1731 issue a license for an abbreviated licensure period with a
1732 prorated licensure fee.

1733 Section 66. Paragraphs (d) and (e) of subsection (1) of
1734 section 408.809, Florida Statutes, are amended to read:

1735 408.809 Background screening; prohibited offenses.—

1736 (1) Level 2 background screening pursuant to chapter 435
1737 must be conducted through the agency on each of the following
1738 persons, who are considered employees for the purposes of



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1739 conducting screening under chapter 435:

1740 (d) Any person who is a controlling interest ~~if the agency~~
1741 ~~has reason to believe that such person has been convicted of any~~
1742 ~~offense prohibited by s. 435.04. For each controlling interest~~
1743 ~~who has been convicted of any such offense, the licensee shall~~
1744 ~~submit to the agency a description and explanation of the~~
1745 ~~conviction at the time of license application.~~

1746 (e) Any person, as required by authorizing statutes,
1747 seeking employment with a licensee or provider who is expected
1748 to, or whose responsibilities may require him or her to, provide
1749 personal care or services directly to clients or have access to
1750 client funds, personal property, or living areas; and any
1751 person, as required by authorizing statutes, contracting with a
1752 licensee or provider whose responsibilities require him or her
1753 to provide personal care or personal services directly to
1754 clients, or contracting with a licensee or provider to work 20
1755 hours a week or more who will have access to client funds,
1756 personal property, or living areas. Evidence of contractor
1757 screening may be retained by the contractor's employer or the
1758 licensee.

1759 Section 67. Subsection (8) of section 408.810, Florida
1760 Statutes, is amended, and subsections (11), (12), and (13) are
1761 added to that section, to read:

1762 408.810 Minimum licensure requirements.—In addition to the
1763 licensure requirements specified in this part, authorizing
1764 statutes, and applicable rules, each applicant and licensee must
1765 comply with the requirements of this section in order to obtain
1766 and maintain a license.

1767 (8) Upon application for initial licensure or change of



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1768 ownership licensure, the applicant shall furnish satisfactory
1769 proof of the applicant's financial ability to operate in
1770 accordance with the requirements of this part, authorizing
1771 statutes, and applicable rules. The agency shall establish
1772 standards for this purpose, including information concerning the
1773 applicant's controlling interests. The agency shall also
1774 establish documentation requirements, to be completed by each
1775 applicant, that show anticipated provider revenues and
1776 expenditures, the basis for financing the anticipated cash-flow
1777 requirements of the provider, and an applicant's access to
1778 contingency financing. A current certificate of authority,
1779 pursuant to chapter 651, may be provided as proof of financial
1780 ability to operate. The agency may require a licensee to provide
1781 proof of financial ability to operate at any time if there is
1782 evidence of financial instability, including, but not limited
1783 to, unpaid expenses necessary for the basic operations of the
1784 provider. An applicant applying for change of ownership
1785 licensure is exempt from furnishing proof of financial ability
1786 to operate if the provider has been licensed for at least 5
1787 years, and:

1788 (a) The ownership change is a result of a corporate
1789 reorganization under which the controlling interest is unchanged
1790 and the applicant submits organizational charts that represent
1791 the current and proposed structure of the reorganized
1792 corporation; or

1793 (b) The ownership change is due solely to the death of a
1794 person holding a controlling interest, and the surviving
1795 controlling interests continue to hold at least 51 percent of
1796 ownership after the change of ownership.



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1797 (11) The agency may adopt rules that govern the
1798 circumstances under which a controlling interest, an
1799 administrator, an employee, or a contractor, or a representative
1800 thereof, who is not a relative of the client may act as an agent
1801 of a client in authorizing consent for medical treatment,
1802 assignment or benefits, and release of information. Such rules
1803 may include requirements related to disclosure, bonding,
1804 restrictions, and client protections.

1805 (12) The licensee shall ensure that no person holds any
1806 ownership interest, either directly or indirectly, regardless of
1807 ownership structure, who:

1808 (a) Has a disqualifying offense pursuant to s. 408.809; or

1809 (b) Holds or has held any ownership interest, either
1810 directly or indirectly, regardless of ownership structure, in a
1811 provider that had a license revoked or an application denied
1812 pursuant to s. 408.815.

1813 (13) If the licensee is a publicly traded corporation or is
1814 wholly owned, directly or indirectly, by a publicly traded
1815 corporation, subsection (12) does not apply to those persons
1816 whose sole relationship with the corporation is as a shareholder
1817 of publicly traded shares. As used in this subsection, a
1818 publicly traded corporation is a corporation that issues
1819 securities traded on an exchange registered with the United
1820 States Securities and Exchange Commission as a national
1821 securities exchange.

1822 Section 68. Section 408.812, Florida Statutes, is amended
1823 to read:

1824 408.812 Unlicensed activity.—

1825 (1) A person or entity may not offer or advertise services



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1826 that require licensure as defined by this part, authorizing
1827 statutes, or applicable rules to the public without obtaining a
1828 valid license from the agency. A licenseholder may not advertise
1829 or hold out to the public that he or she holds a license for
1830 other than that for which he or she actually holds the license.

1831 (2) The operation or maintenance of an unlicensed provider
1832 or the performance of any services that require licensure
1833 without proper licensure is a violation of this part and
1834 authorizing statutes. Unlicensed activity constitutes harm that
1835 materially affects the health, safety, and welfare of clients,
1836 and constitutes abuse and neglect, as defined in s. 415.102. The
1837 agency or any state attorney may, in addition to other remedies
1838 provided in this part, bring an action for an injunction to
1839 restrain such violation, or to enjoin the future operation or
1840 maintenance of the unlicensed provider or the performance of any
1841 services in violation of this part and authorizing statutes,
1842 until compliance with this part, authorizing statutes, and
1843 agency rules has been demonstrated to the satisfaction of the
1844 agency.

1845 (3) It is unlawful for any person or entity to own,
1846 operate, or maintain an unlicensed provider. If, after receiving
1847 notification from the agency, such person or entity fails to
1848 cease operation ~~and apply for a license under this part and~~
1849 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
1850 to penalties as prescribed by authorizing statutes and
1851 applicable rules. Each day of ~~continued~~ operation is a separate
1852 offense.

1853 (4) Any person or entity that fails to cease operation
1854 after agency notification may be fined \$1,000 for each day of



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1855 noncompliance.

1856 (5) When a controlling interest or licensee has an interest
1857 in more than one provider and fails to license a provider
1858 rendering services that require licensure, the agency may revoke
1859 all licenses, ~~and~~ impose actions under s. 408.814, and
1860 regardless of correction, impose a fine of \$1,000 per day,
1861 unless otherwise specified by authorizing statutes, against each
1862 licensee until such time as the appropriate license is obtained
1863 or the unlicensed activity ceases ~~for the unlicensed operation.~~

1864 (6) In addition to granting injunctive relief pursuant to
1865 subsection (2), if the agency determines that a person or entity
1866 is operating or maintaining a provider without obtaining a
1867 license and determines that a condition exists that poses a
1868 threat to the health, safety, or welfare of a client of the
1869 provider, the person or entity is subject to the same actions
1870 and fines imposed against a licensee as specified in this part,
1871 authorizing statutes, and agency rules.

1872 (7) Any person aware of the operation of an unlicensed
1873 provider must report that provider to the agency.

1874 Section 69. Subsections (10), (11) and (26) of section
1875 408.820, Florida Statutes, are amended, and subsections (12)
1876 through (25) and (27) and (28) are redesignated as subsections
1877 (10) through (23) and (24) and (25), respectively, to read:

1878 408.820 Exemptions.—Except as prescribed in authorizing
1879 statutes, the following exemptions shall apply to specified
1880 requirements of this part:

1881 ~~(10) Mobile surgical facilities, as provided under part I~~
1882 ~~of chapter 395, are exempt from s. 408.810(7)–(10).~~

1883 ~~(11) Health care risk managers, as provided under part I of~~



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1884 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
1885 ~~and 408.811.~~

1886 ~~(26) Clinical laboratories, as provided under part I of~~
1887 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

1888 Section 70. Subsection (7) of section 409.905, Florida
1889 Statutes, is amended to read:

1890 409.905 Mandatory Medicaid services.—The agency may make
1891 payments for the following services, which are required of the
1892 state by Title XIX of the Social Security Act, furnished by
1893 Medicaid providers to recipients who are determined to be
1894 eligible on the dates on which the services were provided. Any
1895 service under this section shall be provided only when medically
1896 necessary and in accordance with state and federal law.

1897 Mandatory services rendered by providers in mobile units to
1898 Medicaid recipients may be restricted by the agency. Nothing in
1899 this section shall be construed to prevent or limit the agency
1900 from adjusting fees, reimbursement rates, lengths of stay,
1901 number of visits, number of services, or any other adjustments
1902 necessary to comply with the availability of moneys and any
1903 limitations or directions provided for in the General
1904 Appropriations Act or chapter 216.

1905 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
1906 for medically necessary diagnostic laboratory procedures ordered
1907 by a licensed physician or other licensed practitioner of the
1908 healing arts which are provided for a recipient in a laboratory
1909 that meets the requirements for Medicare participation and is
1910 appropriately certified by the Centers for Medicare and Medicaid
1911 Services under the federal Clinical Laboratory Improvement
1912 Amendments and the federal rules adopted thereunder ~~licensed~~



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1913 ~~under chapter 483, if required.~~

1914 Section 71. Subsection (10) of section 409.907, Florida
1915 Statutes, is amended to read:

1916 409.907 Medicaid provider agreements.—The agency may make
1917 payments for medical assistance and related services rendered to
1918 Medicaid recipients only to an individual or entity who has a
1919 provider agreement in effect with the agency, who is performing
1920 services or supplying goods in accordance with federal, state,
1921 and local law, and who agrees that no person shall, on the
1922 grounds of handicap, race, color, or national origin, or for any
1923 other reason, be subjected to discrimination under any program
1924 or activity for which the provider receives payment from the
1925 agency.

1926 (10) The agency may consider whether the provider, or any
1927 officer, director, agent, managing employee, or affiliated
1928 person, or any partner or shareholder having an ownership
1929 interest equal to 5 percent or greater in the provider if the
1930 provider is a corporation, partnership, or other business
1931 entity, has:

1932 (a) Made a false representation or omission of any material
1933 fact in making the application, including the submission of an
1934 application that conceals the controlling or ownership interest
1935 of any officer, director, agent, managing employee, affiliated
1936 person, or partner or shareholder who may not be eligible to
1937 participate;

1938 (b) Been or is currently excluded, suspended, terminated
1939 from, or has involuntarily withdrawn from participation in,
1940 Florida's Medicaid program or any other state's Medicaid
1941 program, or from participation in any other governmental or



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1942 private health care or health insurance program;

1943 ~~(c) Been convicted of a criminal offense relating to the~~

1944 ~~delivery of any goods or services under Medicaid or Medicare or~~

1945 ~~any other public or private health care or health insurance~~

1946 ~~program including the performance of management or~~

1947 ~~administrative services relating to the delivery of goods or~~

1948 ~~services under any such program;~~

1949 ~~(d) Been convicted under federal or state law of a criminal~~

1950 ~~offense related to the neglect or abuse of a patient in~~

1951 ~~connection with the delivery of any health care goods or~~

1952 ~~services;~~

1953 ~~(e) Been convicted under federal or state law of a criminal~~

1954 ~~offense relating to the unlawful manufacture, distribution,~~

1955 ~~prescription, or dispensing of a controlled substance;~~

1956 ~~(f) Been convicted of any criminal offense relating to~~

1957 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~

1958 ~~or other financial misconduct;~~

1959 ~~(g) Been convicted under federal or state law of a crime~~

1960 ~~punishable by imprisonment of a year or more which involves~~

1961 ~~moral turpitude;~~

1962 ~~(h) Been convicted in connection with the interference or~~

1963 ~~obstruction of any investigation into any criminal offense~~

1964 ~~listed in this subsection;~~

1965 ~~(i) Been found to have violated federal or state laws,~~

1966 ~~rules, or regulations governing Florida's Medicaid program or~~

1967 ~~any other state's Medicaid program, the Medicare program, or any~~

1968 ~~other publicly funded federal or state health care or health~~

1969 ~~insurance program, and been sanctioned accordingly;~~

1970 ~~(c)-(j)~~ Been previously found by a licensing, certifying, or



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1971 professional standards board or agency to have violated the
1972 standards or conditions relating to licensure or certification
1973 or the quality of services provided; or

1974 (d) ~~(*)~~ Failed to pay any fine or overpayment properly
1975 assessed under the Medicaid program in which no appeal is
1976 pending or after resolution of the proceeding by stipulation or
1977 agreement, unless the agency has issued a specific letter of
1978 forgiveness or has approved a repayment schedule to which the
1979 provider agrees to adhere.

1980 Section 72. Subsection (6) of section 409.9116, Florida
1981 Statutes, is amended to read:

1982 409.9116 Disproportionate share/financial assistance
1983 program for rural hospitals.—In addition to the payments made
1984 under s. 409.911, the Agency for Health Care Administration
1985 shall administer a federally matched disproportionate share
1986 program and a state-funded financial assistance program for
1987 statutory rural hospitals. The agency shall make
1988 disproportionate share payments to statutory rural hospitals
1989 that qualify for such payments and financial assistance payments
1990 to statutory rural hospitals that do not qualify for
1991 disproportionate share payments. The disproportionate share
1992 program payments shall be limited by and conform with federal
1993 requirements. Funds shall be distributed quarterly in each
1994 fiscal year for which an appropriation is made. Notwithstanding
1995 the provisions of s. 409.915, counties are exempt from
1996 contributing toward the cost of this special reimbursement for
1997 hospitals serving a disproportionate share of low-income
1998 patients.

1999 (6) This section applies only to hospitals that were



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2000 defined as statutory rural hospitals, or their successor-in-
2001 interest hospital, prior to January 1, 2001. Any additional
2002 hospital that is defined as a statutory rural hospital, or its
2003 successor-in-interest hospital, on or after January 1, 2001, is
2004 not eligible for programs under this section unless additional
2005 funds are appropriated each fiscal year specifically to the
2006 rural hospital disproportionate share and financial assistance
2007 programs in an amount necessary to prevent any hospital, or its
2008 successor-in-interest hospital, eligible for the programs prior
2009 to January 1, 2001, from incurring a reduction in payments
2010 because of the eligibility of an additional hospital to
2011 participate in the programs. A hospital, or its successor-in-
2012 interest hospital, which received funds pursuant to this section
2013 before January 1, 2001, and which qualifies under s.
2014 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the
2015 programs under this section and is not required to seek
2016 additional appropriations under this subsection.

2017 Section 73. Paragraphs (a) and (b) of subsection (1) of
2018 section 409.975, Florida Statutes, are amended to read:

2019 409.975 Managed care plan accountability.—In addition to
2020 the requirements of s. 409.967, plans and providers
2021 participating in the managed medical assistance program shall
2022 comply with the requirements of this section.

2023 (1) PROVIDER NETWORKS.—Managed care plans must develop and
2024 maintain provider networks that meet the medical needs of their
2025 enrollees in accordance with standards established pursuant to
2026 s. 409.967(2)(c). Except as provided in this section, managed
2027 care plans may limit the providers in their networks based on
2028 credentials, quality indicators, and price.



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2029 (a) Plans must include all providers in the region that are
2030 classified by the agency as essential Medicaid providers, unless
2031 the agency approves, in writing, an alternative arrangement for
2032 securing the types of services offered by the essential
2033 providers. Providers are essential for serving Medicaid
2034 enrollees if they offer services that are not available from any
2035 other provider within a reasonable access standard, or if they
2036 provided a substantial share of the total units of a particular
2037 service used by Medicaid patients within the region during the
2038 last 3 years and the combined capacity of other service
2039 providers in the region is insufficient to meet the total needs
2040 of the Medicaid patients. The agency may not classify physicians
2041 and other practitioners as essential providers. The agency, at a
2042 minimum, shall determine which providers in the following
2043 categories are essential Medicaid providers:

- 2044 1. Federally qualified health centers.
2045 2. Statutory teaching hospitals as defined in s. 408.07(44)
2046 ~~s. 408.07(45)~~.
2047 3. Hospitals that are trauma centers as defined in s.
2048 395.4001(14).
2049 4. Hospitals located at least 25 miles from any other
2050 hospital with similar services.

2051
2052 Managed care plans that have not contracted with all essential
2053 providers in the region as of the first date of recipient
2054 enrollment, or with whom an essential provider has terminated
2055 its contract, must negotiate in good faith with such essential
2056 providers for 1 year or until an agreement is reached, whichever
2057 is first. Payments for services rendered by a nonparticipating



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2058 essential provider shall be made at the applicable Medicaid rate
2059 as of the first day of the contract between the agency and the
2060 plan. A rate schedule for all essential providers shall be
2061 attached to the contract between the agency and the plan. After
2062 1 year, managed care plans that are unable to contract with
2063 essential providers shall notify the agency and propose an
2064 alternative arrangement for securing the essential services for
2065 Medicaid enrollees. The arrangement must rely on contracts with
2066 other participating providers, regardless of whether those
2067 providers are located within the same region as the
2068 nonparticipating essential service provider. If the alternative
2069 arrangement is approved by the agency, payments to
2070 nonparticipating essential providers after the date of the
2071 agency's approval shall equal 90 percent of the applicable
2072 Medicaid rate. Except for payment for emergency services, if the
2073 alternative arrangement is not approved by the agency, payment
2074 to nonparticipating essential providers shall equal 110 percent
2075 of the applicable Medicaid rate.

2076 (b) Certain providers are statewide resources and essential
2077 providers for all managed care plans in all regions. All managed
2078 care plans must include these essential providers in their
2079 networks. Statewide essential providers include:

- 2080 1. Faculty plans of Florida medical schools.
- 2081 2. Regional perinatal intensive care centers as defined in
2082 s. 383.16(2).
- 2083 3. Hospitals licensed as specialty children's hospitals as
2084 defined in s. 395.002(27) ~~s. 395.002(28)~~.
- 2085 4. Accredited and integrated systems serving medically
2086 complex children which comprise separately licensed, but



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2087 commonly owned, health care providers delivering at least the
2088 following services: medical group home, in-home and outpatient
2089 nursing care and therapies, pharmacy services, durable medical
2090 equipment, and Prescribed Pediatric Extended Care.

2091
2092 Managed care plans that have not contracted with all statewide
2093 essential providers in all regions as of the first date of
2094 recipient enrollment must continue to negotiate in good faith.
2095 Payments to physicians on the faculty of nonparticipating
2096 Florida medical schools shall be made at the applicable Medicaid
2097 rate. Payments for services rendered by regional perinatal
2098 intensive care centers shall be made at the applicable Medicaid
2099 rate as of the first day of the contract between the agency and
2100 the plan. Except for payments for emergency services, payments
2101 to nonparticipating specialty children's hospitals shall equal
2102 the highest rate established by contract between that provider
2103 and any other Medicaid managed care plan.

2104 Section 74. Subsections (5) and (17) of section 429.02,
2105 Florida Statutes, are amended to read:

2106 429.02 Definitions.—When used in this part, the term:

2107 (5) "Assisted living facility" means any building or
2108 buildings, section or distinct part of a building, private home,
2109 boarding home, home for the aged, or other residential facility,
2110 regardless of whether operated for profit or not, which,
2111 undertakes through its ownership or management, provides ~~to~~
2112 ~~provide~~ housing, meals, and one or more personal services for a
2113 period exceeding 24 hours to one or more adults who are not
2114 relatives of the owner or administrator.

2115 (17) "Personal services" means direct physical assistance



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2116 with or supervision of the activities of daily living, ~~and~~ the
2117 self-administration of medication, ~~or~~ ~~and~~ other similar services
2118 which the department may define by rule. The term may ~~“Personal~~
2119 ~~services” shall~~ not be construed to mean the provision of
2120 medical, nursing, dental, or mental health services.

2121 Section 75. Paragraphs (b) and (d) of subsection (2) of
2122 section 429.04, Florida Statutes, are amended, and subsection
2123 (3) is added that section, to read:

2124 429.04 Facilities to be licensed; exemptions.—

2125 (2) The following are exempt from licensure under this
2126 part:

2127 (b) Any facility or part of a facility licensed by the
2128 Agency for Persons with Disabilities under chapter 393, a mental
2129 health facility licensed under ~~or~~ chapter 394, a hospital
2130 licensed under chapter 395, a nursing home licensed under part
2131 II of chapter 400, an inpatient hospice licensed under part IV
2132 of chapter 400, a home for special services licensed under part
2133 V of chapter 400, an intermediate care facility licensed under
2134 part VIII of chapter 400, or a transitional living facility
2135 licensed under part XI of chapter 400.

2136 (d) Any person who provides housing, meals, and one or more
2137 personal services on a 24-hour basis in the person's own home to
2138 not more than two adults who do not receive optional state
2139 supplementation. The person who provides the housing, meals, and
2140 personal services must own or rent the home and must have
2141 established the home as his or her permanent residence. For
2142 purposes of this paragraph, any person holding a homestead
2143 exemption at an address other than that at which the person
2144 asserts this exemption is presumed to not have established



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2145 permanent residence ~~reside therein~~. This exemption does not
2146 apply to a person or entity that previously held a license
2147 issued by the agency which was revoked or for which renewal was
2148 denied by final order of the agency, or when the person or
2149 entity voluntarily relinquished the license during agency
2150 enforcement proceedings.

2151 (3) Upon agency investigation of unlicensed activity, any
2152 person or entity that claims that it is exempt under this
2153 section must provide documentation substantiating entitlement to
2154 the exemption.

2155 Section 76. Paragraphs (b) and (d) of subsection (1) of
2156 section 429.08, Florida Statutes, are amended to read:

2157 429.08 Unlicensed facilities; referral of person for
2158 residency to unlicensed facility; penalties.—

2159 (1)

2160 (b) ~~Except as provided under paragraph (d),~~ Any person who
2161 owns, rents, or otherwise maintains a building or property that
2162 operates, or maintains an unlicensed assisted living facility
2163 commits a felony of the third degree, punishable as provided in
2164 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2165 operation is a separate offense.

2166 (d) In addition to the requirements of s. 408.812, any
2167 person who owns, operates, or maintains an unlicensed assisted
2168 living facility after receiving notice from the agency ~~due to a~~
2169 ~~change in this part or a modification in rule within 6 months~~
2170 ~~after the effective date of such change and who, within 10~~
2171 ~~working days after receiving notification from the agency, fails~~
2172 ~~to cease operation or apply for a license under this part~~
2173 commits a felony of the third degree, punishable as provided in



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2174 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2175 operation is a separate offense.

2176 Section 77. Subsection(7) of section 429.19, Florida
2177 Statutes, is amended to read:

2178 429.19 Violations; imposition of administrative fines;
2179 grounds.—

2180 (7) In addition to any administrative fines imposed, the
2181 agency may assess a survey fee, equal to the lesser of one half
2182 of the facility's biennial license and bed fee or \$500, to cover
2183 the cost of conducting initial complaint investigations that
2184 result in the finding of a violation that was the subject of the
2185 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~
2186 to verify the correction of the violations.

2187 Section 78. Section 429.176, Florida Statutes, is amended
2188 to read:

2189 429.176 Notice of change of administrator.—If, during the
2190 period for which a license is issued, the owner changes
2191 administrators, the owner must notify the agency of the change
2192 within 10 days and provide documentation within 90 days that the
2193 new administrator has completed the applicable core educational
2194 requirements under s. 429.52. A facility may not be operated for
2195 more than 120 consecutive days without an administrator who has
2196 completed the core educational requirements.

2197 Section 79. Subsection (2) of section 429.24, Florida
2198 Statutes, is amended to read:

2199 429.24 Contracts.—

2200 (2) Each contract must contain express provisions
2201 specifically setting forth the services and accommodations to be
2202 provided by the facility; the rates or charges; provision for at



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2203 least 30 days' written notice of a rate increase; the rights,
2204 duties, and obligations of the residents, other than those
2205 specified in s. 429.28; and other matters that the parties deem
2206 appropriate. A new service or accommodation amended to, or
2207 implemented in, a resident's contract for which the resident was
2208 not previously charged, does not require a 30-day written notice
2209 of a rate increase. Whenever money is deposited or advanced by a
2210 resident in a contract as security for performance of the
2211 contract agreement or as advance rent for other than the next
2212 immediate rental period:

2213 (a) Such funds shall be deposited in a banking institution
2214 in this state that is located, if possible, in the same
2215 community in which the facility is located; shall be kept
2216 separate from the funds and property of the facility; may not be
2217 represented as part of the assets of the facility on financial
2218 statements; and shall be used, or otherwise expended, only for
2219 the account of the resident.

2220 (b) The licensee shall, within 30 days of receipt of
2221 advance rent or a security deposit, notify the resident or
2222 residents in writing of the manner in which the licensee is
2223 holding the advance rent or security deposit and state the name
2224 and address of the depository where the moneys are being held.
2225 The licensee shall notify residents of the facility's policy on
2226 advance deposits.

2227 Section 80. Paragraph (b) of subsection (3) of section
2228 429.256, Florida Statutes, is amended to read:

2229 429.256 Assistance with self-administration of medication.—

2230 (3) Assistance with self-administration of medication
2231 includes:



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2232 (b) In the presence of the resident, reading aloud the
2233 name, medication, and dosage indicated on the label, opening the
2234 container, removing a prescribed amount of medication from the
2235 container, and closing the container.

2236 Section 81. Paragraphs (e) and (j) of subsection (1) and
2237 paragraphs (c), (d), and (e) of subsection (3) of section
2238 429.28, Florida Statutes, are amended to read:

2239 429.28 Resident bill of rights.—

2240 (1) No resident of a facility shall be deprived of any
2241 civil or legal rights, benefits, or privileges guaranteed by
2242 law, the Constitution of the State of Florida, or the
2243 Constitution of the United States as a resident of a facility.
2244 Every resident of a facility shall have the right to:

2245 (e) Freedom to participate in and benefit from community
2246 services and activities and to pursue ~~achieve~~ the highest
2247 possible level of independence, autonomy, and interaction within
2248 the community.

2249 (j) Assistance with obtaining access to adequate and
2250 appropriate health care. For purposes of this paragraph, the
2251 term "adequate and appropriate health care" means the management
2252 of medications, assistance in making appointments for health
2253 care services, the provision of or arrangement of transportation
2254 to health care appointments, and the performance of health care
2255 services in accordance with s. 429.255 which are consistent with
2256 established and recognized standards within the community.

2257 (3)

2258 ~~(c) During any calendar year in which no survey is~~
2259 ~~conducted, the agency shall conduct at least one monitoring~~
2260 ~~visit of each facility cited in the previous year for a class I~~



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2261 ~~or class II violation, or more than three uncorrected class III~~
2262 ~~violations.~~

2263 ~~(d) The agency may conduct periodic followup inspections as~~
2264 ~~necessary to monitor the compliance of facilities with a history~~
2265 ~~of any class I, class II, or class III violations that threaten~~
2266 ~~the health, safety, or security of residents.~~

2267 ~~(e) The agency may conduct complaint investigations as~~
2268 ~~warranted to investigate any allegations of noncompliance with~~
2269 ~~requirements required under this part or rules adopted under~~
2270 ~~this part.~~

2271 Section 82. Subsection (1) of section 429.294, Florida
2272 Statutes, is amended to read:

2273 429.294 Availability of facility records for investigation
2274 of resident's rights violations and defenses; penalty.-

2275 (1) Failure to provide complete copies of a resident's
2276 records, including, but not limited to, all medical records and
2277 the resident's chart, within the control or possession of the
2278 facility ~~within 10 days,~~ in accordance with the provisions of s.
2279 400.145, shall constitute evidence of failure of that party to
2280 comply with good faith discovery requirements and shall waive
2281 the good faith certificate and presuit notice requirements under
2282 this part by the requesting party.

2283 Section 83. Subsection (2) of section 429.34, Florida
2284 Statutes, is amended to read:

2285 429.34 Right of entry and inspection.-

2286 (2)(a) In addition to the requirements of s. 408.811, the
2287 agency may inspect and investigate facilities as necessary to
2288 determine compliance with this part, part II of chapter 408, and
2289 rules adopted thereunder. ~~The agency shall inspect each licensed~~



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2290 ~~assisted living facility at least once every 24 months to~~
2291 ~~determine compliance with this chapter and related rules.~~ If an
2292 assisted living facility is cited for a class I violation or
2293 three or more class II violations arising from separate surveys
2294 within a 60-day period or due to unrelated circumstances during
2295 the same survey, the agency must conduct an additional licensure
2296 inspection within 6 months.

2297 (b) During any calendar year in which a survey is not
2298 conducted, the agency may conduct at least one monitoring visit
2299 of each facility cited in the previous year for a class I or
2300 class II violation, or more than three uncorrected class III
2301 violations.

2302 Section 84. Subsection (4) of section 429.52, Florida
2303 Statutes, is amended to read:

2304 429.52 Staff training and educational programs; core
2305 educational requirement.—

2306 (4) Effective January 1, 2004, a new facility administrator
2307 must complete the required training and education, including the
2308 competency test, within 90 days of the date of employment ~~a~~
2309 ~~reasonable time after being employed~~ as an administrator, ~~as~~
2310 ~~determined by the department~~. Failure to do so is a violation of
2311 this part and subjects the violator to an administrative fine as
2312 prescribed in s. 429.19. Administrators licensed in accordance
2313 with part II of chapter 468 are exempt from this requirement.
2314 Other licensed professionals may be exempted, as determined by
2315 the department by rule.

2316 Section 85. Subsection (3) of section 435.04, Florida
2317 Statutes, is amended, and subsection (4) is added to that
2318 section, to read:



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2319 435.04 Level 2 screening standards.-

2320 (3) The security background investigations under this
2321 section must ensure that no person subject to this section has
2322 been arrested for and is awaiting final disposition of, been
2323 found guilty of, regardless of adjudication, or entered a plea
2324 of nolo contendere or guilty to, any offense that constitutes
2325 domestic violence as defined in s. 741.28, whether such act was
2326 committed in this state or in another jurisdiction.

2327 (4) For the purpose of screening applicability to
2328 participate in the Medicaid program, the security background
2329 investigations under this section must ensure that a person
2330 subject to screening under this section has not been arrested
2331 for and is not awaiting final disposition of; has not been found
2332 guilty of, regardless of adjudication, or entered a plea of nolo
2333 contendere or guilty to; and has not been adjudicated delinquent
2334 and the record sealed or expunged for, any of the following
2335 offenses:

2336 (a) Federal law or a law in any state which creates a
2337 criminal offense relating to:

2338 1. The delivery of any goods or services under Medicaid or
2339 Medicare or any other public or private health care or health
2340 insurance program, including the performance of management or
2341 administrative services relating to the delivery of goods or
2342 services under any such program;

2343 2. Neglect or abuse of a patient in connection with the
2344 delivery of any health care good or service;

2345 3. Unlawful manufacture, distribution, prescription, or
2346 dispensing of a controlled substance;

2347 4. Fraud, theft, embezzlement, breach of fiduciary



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2348 responsibility, or other financial misconduct;
2349 5. Moral turpitude, if punishable by imprisonment of a year
2350 or more;
2351 6. Section 817.569, criminal use of a public record or
2352 information contained in a public record;
2353 7. Section 838.016, unlawful compensation or reward for
2354 official behavior;
2355 8. Section 838.021, corruption by threat against a public
2356 servant;
2357 9. Section 838.022, official misconduct;
2358 10. Section 838.22, bid tampering;
2359 11. Section 839.13, falsifying records;
2360 12. Section 839.26, misuse of confidential information; or
2361 13. Interfering with or obstructing an investigation into
2362 any criminal offense identified in this subsection.
2363 (b) Violation of a federal or state law, rule, or
2364 regulation governing the Florida Medicaid program or any other
2365 state Medicaid program, the Medicare program, or any other
2366 publicly funded federal or state health care or health insurance
2367 program, and has been sanctioned accordingly.
2368 Section 86. Paragraph (a) of subsection (2) of section
2369 435.12, Florida Statutes, is amended to read:
2370 435.12 Care Provider Background Screening Clearinghouse.—
2371 (2) (a) To ensure that the information in the clearinghouse
2372 is current, the fingerprints of an employee required to be
2373 screened by a specified agency and included in the clearinghouse
2374 must be:
2375 1. Retained by the Department of Law Enforcement pursuant
2376 to s. 943.05 (2) (g) and (h) and (3), and the Department of Law



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2377 Enforcement must report the results of searching those
2378 fingerprints against state incoming arrest fingerprint
2379 submissions to the Agency for Health Care Administration for
2380 inclusion in the clearinghouse.

2381 2. Retained by the Federal Bureau of Investigation in the
2382 national retained print arrest notification program as soon as
2383 the Department of Law Enforcement begins participation in such
2384 program. Arrest prints will be searched against retained prints
2385 at the Federal Bureau of Investigation and notification of
2386 arrests will be forwarded to the Florida Department of Law
2387 Enforcement and reported to the Agency for Health Care
2388 Administration for inclusion in the clearinghouse.

2389 3. Resubmitted for a Federal Bureau of Investigation
2390 national criminal history check every 5 years until such time as
2391 the fingerprints are retained by the Federal Bureau of
2392 Investigation.

2393 4. Subject to retention on a 5-year renewal basis with fees
2394 collected at the time of initial submission or resubmission of
2395 fingerprints.

2396 a. A person who passed a level 2 screening under s. 435.04
2397 after December 31, 2012, by a specified agency may extend the
2398 screening renewal period until January 1, 2020, unless the
2399 Department of Law Enforcement begins participation in the
2400 national retained print arrest notification program before that
2401 date.

2402 b. The retention of fingerprints by the Department of Law
2403 Enforcement pursuant to s. 943.05(2)(g) and (h) and (3) is
2404 extended until the earlier of January 1, 2020, or the date that
2405 the Department of Law Enforcement begins participation in the



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2406 national retained print arrest notification program.

2407 5. Submitted with a photograph of the person taken at the
2408 time the fingerprints are submitted.

2409 Section 87. Subsection (4) of section 456.001, Florida
2410 Statutes, is amended to read:

2411 456.001 Definitions.—As used in this chapter, the term:

2412 (4) "Health care practitioner" means any person licensed
2413 under chapter 457; chapter 458; chapter 459; chapter 460;
2414 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2415 chapter 466; chapter 467; part I, part II, part III, part V,
2416 part X, part XIII, or part XIV of chapter 468; chapter 478;
2417 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2418 chapter 484; chapter 486; chapter 490; or chapter 491.

2419 Section 88. Paragraph (i) of subsection (2) of section
2420 456.057, Florida Statutes, is amended to read:

2421 456.057 Ownership and control of patient records; report or
2422 copies of records to be furnished; disclosure of information.—

2423 (2) As used in this section, the terms "records owner,"
2424 "health care practitioner," and "health care practitioner's
2425 employer" do not include any of the following persons or
2426 entities; furthermore, the following persons or entities are not
2427 authorized to acquire or own medical records, but are authorized
2428 under the confidentiality and disclosure requirements of this
2429 section to maintain those documents required by the part or
2430 chapter under which they are licensed or regulated:

2431 (i) Medical physicists licensed under part III ~~IV~~ of
2432 chapter 483.

2433 Section 89. Subsection (2) of section 458.307, Florida
2434 Statutes, is amended to read:



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2435 458.307 Board of Medicine.—

2436 (2) Twelve members of the board must be licensed physicians
2437 in good standing in this state who are residents of the state
2438 and who have been engaged in the active practice or teaching of
2439 medicine for at least 4 years immediately preceding their
2440 appointment. One of the physicians must be on the full-time
2441 faculty of a medical school in this state, and one of the
2442 physicians must be in private practice and on the full-time
2443 staff of a statutory teaching hospital in this state as defined
2444 in s. 408.07. At least one of the physicians must be a graduate
2445 of a foreign medical school. The remaining three members must be
2446 residents of the state who are not, and never have been,
2447 licensed health care practitioners. One member must be a health
2448 care risk manager ~~licensed under s. 395.10974~~. At least one
2449 member of the board must be 60 years of age or older.

2450 Section 90. Subsection (1) of section 458.345, Florida
2451 Statutes, is amended to read:

2452 458.345 Registration of resident physicians, interns, and
2453 fellows; list of hospital employees; prescribing of medicinal
2454 drugs; penalty.—

2455 (1) Any person desiring to practice as a resident
2456 physician, assistant resident physician, house physician,
2457 intern, or fellow in fellowship training which leads to
2458 subspecialty board certification in this state, or any person
2459 desiring to practice as a resident physician, assistant resident
2460 physician, house physician, intern, or fellow in fellowship
2461 training in a teaching hospital in this state as defined in s.
2462 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a
2463 valid, active license issued under this chapter shall apply to



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2464 the department to be registered and shall remit a fee not to
2465 exceed \$300 as set by the board. The department shall register
2466 any applicant the board certifies has met the following
2467 requirements:

2468 (a) Is at least 21 years of age.

2469 (b) Has not committed any act or offense within or without
2470 the state which would constitute the basis for refusal to
2471 certify an application for licensure pursuant to s. 458.331.

2472 (c) Is a graduate of a medical school or college as
2473 specified in s. 458.311(1)(f).

2474 Section 91. Subsection (1) of s. 459.021, Florida Statutes,
2475 is amended to read:

2476 459.021 Registration of resident physicians, interns, and
2477 fellows; list of hospital employees; penalty.—

2478 (1) Any person who holds a degree of Doctor of Osteopathic
2479 Medicine from a college of osteopathic medicine recognized and
2480 approved by the American Osteopathic Association who desires to
2481 practice as a resident physician, intern, or fellow in
2482 fellowship training which leads to subspecialty board
2483 certification in this state, or any person desiring to practice
2484 as a resident physician, intern, or fellow in fellowship
2485 training in a teaching hospital in this state as defined in s.
2486 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
2487 active license issued under this chapter shall apply to the
2488 department to be registered, on an application provided by the
2489 department, before commencing such a training program and shall
2490 remit a fee not to exceed \$300 as set by the board.

2491 Section 92. Part I of chapter 483, Florida Statutes,
2492 consisting of sections 483.011, 483.021, 483.031, 483.035,



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2493 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
2494 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
2495 is repealed.

2496 Section 93. Section 483.294, Florida Statutes, is amended
2497 to read:

2498 483.294 Inspection of centers.—In accordance with s.
2499 408.811, the agency shall, ~~at least once annually,~~ inspect the
2500 premises and operations of all centers subject to licensure
2501 under this part.

2502 Section 94. Subsections (3) and (5) of section 483.801,
2503 Florida Statutes, are amended, and subsection (6) is added to
2504 that section, to read:

2505 483.801 Exemptions.—This part applies to all clinical
2506 laboratories and clinical laboratory personnel within this
2507 state, except:

2508 (3) Persons engaged in testing performed by laboratories
2509 that are wholly owned and operated by one or more practitioners
2510 licensed under chapter 458, chapter 459, chapter 460, chapter
2511 461, chapter 462, chapter 463, or chapter 466 who practice in
2512 the same group practice, and in which no clinical laboratory
2513 work is performed for patients referred by any health care
2514 provider who is not a member of that group practice regulated
2515 under s. 483.035(1) or exempt from regulation under s.
2516 483.031(2).

2517 (5) Advanced registered nurse practitioners licensed under
2518 part I of chapter 464 who perform provider-performed microscopy
2519 procedures (PPMP) in a an-exclusive-use laboratory setting
2520 pursuant to subsection (3).

2521 (6) Persons performing laboratory testing within a



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2522 physician office practice for patients referred by a health care
2523 provider who is a member of the same physician office practice,
2524 if the laboratory or entity operating the laboratory within a
2525 physician office practice is under common ownership, directly or
2526 indirectly, with an entity licensed pursuant to chapter 395.

2527 Section 95. Subsections (2), (3), and (4) of section
2528 483.803, Florida Statutes, are amended to read:

2529 483.803 Definitions.—As used in this part, the term:

2530 (2) "Clinical laboratory" means the physical location in
2531 which one or more of the following services are performed to
2532 provide information or materials for use in the diagnosis,
2533 prevention, or treatment of a disease or the identification or
2534 assessment of a medical or physical condition:

2535 (a) Clinical laboratory services, which entail the
2536 examination of fluids or other materials taken from the human
2537 body.

2538 (b) Anatomic laboratory services, which entail the
2539 examination of tissue taken from the human body.

2540 (c) Cytology laboratory services, which entail the
2541 examination of cells from individual tissues or fluid taken from
2542 the human body ~~a clinical laboratory as defined in s. 483.041.~~

2543 (3) "Clinical laboratory examination" means a procedure
2544 performed to deliver the services identified in subsection (2),
2545 including the oversight or interpretation of such services
2546 ~~clinical laboratory examination as defined in s. 483.041.~~

2547 (4) "Clinical laboratory personnel" includes a clinical
2548 laboratory director, supervisor, technologist, blood gas
2549 analyst, or technician who performs or is responsible for
2550 laboratory test procedures, but the term does not include



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2551 trainees, persons who perform screening for blood banks or
2552 plasmapheresis centers, phlebotomists, or persons employed by a
2553 clinical laboratory to perform manual pretesting duties or
2554 clerical, personnel, or other administrative responsibilities,
2555 ~~or persons engaged in testing performed by laboratories~~
2556 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
2557 ~~483.031(2).~~

2558 Section 96. Section 483.813, Florida Statutes, is amended
2559 to read:

2560 483.813 Clinical laboratory personnel license.—A person may
2561 not conduct a clinical laboratory examination or report the
2562 results of such examination unless such person is licensed under
2563 this part to perform such procedures. However, this provision
2564 does not apply to any practitioner of the healing arts
2565 authorized to practice in this state ~~or to persons engaged in~~
2566 ~~testing performed by laboratories regulated under s. 483.035(1)~~
2567 ~~or exempt from regulation under s. 483.031(2).~~ The department
2568 may grant a temporary license to any candidate it deems properly
2569 qualified, for a period not to exceed 1 year.

2570 Section 97. Subsection (2) of section 483.823, Florida
2571 Statutes, is amended to read:

2572 483.823 Qualifications of clinical laboratory personnel.—

2573 (2) Personnel qualifications may require appropriate
2574 education, training, or experience or the passing of an
2575 examination in appropriate subjects or any combination of these,
2576 but a ~~ne~~ practitioner of the healing arts licensed to practice
2577 in this state is not required to obtain any license ~~under this~~
2578 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~
2579 ~~required for clinical laboratory licensure.~~



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2580 Section 98. Paragraph (c) of subsection (7), paragraph (c)
2581 of subsection (8), and paragraph (c) of subsection (9) of
2582 section 491.003, Florida Statutes, are amended to read:

2583 491.003 Definitions.—As used in this chapter:

2584 (7) The “practice of clinical social work” is defined as
2585 the use of scientific and applied knowledge, theories, and
2586 methods for the purpose of describing, preventing, evaluating,
2587 and treating individual, couple, marital, family, or group
2588 behavior, based on the person-in-situation perspective of
2589 psychosocial development, normal and abnormal behavior,
2590 psychopathology, unconscious motivation, interpersonal
2591 relationships, environmental stress, differential assessment,
2592 differential planning, and data gathering. The purpose of such
2593 services is the prevention and treatment of undesired behavior
2594 and enhancement of mental health. The practice of clinical
2595 social work includes methods of a psychological nature used to
2596 evaluate, assess, diagnose, treat, and prevent emotional and
2597 mental disorders and dysfunctions (whether cognitive, affective,
2598 or behavioral), sexual dysfunction, behavioral disorders,
2599 alcoholism, and substance abuse. The practice of clinical social
2600 work includes, but is not limited to, psychotherapy,
2601 hypnotherapy, and sex therapy. The practice of clinical social
2602 work also includes counseling, behavior modification,
2603 consultation, client-centered advocacy, crisis intervention, and
2604 the provision of needed information and education to clients,
2605 when using methods of a psychological nature to evaluate,
2606 assess, diagnose, treat, and prevent emotional and mental
2607 disorders and dysfunctions (whether cognitive, affective, or
2608 behavioral), sexual dysfunction, behavioral disorders,



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2609 alcoholism, or substance abuse. The practice of clinical social
2610 work may also include clinical research into more effective
2611 psychotherapeutic modalities for the treatment and prevention of
2612 such conditions.

2613 (c) The terms "diagnose" and "treat," as used in this
2614 chapter, when considered in isolation or in conjunction with ~~any~~
2615 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2616 to permit the performance of any act which clinical social
2617 workers are not educated and trained to perform, including, but
2618 not limited to, admitting persons to hospitals for treatment of
2619 the foregoing conditions, treating persons in hospitals without
2620 medical supervision, prescribing medicinal drugs as defined in
2621 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2622 ~~to chapter 483~~, or radiological procedures, or use of
2623 electroconvulsive therapy. In addition, this definition ~~shall~~
2624 may not be construed to permit any person licensed,
2625 provisionally licensed, registered, or certified pursuant to
2626 this chapter to describe or label any test, report, or procedure
2627 as "psychological," except to relate specifically to the
2628 definition of practice authorized in this subsection.

2629 (8) The term "practice of marriage and family therapy"
2630 means ~~is defined as~~ the use of scientific and applied marriage
2631 and family theories, methods, and procedures for the purpose of
2632 describing, evaluating, and modifying marital, family, and
2633 individual behavior, within the context of marital and family
2634 systems, including the context of marital formation and
2635 dissolution, and is based on marriage and family systems theory,
2636 marriage and family development, human development, normal and
2637 abnormal behavior, psychopathology, human sexuality,



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2638 psychotherapeutic and marriage and family therapy theories and
2639 techniques. The practice of marriage and family therapy includes
2640 methods of a psychological nature used to evaluate, assess,
2641 diagnose, treat, and prevent emotional and mental disorders or
2642 dysfunctions (whether cognitive, affective, or behavioral),
2643 sexual dysfunction, behavioral disorders, alcoholism, and
2644 substance abuse. The practice of marriage and family therapy
2645 includes, but is not limited to, marriage and family therapy,
2646 psychotherapy, including behavioral family therapy,
2647 hypnotherapy, and sex therapy. The practice of marriage and
2648 family therapy also includes counseling, behavior modification,
2649 consultation, client-centered advocacy, crisis intervention, and
2650 the provision of needed information and education to clients,
2651 when using methods of a psychological nature to evaluate,
2652 assess, diagnose, treat, and prevent emotional and mental
2653 disorders and dysfunctions (whether cognitive, affective, or
2654 behavioral), sexual dysfunction, behavioral disorders,
2655 alcoholism, or substance abuse. The practice of marriage and
2656 family therapy may also include clinical research into more
2657 effective psychotherapeutic modalities for the treatment and
2658 prevention of such conditions.

2659 (c) The terms "diagnose" and "treat," as used in this
2660 chapter, when considered in isolation or in conjunction with ~~any~~
2661 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2662 to permit the performance of any act that ~~which~~ marriage and
2663 family therapists are not educated and trained to perform,
2664 including, but not limited to, admitting persons to hospitals
2665 for treatment of the foregoing conditions, treating persons in
2666 hospitals without medical supervision, prescribing medicinal



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2667 drugs as defined in chapter 465, authorizing clinical laboratory
2668 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
2669 or the use of electroconvulsive therapy. In addition, this
2670 definition may ~~shall~~ not be construed to permit any person
2671 licensed, provisionally licensed, registered, or certified
2672 pursuant to this chapter to describe or label any test, report,
2673 or procedure as "psychological," except to relate specifically
2674 to the definition of practice authorized in this subsection.

2675 (9) The term "practice of mental health counseling" means
2676 ~~is defined as~~ the use of scientific and applied behavioral
2677 science theories, methods, and techniques for the purpose of
2678 describing, preventing, and treating undesired behavior and
2679 enhancing mental health and human development and is based on
2680 the person-in-situation perspectives derived from research and
2681 theory in personality, family, group, and organizational
2682 dynamics and development, career planning, cultural diversity,
2683 human growth and development, human sexuality, normal and
2684 abnormal behavior, psychopathology, psychotherapy, and
2685 rehabilitation. The practice of mental health counseling
2686 includes methods of a psychological nature used to evaluate,
2687 assess, diagnose, and treat emotional and mental dysfunctions or
2688 disorders, ~~(whether cognitive, affective, or behavioral),~~
2689 ~~behavioral disorders,~~ interpersonal relationships, sexual
2690 dysfunction, alcoholism, and substance abuse. The practice of
2691 mental health counseling includes, but is not limited to,
2692 psychotherapy, hypnotherapy, and sex therapy. The practice of
2693 mental health counseling also includes counseling, behavior
2694 modification, consultation, client-centered advocacy, crisis
2695 intervention, and the provision of needed information and



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2696 education to clients, when using methods of a psychological
2697 nature to evaluate, assess, diagnose, treat, and prevent
2698 emotional and mental disorders and dysfunctions (whether
2699 cognitive, affective, or behavioral), behavioral disorders,
2700 sexual dysfunction, alcoholism, or substance abuse. The practice
2701 of mental health counseling may also include clinical research
2702 into more effective psychotherapeutic modalities for the
2703 treatment and prevention of such conditions.

2704 (c) The terms "diagnose" and "treat," as used in this
2705 chapter, when considered in isolation or in conjunction with any
2706 provision of the rules of the board, may ~~shall~~ not be construed
2707 to permit the performance of any act that ~~which~~ mental health
2708 counselors are not educated and trained to perform, including,
2709 but not limited to, admitting persons to hospitals for treatment
2710 of the foregoing conditions, treating persons in hospitals
2711 without medical supervision, prescribing medicinal drugs as
2712 defined in chapter 465, authorizing clinical laboratory
2713 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2714 or the use of electroconvulsive therapy. In addition, this
2715 definition may ~~shall~~ not be construed to permit any person
2716 licensed, provisionally licensed, registered, or certified
2717 pursuant to this chapter to describe or label any test, report,
2718 or procedure as "psychological," except to relate specifically
2719 to the definition of practice authorized in this subsection.

2720 Section 99. Paragraph (h) of subsection (4) of section
2721 627.351, Florida Statutes, is amended to read:

2722 627.351 Insurance risk apportionment plans.—

2723 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

2724 (h) As used in this subsection:



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2725 1. "Health care provider" means hospitals licensed under
2726 chapter 395; physicians licensed under chapter 458; osteopathic
2727 physicians licensed under chapter 459; podiatric physicians
2728 licensed under chapter 461; dentists licensed under chapter 466;
2729 chiropractic physicians licensed under chapter 460; naturopaths
2730 licensed under chapter 462; nurses licensed under part I of
2731 chapter 464; midwives licensed under chapter 467; ~~clinical~~
2732 ~~laboratories registered under chapter 483~~; physician assistants
2733 licensed under chapter 458 or chapter 459; physical therapists
2734 and physical therapist assistants licensed under chapter 486;
2735 health maintenance organizations certificated under part I of
2736 chapter 641; ambulatory surgical centers licensed under chapter
2737 395; other medical facilities as defined in subparagraph 2.;
2738 blood banks, plasma centers, industrial clinics, and renal
2739 dialysis facilities; or professional associations, partnerships,
2740 corporations, joint ventures, or other associations for
2741 professional activity by health care providers.

2742 2. "Other medical facility" means a facility the primary
2743 purpose of which is to provide human medical diagnostic services
2744 or a facility providing nonsurgical human medical treatment, to
2745 which facility the patient is admitted and from which facility
2746 the patient is discharged within the same working day, and which
2747 facility is not part of a hospital. However, a facility existing
2748 for the primary purpose of performing terminations of pregnancy
2749 or an office maintained by a physician or dentist for the
2750 practice of medicine shall not be construed to be an "other
2751 medical facility."

2752 3. "Health care facility" means any hospital licensed under
2753 chapter 395, health maintenance organization certificated under



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2754 part I of chapter 641, ambulatory surgical center licensed under
2755 chapter 395, or other medical facility as defined in
2756 subparagraph 2.

2757 Section 100. Paragraph (h) of subsection (1) of section
2758 627.602, Florida Statutes, is amended to read:

2759 627.602 Scope, format of policy.—

2760 (1) Each health insurance policy delivered or issued for
2761 delivery to any person in this state must comply with all
2762 applicable provisions of this code and all of the following
2763 requirements:

2764 (h) Section 641.312 and the provisions of the Employee
2765 Retirement Income Security Act of 1974, as implemented by 29
2766 C.F.R. s. 2560.503-1, relating to internal grievances. This
2767 paragraph does not apply ~~to a health insurance policy that is~~
2768 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
2769 ~~or~~ to the types of benefits or coverages provided under s.
2770 627.6513(1)-(14) issued in any market.

2771 Section 101. Subsection (1) of section 627.6406, Florida
2772 Statutes, is amended to read:

2773 627.6406 Maternity care.—

2774 (1) Any policy of health insurance which ~~that~~ provides
2775 coverage for maternity care must also cover the services of
2776 certified nurse-midwives and midwives licensed pursuant to
2777 chapter 467, and the services of birth centers licensed under
2778 ss. 383.30-383.332 ~~383.335~~.

2779 Section 102. Paragraphs (b) and (e) of subsection (1) of
2780 section 627.64194, Florida Statutes, are amended to read:

2781 627.64194 Coverage requirements for services provided by
2782 nonparticipating providers; payment collection limitations.—



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- 2783 (1) As used in this section, the term:
- 2784 (b) "Facility" means a licensed facility as defined in s.
- 2785 395.002(16) and an urgent care center as defined in s.
- 2786 395.002(29) ~~s. 395.002(30)~~.
- 2787 (e) "Nonparticipating provider" means a provider who is not
- 2788 a preferred provider as defined in s. 627.6471 or a provider who
- 2789 is not an exclusive provider as defined in s. 627.6472. For
- 2790 purposes of covered emergency services under this section, a
- 2791 facility licensed under chapter 395 or an urgent care center
- 2792 defined in s. 395.002(29) ~~s. 395.002(30)~~ is a nonparticipating
- 2793 provider if the facility has not contracted with an insurer to
- 2794 provide emergency services to its insureds at a specified rate.
- 2795 Section 103. Section 627.6513, Florida Statutes, is amended
- 2796 to read:
- 2797 627.6513 Scope.—Section 641.312 and the provisions of the
- 2798 Employee Retirement Income Security Act of 1974, as implemented
- 2799 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
- 2800 apply to all group health insurance policies issued under this
- 2801 part. This section does not apply to ~~a group health insurance~~
- 2802 ~~policy that is subject to the Subscriber Assistance Program in~~
- 2803 ~~s. 408.7056 or to:~~
- 2804 (1) Coverage only for accident insurance, or disability
- 2805 income insurance, or any combination thereof.
- 2806 (2) Coverage issued as a supplement to liability insurance.
- 2807 (3) Liability insurance, including general liability
- 2808 insurance and automobile liability insurance.
- 2809 (4) Workers' compensation or similar insurance.
- 2810 (5) Automobile medical payment insurance.
- 2811 (6) Credit-only insurance.



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2812 (7) Coverage for onsite medical clinics, including prepaid
2813 health clinics under part II of chapter 641.

2814 (8) Other similar insurance coverage, specified in rules
2815 adopted by the commission, under which benefits for medical care
2816 are secondary or incidental to other insurance benefits. To the
2817 extent possible, such rules must be consistent with regulations
2818 adopted by the United States Department of Health and Human
2819 Services.

2820 (9) Limited scope dental or vision benefits, if offered
2821 separately.

2822 (10) Benefits for long-term care, nursing home care, home
2823 health care, or community-based care, or any combination
2824 thereof, if offered separately.

2825 (11) Other similar, limited benefits, if offered
2826 separately, as specified in rules adopted by the commission.

2827 (12) Coverage only for a specified disease or illness, if
2828 offered as independent, noncoordinated benefits.

2829 (13) Hospital indemnity or other fixed indemnity insurance,
2830 if offered as independent, noncoordinated benefits.

2831 (14) Benefits provided through a Medicare supplemental
2832 health insurance policy, as defined under s. 1882(g)(1) of the
2833 Social Security Act, coverage supplemental to the coverage
2834 provided under 10 U.S.C. chapter 55, and similar supplemental
2835 coverage provided to coverage under a group health plan, which
2836 are offered as a separate insurance policy and as independent,
2837 noncoordinated benefits.

2838 Section 104. Subsection (1) of section 627.6574, Florida
2839 Statutes, is amended to read:

2840 627.6574 Maternity care.—



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2841 (1) Any group, blanket, or franchise policy of health
2842 insurance which ~~that~~ provides coverage for maternity care must
2843 also cover the services of certified nurse-midwives and midwives
2844 licensed pursuant to chapter 467, and the services of birth
2845 centers licensed under ss. 383.30-383.332 ~~383.335~~.

2846 Section 105. Paragraph (j) of subsection (1) of section
2847 641.185, Florida Statutes, is amended to read:

2848 641.185 Health maintenance organization subscriber
2849 protections.—

2850 (1) With respect to the provisions of this part and part
2851 III, the principles expressed in the following statements ~~shall~~
2852 serve as standards to be followed by the commission, the office,
2853 the department, and the Agency for Health Care Administration in
2854 exercising their powers and duties, in exercising administrative
2855 discretion, in administrative interpretations of the law, in
2856 enforcing its provisions, and in adopting rules:

2857 ~~(j) A health maintenance organization should receive timely~~
2858 ~~and, if necessary, urgent review by an independent state~~
2859 ~~external review organization for unresolved grievances and~~
2860 ~~appeals pursuant to s. 408.7056.~~

2861 Section 106. Paragraph (a) of subsection (18) of section
2862 641.31, Florida Statutes, is amended to read:

2863 641.31 Health maintenance contracts.—

2864 (18) (a) Health maintenance contracts that provide coverage,
2865 benefits, or services for maternity care must provide, as an
2866 option to the subscriber, the services of nurse-midwives and
2867 midwives licensed pursuant to chapter 467, and the services of
2868 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.335~~,
2869 if such services are available within the service area.



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2870 Section 107. Section 641.312, Florida Statutes, is amended
2871 to read:

2872 641.312 Scope.—The Office of Insurance Regulation may adopt
2873 rules to administer the provisions of the National Association
2874 of Insurance Commissioners' Uniform Health Carrier External
2875 Review Model Act, issued by the National Association of
2876 Insurance Commissioners and dated April 2010. This section does
2877 not apply to ~~a health maintenance contract that is subject to~~
2878 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
2879 types of benefits or coverages provided under s. 627.6513(1)-
2880 (14) issued in any market.

2881 Section 108. Subsection (4) of section 641.3154, Florida
2882 Statutes, is amended to read:

2883 641.3154 Organization liability; provider billing
2884 prohibited.—

2885 (4) A provider or any representative of a provider,
2886 regardless of whether the provider is under contract with the
2887 health maintenance organization, may not collect or attempt to
2888 collect money from, maintain any action at law against, or
2889 report to a credit agency a subscriber of an organization for
2890 payment of services for which the organization is liable, if the
2891 provider in good faith knows or should know that the
2892 organization is liable. This prohibition applies during the
2893 pendency of any claim for payment made by the provider to the
2894 organization for payment of the services and any legal
2895 proceedings or dispute resolution process to determine whether
2896 the organization is liable for the services if the provider is
2897 informed that such proceedings are taking place. It is presumed
2898 that a provider does not know and should not know that an



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2899 organization is liable unless:

2900 (a) The provider is informed by the organization that it
2901 accepts liability;

2902 (b) A court of competent jurisdiction determines that the
2903 organization is liable; or

2904 ~~(c) The office or agency makes a final determination that~~
2905 ~~the organization is required to pay for such services subsequent~~
2906 ~~to a recommendation made by the Subscriber Assistance Panel~~
2907 ~~pursuant to s. 408.7056; or~~

2908 (c) ~~(d)~~ The agency issues a final order that the
2909 organization is required to pay for such services subsequent to
2910 a recommendation made by a resolution organization pursuant to
2911 s. 408.7057.

2912 Section 109. Paragraph (c) of subsection (5) of section
2913 641.51, Florida Statutes, is amended to read:

2914 641.51 Quality assurance program; second medical opinion
2915 requirement.—

2916 (5)

2917 (c) For second opinions provided by contract physicians the
2918 organization is prohibited from charging a fee to the subscriber
2919 in an amount in excess of the subscriber fees established by
2920 contract for referral contract physicians. The organization
2921 shall pay the amount of all charges, which are usual,
2922 reasonable, and customary in the community, for second opinion
2923 services performed by a physician not under contract with the
2924 organization, but may require the subscriber to be responsible
2925 for up to 40 percent of such amount. The organization may
2926 require that any tests deemed necessary by a noncontract
2927 physician shall be conducted by the organization. The



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2928 organization may deny reimbursement rights granted under this
2929 section in the event the subscriber seeks in excess of three
2930 such referrals per year if such subsequent referral costs are
2931 deemed by the organization to be evidence that the subscriber
2932 has unreasonably overutilized the second opinion privilege. A
2933 subscriber ~~thus~~ denied reimbursement under this section has
2934 ~~shall have~~ recourse to grievance procedures as specified in ss.
2935 ~~408.7056,~~ 641.495, and 641.511. The organization's physician's
2936 professional judgment concerning the treatment of a subscriber
2937 derived after review of a second opinion is ~~shall be~~ controlling
2938 as to the treatment obligations of the health maintenance
2939 organization. Treatment not authorized by the health maintenance
2940 organization is ~~shall be~~ at the subscriber's expense.

2941 Section 110. Subsection (1), paragraph (e) of subsection
2942 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of
2943 subsection (6), and subsections (7) through (12) of section
2944 641.511, Florida Statutes, are amended to read:

2945 641.511 Subscriber grievance reporting and resolution
2946 requirements.-

2947 (1) Every organization must have a grievance procedure
2948 available to its subscribers for the purpose of addressing
2949 complaints and grievances. Every organization must notify its
2950 subscribers that a subscriber must submit a grievance within 1
2951 year after the date of occurrence of the action that initiated
2952 the grievance, ~~and may submit the grievance for review to the~~
2953 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
2954 ~~after receiving a final disposition of the grievance through the~~
2955 ~~organization's grievance process.~~ An organization shall maintain
2956 records of all grievances and shall report annually to the



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2957 agency the total number of grievances handled, a categorization
2958 of the cases underlying the grievances, and the final
2959 disposition of the grievances.

2960 (3) Each organization's grievance procedure, as required
2961 under subsection (1), must include, at a minimum:

2962 (e) A notice that a subscriber may voluntarily pursue
2963 binding arbitration in accordance with the terms of the contract
2964 if offered by the organization, after completing the
2965 organization's grievance procedure ~~and as an alternative to the~~
2966 ~~Subscriber Assistance Program~~. Such notice shall include an
2967 explanation that the subscriber may incur some costs if the
2968 subscriber pursues binding arbitration, depending upon the terms
2969 of the subscriber's contract.

2970 (4)

2971 ~~(d) In any case when the review process does not resolve a~~
2972 ~~difference of opinion between the organization and the~~
2973 ~~subscriber or the provider acting on behalf of the subscriber,~~
2974 ~~the subscriber or the provider acting on behalf of the~~
2975 ~~subscriber may submit a written grievance to the Subscriber~~
2976 ~~Assistance Program.~~

2977 (6)

2978 ~~(g) In any case when the expedited review process does not~~
2979 ~~resolve a difference of opinion between the organization and the~~
2980 ~~subscriber or the provider acting on behalf of the subscriber,~~
2981 ~~the subscriber or the provider acting on behalf of the~~
2982 ~~subscriber may submit a written grievance to the Subscriber~~
2983 ~~Assistance Program.~~

2984 (g) ~~(h)~~ An organization shall not provide an expedited
2985 retrospective review of an adverse determination.



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2986 ~~(7) Each organization shall send to the agency a copy of~~
2987 ~~its quarterly grievance reports submitted to the office pursuant~~
2988 ~~to s. 408.7056(12).~~

2989 ~~(7)(8)~~ The agency shall investigate all reports of
2990 unresolved quality of care grievances received from:

2991 ~~(a)~~ annual and quarterly grievance reports submitted by the
2992 organization to the office.

2993 ~~(b)~~ Review requests of subscribers whose grievances remain
2994 unresolved after the subscriber has followed the full grievance
2995 procedure of the organization.

2996 ~~(9)(a)~~ The agency shall advise subscribers with grievances
2997 to follow their organization's formal grievance process for
2998 resolution prior to review by the Subscriber Assistance Program.
2999 The subscriber may, however, submit a copy of the grievance to
3000 the agency at any time during the process.

3001 ~~(b)~~ Requiring completion of the organization's grievance
3002 process before the Subscriber Assistance Program panel's review
3003 does not preclude the agency from investigating any complaint or
3004 grievance before the organization makes its final determination.

3005 ~~(10)~~ Each organization must notify the subscriber in a
3006 final decision letter that the subscriber may request review of
3007 the organization's decision concerning the grievance by the
3008 Subscriber Assistance Program, as provided in s. 408.7056, if
3009 the grievance is not resolved to the satisfaction of the
3010 subscriber. The final decision letter must inform the subscriber
3011 that the request for review must be made within 365 days after
3012 receipt of the final decision letter, must explain how to
3013 initiate such a review, and must include the addresses and toll-
3014 free telephone numbers of the agency and the Subscriber



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3015 ~~Assistance Program.~~

3016 (8)~~(11)~~ Each organization, as part of its contract with any
3017 provider, must require the provider to post a consumer
3018 assistance notice prominently displayed in the reception area of
3019 the provider and clearly noticeable by all patients. The
3020 consumer assistance notice must state the addresses and toll-
3021 free telephone numbers of the Agency for Health Care
3022 Administration, ~~the Subscriber Assistance Program,~~ and the
3023 Department of Financial Services. The consumer assistance notice
3024 must also clearly state that the address and toll-free telephone
3025 number of the organization's grievance department shall be
3026 provided upon request. The agency may adopt rules to implement
3027 this section.

3028 (9)~~(12)~~ The agency may impose administrative sanction, in
3029 accordance with s. 641.52, against an organization for
3030 noncompliance with this section.

3031 Section 111. Subsection (1) of section 641.515, Florida
3032 Statutes, is amended to read:

3033 641.515 Investigation by the agency.—

3034 (1) The agency shall investigate further any quality of
3035 care issue contained in recommendations and reports submitted
3036 pursuant to s. ~~ss. 408.7056~~ and 641.511. The agency shall also
3037 investigate further any information that indicates that the
3038 organization does not meet accreditation standards or the
3039 standards of the review organization performing the external
3040 quality assurance assessment pursuant to reports submitted under
3041 s. 641.512. Every organization shall submit its books and
3042 records and take other appropriate action as may be necessary to
3043 facilitate an examination. The agency shall have access to the



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3044 organization's medical records of individuals and records of
3045 employed and contracted physicians, with the consent of the
3046 subscriber or by court order, as necessary to carry out the
3047 provisions of this part.

3048 Section 112. Subsection (2) of section 641.55, Florida
3049 Statutes, is amended to read:

3050 641.55 Internal risk management program.—

3051 (2) The risk management program shall be the responsibility
3052 of the governing authority or board of the organization. Every
3053 organization which has an annual premium volume of \$10 million
3054 or more and which directly provides health care in a building
3055 owned or leased by the organization shall hire a risk manager,
3056 ~~certified under ss. 395.10971-395.10975, who is shall be~~
3057 responsible for implementation of the organization's risk
3058 management program required by this section. A part-time risk
3059 manager may ~~shall~~ not be responsible for risk management
3060 programs in more than four organizations or facilities. Every
3061 organization that ~~which~~ does not directly provide health care in
3062 a building owned or leased by the organization and every
3063 organization with an annual premium volume of less than \$10
3064 million shall designate an officer or employee of the
3065 organization to serve as the risk manager.

3066
3067 The gross data compiled under this section or s. 395.0197 shall
3068 be furnished by the agency upon request to organizations to be
3069 utilized for risk management purposes. The agency shall adopt
3070 rules necessary to carry out the provisions of this section.

3071 Section 113. Section 641.60, Florida Statutes, is repealed.

3072 Section 114. Section 641.65, Florida Statutes, is repealed.



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3073 Section 115. Section 641.67, Florida Statutes, is repealed.

3074 Section 116. Section 641.68, Florida Statutes, is repealed.

3075 Section 117. Section 641.70, Florida Statutes, is repealed.

3076 Section 118. Section 641.75, Florida Statutes, is repealed.

3077 Section 119. Paragraph (b) of subsection (6) of section

3078 766.118, Florida Statutes, is amended to read:

3079 766.118 Determination of noneconomic damages.—

3080 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
3081 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
3082 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
3083 respect to a cause of action for personal injury or wrongful
3084 death arising from medical negligence of a practitioner
3085 committed in the course of providing medical services and
3086 medical care to a Medicaid recipient, regardless of the number
3087 of such practitioner defendants providing the services and care,
3088 noneconomic damages may not exceed \$300,000 per claimant, unless
3089 the claimant pleads and proves, by clear and convincing
3090 evidence, that the practitioner acted in a wrongful manner. A
3091 practitioner providing medical services and medical care to a
3092 Medicaid recipient is not liable for more than \$200,000 in
3093 noneconomic damages, regardless of the number of claimants,
3094 unless the claimant pleads and proves, by clear and convincing
3095 evidence, that the practitioner acted in a wrongful manner. The
3096 fact that a claimant proves that a practitioner acted in a
3097 wrongful manner does not preclude the application of the
3098 limitation on noneconomic damages prescribed elsewhere in this
3099 section. For purposes of this subsection:

3100 (b) The term "practitioner," in addition to the meaning
3101 prescribed in subsection (1), includes any hospital or



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3102 ambulatory surgical center, ~~or mobile surgical facility~~ as
3103 defined and licensed under chapter 395.

3104 Section 120. Subsection (4) of section 766.202, Florida
3105 Statutes, is amended to read:

3106 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
3107 766.201-766.212, the term:

3108 (4) "Health care provider" means any hospital or
3109 ambulatory surgical center, ~~or mobile surgical facility~~ as
3110 defined and licensed under chapter 395; a birth center licensed
3111 under chapter 383; any person licensed under chapter 458,
3112 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
3113 part I of chapter 464, chapter 466, chapter 467, part XIV of
3114 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
3115 ~~chapter 483~~; a health maintenance organization certificated
3116 under part I of chapter 641; a blood bank; a plasma center; an
3117 industrial clinic; a renal dialysis facility; or a professional
3118 association partnership, corporation, joint venture, or other
3119 association for professional activity by health care providers.

3120 Section 121. Section 945.36, Florida Statutes, is amended
3121 to read:

3122 945.36 ~~Exemption from health testing regulations for Law~~
3123 ~~enforcement personnel~~ authorized to conduct ~~conducting~~ drug
3124 tests on inmates and releasees.—

3125 (1) Any law enforcement officer, state or county probation
3126 officer, or employee of the Department of Corrections, ~~who is~~
3127 certified by the Department of Corrections pursuant to
3128 subsection (2) may administer, ~~is exempt from part I of chapter~~
3129 ~~483, for the limited purpose of administering~~ a urine screen
3130 drug test to:



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- 3131 (a) Persons during incarceration;
3132 (b) Persons released as a condition of probation for either
3133 a felony or misdemeanor;
3134 (c) Persons released as a condition of community control;
3135 (d) Persons released as a condition of conditional release;
3136 (e) Persons released as a condition of parole;
3137 (f) Persons released as a condition of provisional release;
3138 (g) Persons released as a condition of pretrial release; or
3139 (h) Persons released as a condition of control release.

3140 (2) The Department of Corrections shall develop a procedure
3141 for certification of any law enforcement officer, state or
3142 county probation officer, or employee of the Department of
3143 Corrections to perform a urine screen drug test on the persons
3144 specified in subsection (1).

3145 Section 122. Paragraph (b) of subsection (2) of section
3146 1009.65, Florida Statutes, is amended to read:

3147 1009.65 Medical Education Reimbursement and Loan Repayment
3148 Program.—

3149 (2) From the funds available, the Department of Health
3150 shall make payments to selected medical professionals as
3151 follows:

3152 (b) All payments are ~~shall be~~ contingent on continued proof
3153 of primary care practice in an area defined in s. 395.602(2)(b)
3154 ~~s. 395.602(2)(e)~~, or an underserved area designated by the
3155 Department of Health, provided the practitioner accepts Medicaid
3156 reimbursement if eligible for such reimbursement. Correctional
3157 facilities, state hospitals, and other state institutions that
3158 employ medical personnel shall be designated by the Department
3159 of Health as underserved locations. Locations with high



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3160 incidences of infant mortality, high morbidity, or low Medicaid
3161 participation by health care professionals may be designated as
3162 underserved.

3163 Section 123. Subsection (2) of section 1011.52, Florida
3164 Statutes, is amended to read:

3165 1011.52 Appropriation to first accredited medical school.-

3166 (2) In order for a medical school to qualify under ~~the~~
3167 ~~provisions of~~ this section and to be entitled to the benefits
3168 herein, such medical school:

3169 (a) Must be primarily operated and established to offer,
3170 afford, and render a medical education to residents of the state
3171 qualifying for admission to such institution;

3172 (b) Must be operated by a municipality or county of this
3173 state, or by a nonprofit organization heretofore or hereafter
3174 established exclusively for educational purposes;

3175 (c) Must, upon the formation and establishment of an
3176 accredited medical school, transmit and file with the Department
3177 of Education documentary proof evidencing the facts that such
3178 institution has been certified and approved by the council on
3179 medical education and hospitals of the American Medical
3180 Association and has adequately met the requirements of that
3181 council in regard to its administrative facilities,
3182 administrative plant, clinical facilities, curriculum, and all
3183 other such requirements as may be necessary to qualify with the
3184 council as a recognized, approved, and accredited medical
3185 school;

3186 (d) Must certify to the Department of Education the name,
3187 address, and educational history of each student approved and
3188 accepted for enrollment in such institution for the ensuing



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3189 school year; and

3190 (e) Must have in place an operating agreement with a
3191 government-owned hospital that is located in the same county as
3192 the medical school and that is a statutory teaching hospital as
3193 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
3194 must ~~shall~~ provide for the medical school to maintain the same
3195 level of affiliation with the hospital, including the level of
3196 services to indigent and charity care patients served by the
3197 hospital, which was in place in the prior fiscal year. Each
3198 year, documentation demonstrating that an operating agreement is
3199 in effect shall be submitted jointly to the Department of
3200 Education by the hospital and the medical school prior to the
3201 payment of moneys from the annual appropriation.

3202 Section 124. This act shall take effect July 1, 2017.