

1 A bill to be entitled
2 An act relating to health care facility regulation;
3 creating s. 154.13, F.S.; providing that a designated
4 facility owned or operated by a public health trust
5 and located within the boundaries of a municipality is
6 under the exclusive jurisdiction of the county
7 creating the public health trust; amending ss.
8 381.0031, 381.004, 384.31, 395.009, 400.0625, and
9 409.905, F.S.; eliminating state licensure
10 requirements for clinical laboratories; requiring
11 clinical laboratories to be federally certified;
12 amending s. 383.313, F.S.; requiring a birth center to
13 be federally certified and meet specified requirements
14 to perform certain laboratory tests; repealing s.
15 383.335, F.S., relating to partial exemptions from
16 licensure requirements for certain facilities that
17 provide obstetrical and gynecological surgical
18 services; amending s. 395.002, F.S.; revising and
19 deleting definitions to remove the term "mobile
20 surgical facility"; conforming a cross-reference;
21 creating s. 395.0091, F.S.; requiring the Agency for
22 Health Care Administration, in consultation with the
23 Board of Clinical Laboratory Personnel, to adopt rules
24 establishing criteria for alternate-site laboratory
25 testing; requiring specifications to be included in

26 | the criteria; defining the term "alternate-site
27 | testing"; amending ss. 395.0161 and 395.0163, F.S.;
28 | deleting licensure and inspection requirements for
29 | mobile surgical facilities to conform to changes made
30 | by the act; amending s. 395.0197, F.S.; requiring the
31 | manager of a hospital or ambulatory surgical center
32 | internal risk management program to demonstrate
33 | competence in specified administrative and health care
34 | service areas; conforming provisions to changes made
35 | by the act; repealing s. 395.1046, F.S., relating to
36 | hospital complaint investigation procedures; amending
37 | s. 395.1055, F.S.; requiring hospitals that provide
38 | specified services to meet agency licensure
39 | requirements; providing standards to be included in
40 | licensure requirements; conforming a provision to
41 | changes made by the act; requiring a level 2
42 | background screening for personnel of distinct part
43 | nursing units; repealing ss. 395.10971 and 395.10972,
44 | F.S., relating to the purpose and the establishment of
45 | the Health Care Risk Manager Advisory Council,
46 | respectively; amending s. 395.10973, F.S.; removing
47 | requirements relating to agency standards for health
48 | care risk managers to conform provisions to changes
49 | made by the act; repealing s. 395.10974, F.S.,
50 | relating to licensure of health care risk managers,

51 qualifications, licensure, and fees; repealing s.
52 395.10975, F.S., relating to grounds for denial,
53 suspension, or revocation of a health care risk
54 manager's license and an administrative fine; amending
55 s. 395.602, F.S.; deleting definitions for the terms
56 "emergency care hospital", "essential access community
57 hospital," "inactive rural hospital bed", and "rural
58 primary care hospital"; amending s. 395.603, F.S.;
59 deleting provisions relating to deactivation of
60 general hospital beds by certain rural and emergency
61 care hospitals; repealing s. 395.604, F.S., relating
62 to other rural hospital programs; repealing s.
63 395.605, F.S., relating to emergency care hospitals;
64 amending s. 395.701, F.S.; revising the definition of
65 the term "hospital" to exclude hospitals operated by a
66 state agency; amending s. 400.191, F.S.; removing the
67 30-month reporting timeframe for the Nursing Home
68 Guide; amending s. 400.464, F.S.; requiring that a
69 license issued to a home health agency on or after a
70 specified date specify the services the organization
71 is authorized to perform and whether the services
72 constitute skilled care; providing that the provision
73 or advertising of certain services constitutes
74 unlicensed activity under certain circumstances;
75 authorizing certain persons, entities or organizations

76 providing home health services to voluntarily apply
77 for a certificate of exemption from licensure by
78 providing certain information to the agency; providing
79 that the certificate is valid for a specified time and
80 is nontransferable; authorizing the agency to charge a
81 fee for the certificate; amending s. 400.471, F.S.;
82 revising home health agency licensure requirements;
83 providing requirements for proof of accreditation for
84 home health agencies applying for change of ownership
85 or the addition of skilled care services; removing a
86 provision prohibiting the agency from issuing a
87 license to a home health agency that fails to satisfy
88 the requirements of a Medicare certification survey
89 from the agency; amending s. 400.474, F.S.; revising
90 conditions for the imposition of a fine against a home
91 health agency; amending s. 400.476, F.S.; requiring a
92 home health agency providing skilled nursing care to
93 have a director of nursing; amending s. 400.484, F.S.;
94 imposing administrative fines on home health agencies
95 for specified classes of violations; amending s.
96 400.497, F.S.; requiring the agency to adopt, publish,
97 and enforce rules establishing standards for
98 certificates of exemption; amending s. 400.506, F.S.;
99 specifying a criminal penalty for any person who owns,
100 operates, or maintains an unlicensed nurse registry

101 that fails to cease operation immediately and apply
102 for a license after notification from the agency;
103 revising provisions authorizing the agency to impose a
104 fine on a nurse registry that fails to cease operation
105 after agency notification; revising circumstances
106 under which the agency is authorized to deny, suspend,
107 or revoke a license or impose a fine on a nurse
108 registry; amending s. 400.606, F.S.; removing a
109 requirement that an existing licensed health care
110 provider's hospice licensure application be
111 accompanied by a copy of the most recent profit-loss
112 statement and licensure inspection report; amending s.
113 400.925, F.S.; revising the definition of the term
114 "home medical equipment"; amending s. 400.931, F.S.;
115 requiring a home medical equipment provider to notify
116 the agency of certain personnel changes within a
117 specified timeframe; amending s. 400.933, F.S.;
118 requiring the agency to accept the submission of a
119 valid medical oxygen retail establishment permit
120 issued by the Department of Business and Professional
121 Regulation in lieu of an agency inspection for
122 licensure; amending s. 400.980, F.S.; revising the
123 timeframe within which a health care services pool
124 registrant must provide the agency with certain
125 changes of information; amending s. 400.9935, F.S.;

126 specifying that a voluntary certificate of exemption
127 may be valid for up to 2 years; amending s. 408.0361,
128 F.S.; providing an exception for a hospital to become
129 a Level I Adult Cardiovascular provider if certain
130 requirements are met; amending s. 408.061, F.S.;
131 excluding hospitals operated by state agencies from
132 certain financial reporting requirements; conforming a
133 cross-reference; amending s. 408.07, F.S.; deleting
134 the definition for the term "clinical laboratory";
135 amending s. 408.20, F.S.; exempting hospitals operated
136 by any state agency from assessments against the
137 Health Care Trust Fund to fund certain agency
138 activities; repealing s. 408.7056, F.S., relating to
139 the Subscriber Assistance Program; amending s.
140 408.803, F.S.; defining the term "relative" for
141 purposes of the Health Care Licensing Procedures Act;
142 amending s. 408.806, F.S.; authorizing licensees who
143 hold licenses for multiple providers to request that
144 the agency align related license expiration dates;
145 authorizing the agency to issue licenses for an
146 abbreviated licensure period and to charge a prorated
147 licensure fee; amending s. 408.809, F.S.; expanding
148 the scope of persons subject to a level 2 background
149 screening to include any employee of a licensee who is
150 a controlling interest and certain part-time

151 contractors; amending s. 408.810, F.S.; providing that
152 an applicant for change of ownership licensure is
153 exempt from furnishing proof of financial ability to
154 operate if certain conditions are met; authorizing the
155 agency to adopt rules governing circumstances under
156 which a controlling interest may act in certain legal
157 capacities on behalf of a patient or client; requiring
158 a licensee to ensure that certain persons do not hold
159 an ownership interest if the licensee is not organized
160 as or owned by a publicly traded corporation; defining
161 the term "publicly traded corporation"; amending s.
162 408.812, F.S.; providing that certain unlicensed
163 activity by a provider constitutes abuse and neglect;
164 clarifying that the agency may impose a fine or
165 penalty, as prescribed in an authorizing statute, if
166 an unlicensed provider who has received notification
167 fails to cease operation; authorizing the agency to
168 revoke all licenses and impose a fine or penalties
169 upon a controlling interest or licensee who has an
170 interest in more than one provider and who fails to
171 license a provider rendering services that require
172 licensure in certain circumstances; amending s.
173 408.820, F.S.; deleting certain exemptions from part
174 II of ch. 408, F.S., for specified providers to
175 conform provisions to changes made by the act;

176 amending s. 409.907, F.S.; removing the agency's
177 authority to consider certain factors in determining
178 whether to enter into, and in maintaining, a Medicaid
179 provider agreement; amending s. 429.02, F.S.; revising
180 definitions of the terms "assisted living facility"
181 and "personal services"; amending s. 429.04, F.S.;
182 providing additional exemptions from licensure as an
183 assisted living facility; requiring a person or entity
184 asserting the exemption to provide documentation that
185 substantiates the claim upon agency investigation of
186 unlicensed activity; amending s. 429.08, F.S.;
187 providing criminal penalties and fines for a person
188 who rents or otherwise maintains a building or
189 property used as an unlicensed assisted living
190 facility; providing criminal penalties and fines for a
191 person who owns, operates, or maintains an unlicensed
192 assisted living facility after receiving notice from
193 the agency; amending s. 429.176, F.S.; prohibiting an
194 assisted living facility from operating for more than
195 a specified time without an administrator who has
196 completed certain educational requirements; amending
197 s. 429.24, F.S.; providing that 30-day written notice
198 of rate increase for residency in an assisted living
199 facility is not required in certain situations;
200 amending s. 429.28, F.S.; revising the assisted living

201 facility resident bill of rights to include assistance
202 with obtaining access to adequate and appropriate
203 health care; defining the term "adequate and
204 appropriate health care"; deleting a requirement that
205 the agency conduct at least one monitoring visit under
206 certain circumstances; deleting provisions authorizing
207 the agency to conduct periodic followup inspections
208 and complaint investigations under certain
209 circumstances; amending s. 429.294, F.S.; deleting the
210 specified timeframe within which an assisted living
211 facility must provide complete copies of a resident's
212 records in an investigation of resident's rights;
213 amending s. 429.34, F.S.; authorizing the agency to
214 inspect and investigate assisted living facilities as
215 necessary to determine compliance with certain laws;
216 removing a provision requiring the agency to inspect
217 each licensed assisted living facility at least
218 biennially; authorizing the agency to conduct
219 monitoring visits of each facility cited for prior
220 violations under certain circumstances; amending s.
221 429.52, F.S.; requiring an assisted living facility
222 administrator to complete required training and
223 education within a specified timeframe; amending s.
224 435.04, F.S.; providing that security background
225 investigations must ensure that a person has not been

226 | arrested for, and is not awaiting final disposition
227 | of, certain offenses; requiring that security
228 | background investigations for purposes of
229 | participation in the Medicaid program screen for
230 | violations of federal or state law, rule, or
231 | regulation governing any state Medicaid program, the
232 | Medicare program, or any other publicly funded federal
233 | or state health care or health insurance program;
234 | specifying offenses under federal law or any state law
235 | that the security background investigations must
236 | screen for; amending s. 435.12, F.S.; revising
237 | fingerprinting requirements for purposes of a person's
238 | inclusion in the care provider background screening
239 | clearinghouse; amending s. 456.054, F.S.; prohibiting
240 | any person or entity from paying or receiving a
241 | kickback for referring patients to a clinical
242 | laboratory; prohibiting a clinical laboratory from
243 | providing personnel to perform certain functions or
244 | duties in a health care practitioner's office or
245 | dialysis facility; providing an exception; prohibiting
246 | a clinical laboratory from leasing space in any part
247 | of a health care practitioner's office or dialysis
248 | facility; repealing part I of ch. 483, F.S., relating
249 | to clinical laboratories; amending s. 483.294, F.S.;
250 | removing a requirement that the agency inspect

251 multiphasic health testing centers at least once
252 annually; amending s. 483.801, F.S.; providing an
253 exemption from regulation for certain persons employed
254 by certain laboratories; amending s. 483.803, F.S.;
255 revising definitions of the terms "clinical
256 laboratory", and "clinical laboratory examination";
257 removing a cross-reference; amending s. 641.511, F.S.;
258 revising health maintenance organization subscriber
259 grievance reporting requirements; repealing s. 641.60,
260 F.S., relating to the Statewide Managed Care Ombudsman
261 Committee; repealing s. 641.65, F.S., relating to
262 district managed care ombudsman committees; repealing
263 s. 641.67, F.S., relating to a district managed care
264 ombudsman committee, exemption from public records
265 requirements, and exceptions; repealing s. 641.68,
266 F.S., relating to a district managed care ombudsman
267 committee and exemption from public meeting
268 requirements; repealing s. 641.70, F.S., relating to
269 agency duties relating to the Statewide Managed Care
270 Ombudsman Committee and the district managed care
271 ombudsman committees; repealing s. 641.75, F.S.,
272 relating to immunity from liability and limitation on
273 testimony; amending s. 945.36, F.S.; authorizing law
274 enforcement personnel to conduct drug tests on certain
275 inmates and releasees; amending ss. 20.43, 220.1845,

276 | 376.30781, 376.86, 381.0034, 381.0405, 383.14, 383.30,
 277 | 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
 278 | 394.4787, 395.001, 395.003, 395.7015, 400.9905,
 279 | 408.033, 408.036, 408.802, 409.9116, 409.975, 429.19,
 280 | 456.001, 456.057, 456.076, 458.307, 458.345, 459.021,
 281 | 483.813, 483.823, 491.003, 627.351, 627.602, 627.6406,
 282 | 627.64194, 627.6513, 627.6574, 641.185, 641.31,
 283 | 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
 284 | 766.202, 1009.65, and 1011.52, F.S.; conforming
 285 | provisions to changes made by the act; providing an
 286 | effective date.

287 |
 288 | Be It Enacted by the Legislature of the State of Florida:
 289 |

290 | Section 1. Paragraph (g) of subsection (3) of section
 291 | 20.43, Florida Statutes, is amended to read:

292 | 20.43 Department of Health.—There is created a Department
 293 | of Health.

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

296 | (g) Division of Medical Quality Assurance, which is
 297 | responsible for the following boards and professions established
 298 | within the division:

- 299 | 1. The Board of Acupuncture, created under chapter 457.
- 300 | 2. The Board of Medicine, created under chapter 458.

- 301 3. The Board of Osteopathic Medicine, created under
 302 chapter 459.
- 303 4. The Board of Chiropractic Medicine, created under
 304 chapter 460.
- 305 5. The Board of Podiatric Medicine, created under chapter
 306 461.
- 307 6. Naturopathy, as provided under chapter 462.
- 308 7. The Board of Optometry, created under chapter 463.
- 309 8. The Board of Nursing, created under part I of chapter
 310 464.
- 311 9. Nursing assistants, as provided under part II of
 312 chapter 464.
- 313 10. The Board of Pharmacy, created under chapter 465.
- 314 11. The Board of Dentistry, created under chapter 466.
- 315 12. Midwifery, as provided under chapter 467.
- 316 13. The Board of Speech-Language Pathology and Audiology,
 317 created under part I of chapter 468.
- 318 14. The Board of Nursing Home Administrators, created
 319 under part II of chapter 468.
- 320 15. The Board of Occupational Therapy, created under part
 321 III of chapter 468.
- 322 16. Respiratory therapy, as provided under part V of
 323 chapter 468.
- 324 17. Dietetics and nutrition practice, as provided under
 325 part X of chapter 468.

- 326 18. The Board of Athletic Training, created under part
 327 XIII of chapter 468.
- 328 19. The Board of Orthotists and Prosthetists, created
 329 under part XIV of chapter 468.
- 330 20. Electrolysis, as provided under chapter 478.
- 331 21. The Board of Massage Therapy, created under chapter
 332 480.
- 333 22. The Board of Clinical Laboratory Personnel, created
 334 under part II ~~III~~ of chapter 483.
- 335 23. Medical physicists, as provided under part IV of
 336 chapter 483.
- 337 24. The Board of Opticianry, created under part I of
 338 chapter 484.
- 339 25. The Board of Hearing Aid Specialists, created under
 340 part II of chapter 484.
- 341 26. The Board of Physical Therapy Practice, created under
 342 chapter 486.
- 343 27. The Board of Psychology, created under chapter 490.
- 344 28. School psychologists, as provided under chapter 490.
- 345 29. The Board of Clinical Social Work, Marriage and Family
 346 Therapy, and Mental Health Counseling, created under chapter
 347 491.
- 348 30. Emergency medical technicians and paramedics, as
 349 provided under part III of chapter 401.
- 350 Section 2. Section 154.13, Florida Statutes, is created to

351 read:

352 154.13 Designated facilities; jurisdiction.—Any designated
 353 facility owned or operated by a public health trust and located
 354 within the boundaries of a municipality is under the exclusive
 355 jurisdiction of the county creating the public health trust and
 356 is not within the jurisdiction of the municipality.

357 Section 3. Paragraph (k) of subsection (2) of section
 358 220.1845, Florida Statutes, is amended to read:

359 220.1845 Contaminated site rehabilitation tax credit.—

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

361 (k) In order to encourage the construction and operation
 362 of a new health care facility as defined in s. 408.032 or s.
 363 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
 364 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
 365 may claim an additional 25 percent of the total site
 366 rehabilitation costs, not to exceed \$500,000, if the applicant
 367 meets the requirements of this paragraph. In order to receive
 368 this additional tax credit, the applicant must provide
 369 documentation indicating that the construction of the health
 370 care facility or health care provider by the applicant on the
 371 brownfield site has received a certificate of occupancy or a
 372 license or certificate has been issued for the operation of the
 373 health care facility or health care provider.

374 Section 4. Paragraph (f) of subsection (3) of section
 375 376.30781, Florida Statutes, is amended to read:

376 | 376.30781 Tax credits for rehabilitation of drycleaning-
 377 | solvent-contaminated sites and brownfield sites in designated
 378 | brownfield areas; application process; rulemaking authority;
 379 | revocation authority.-

380 | (3) (f) In order to encourage the construction and
 381 | operation of a new health care facility or a health care
 382 | provider, as defined in s. 408.032 or, s. 408.07, ~~or s.~~
 383 | ~~408.7056~~, on a brownfield site, an applicant for a tax credit
 384 | may claim an additional 25 percent of the total site
 385 | rehabilitation costs, not to exceed \$500,000, if the applicant
 386 | meets the requirements of this paragraph. In order to receive
 387 | this additional tax credit, the applicant must provide
 388 | documentation indicating that the construction of the health
 389 | care facility or health care provider by the applicant on the
 390 | brownfield site has received a certificate of occupancy or a
 391 | license or certificate has been issued for the operation of the
 392 | health care facility or health care provider.

393 | Section 5. Subsection (1) of section 376.86, Florida
 394 | Statutes, is amended to read:

395 | 376.86 Brownfield Areas Loan Guarantee Program.-

396 | (1) The Brownfield Areas Loan Guarantee Council is created
 397 | to review and approve or deny, by a majority vote of its
 398 | membership, the situations and circumstances for participation
 399 | in partnerships by agreements with local governments, financial
 400 | institutions, and others associated with the redevelopment of

401 brownfield areas pursuant to the Brownfields Redevelopment Act
402 for a limited state guaranty of up to 5 years of loan guarantees
403 or loan loss reserves issued pursuant to law. The limited state
404 loan guaranty applies only to 50 percent of the primary lenders
405 loans for redevelopment projects in brownfield areas. If the
406 redevelopment project is for affordable housing, as defined in
407 s. 420.0004, in a brownfield area, the limited state loan
408 guaranty applies to 75 percent of the primary lender's loan. If
409 the redevelopment project includes the construction and
410 operation of a new health care facility or a health care
411 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
412 ~~408.7056~~, on a brownfield site and the applicant has obtained
413 documentation in accordance with s. 376.30781 indicating that
414 the construction of the health care facility or health care
415 provider by the applicant on the brownfield site has received a
416 certificate of occupancy or a license or certificate has been
417 issued for the operation of the health care facility or health
418 care provider, the limited state loan guaranty applies to 75
419 percent of the primary lender's loan. A limited state guaranty
420 of private loans or a loan loss reserve is authorized for
421 lenders licensed to operate in the state upon a determination by
422 the council that such an arrangement would be in the public
423 interest and the likelihood of the success of the loan is great.

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

426 381.0031 Epidemiological research; report of diseases of
427 public health significance to department.—

428 (2) Any practitioner licensed in this state to practice
429 medicine, osteopathic medicine, chiropractic medicine,
430 naturopathy, or veterinary medicine; any hospital licensed under
431 part I of chapter 395; or any laboratory appropriately certified
432 by the Centers for Medicare and Medicaid Services under the
433 federal Clinical Laboratory Improvement Amendments and the
434 federal rules adopted thereunder which ~~licensed under chapter~~
435 ~~483 that~~ diagnoses or suspects the existence of a disease of
436 public health significance shall immediately report the fact to
437 the Department of Health.

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

440 381.0034 Requirement for instruction on HIV and AIDS.—

441 (3) The department shall require, as a condition of
442 granting a license under chapter 467 or part II ~~III~~ of chapter
443 483, that an applicant making initial application for licensure
444 complete an educational course acceptable to the department on
445 human immunodeficiency virus and acquired immune deficiency
446 syndrome. Upon submission of an affidavit showing good cause, an
447 applicant who has not taken a course at the time of licensure
448 shall be allowed 6 months to complete this requirement.

449 Section 8. Paragraph (c) of subsection (4) of section
450 381.004, Florida Statutes, is amended to read:

451 381.004 HIV testing.—

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

461 (c) The program shall have all laboratory procedures
 462 performed in a laboratory appropriately certified by the Centers
 463 for Medicare and Medicaid Services under the federal Clinical
 464 Laboratory Improvement Amendments and the federal rules adopted
 465 thereunder ~~licensed under the provisions of chapter 483.~~

466 Section 9. Paragraph (f) of subsection (4) of section
 467 381.0405, Florida Statutes, is amended to read:

468 381.0405 Office of Rural Health.—

469 (4) COORDINATION.—The office shall:

470 (f) Assume responsibility for state coordination of the
 471 Rural Hospital Transition Grant Program, ~~the Essential Access~~
 472 ~~Community Hospital Program,~~ and other federal rural health care
 473 programs.

474 Section 10. Paragraph (a) of subsection (2) of section
 475 383.14, Florida Statutes, is amended to read:

476 383.14 Screening for metabolic disorders, other hereditary
477 and congenital disorders, and environmental risk factors.—

478 (2) RULES.—

479 (a) After consultation with the Genetics and Newborn
480 Screening Advisory Council, the department shall adopt and
481 enforce rules requiring that every newborn in this state shall:

482 1. Before becoming 1 week of age, be subjected to a test
483 for phenylketonuria;

484 2. Be tested for any condition included on the federal
485 Recommended Uniform Screening Panel which the council advises
486 the department should be included under the state's screening
487 program. After the council recommends that a condition be
488 included, the department shall submit a legislative budget
489 request to seek an appropriation to add testing of the condition
490 to the newborn screening program. The department shall expand
491 statewide screening of newborns to include screening for such
492 conditions within 18 months after the council renders such
493 advice, if a test approved by the United States Food and Drug
494 Administration or a test offered by an alternative vendor ~~which~~
495 ~~is compatible with the clinical standards established under part~~
496 ~~I of chapter 483~~ is available. If such a test is not available
497 within 18 months after the council makes its recommendation, the
498 department shall implement such screening as soon as a test
499 offered by the United States Food and Drug Administration or by
500 an alternative vendor is available; and

501 3. At the appropriate age, be tested for such other
 502 metabolic diseases and hereditary or congenital disorders as the
 503 department may deem necessary from time to time.

504 Section 11. Section 383.30, Florida Statutes, is amended
 505 to read:

506 383.30 Birth Center Licensure Act; short title.—Sections
 507 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as
 508 the "Birth Center Licensure Act."

509 Section 12. Section 383.301, Florida Statutes, is amended
 510 to read:

511 383.301 Licensure and regulation of birth centers;
 512 legislative intent.—It is the intent of the Legislature to
 513 provide for the protection of public health and safety in the
 514 establishment, maintenance, and operation of birth centers by
 515 providing for licensure of birth centers and for the
 516 development, establishment, and enforcement of minimum standards
 517 with respect to birth centers. The requirements of part II of
 518 chapter 408 shall apply to the provision of services that
 519 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~
 520 and part II of chapter 408 and to entities licensed by or
 521 applying for such licensure from the Agency for Health Care
 522 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A
 523 license issued by the agency is required in order to operate a
 524 birth center in this state.

525 Section 13. Section 383.302, Florida Statutes, is amended

526 | to read:

527 | 383.302 Definitions of terms used in ss. 383.30-383.332

528 | ~~383.30-383.335~~.-As used in ss. 383.30-383.332 ~~383.30-383.335~~,

529 | the term:

530 | (1) "Agency" means the Agency for Health Care
531 | Administration.

532 | (2) "Birth center" means any facility, institution, or
533 | place, which is not an ambulatory surgical center or a hospital
534 | or in a hospital, in which births are planned to occur away from
535 | the mother's usual residence following a normal, uncomplicated,
536 | low-risk pregnancy.

537 | (3) "Clinical staff" means individuals employed full time
538 | or part time by a birth center who are licensed or certified to
539 | provide care at childbirth.

540 | (4) "Consultant" means a physician licensed pursuant to
541 | chapter 458 or chapter 459 who agrees to provide advice and
542 | services to a birth center and who either:

543 | (a) Is certified or eligible for certification by the
544 | American Board of Obstetrics and Gynecology, or

545 | (b) Has hospital obstetrical privileges.

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

549 | (6) "Governmental unit" means the state or any county,
550 | municipality, or other political subdivision or any department,

551 division, board, or other agency of any of the foregoing.

552 (7) "Licensed facility" means a facility licensed in
553 accordance with s. 383.305.

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

558 (9) "Person" means any individual, firm, partnership,
559 corporation, company, association, institution, or joint stock
560 association and means any legal successor of any of the
561 foregoing.

562 (10) "Premises" means those buildings, beds, and
563 facilities located at the main address of the licensee and all
564 other buildings, beds, and facilities for the provision of
565 maternity care located in such reasonable proximity to the main
566 address of the licensee as to appear to the public to be under
567 the dominion and control of the licensee.

568 Section 14. Subsection (1) of section 383.305, Florida
569 Statutes, is amended to read:

570 383.305 Licensure; fees.—

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

575 Section 15. Subsection (1) of section 383.309, Florida

576 Statutes, is amended to read:

577 383.309 Minimum standards for birth centers; rules and
578 enforcement.—

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

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

586 (b) Infection control, housekeeping, sanitary conditions,
587 disaster plan, and medical record procedures that will
588 adequately protect patient care and provide safety are
589 established and implemented.

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

592 Section 16. Subsection (1) of section 383.313, Florida
593 Statutes, is amended to read:

594 383.313 Performance of laboratory and surgical services;
595 use of anesthetic and chemical agents.—

596 (1) LABORATORY SERVICES.—A birth center may collect
597 specimens for those tests that are requested under protocol. A
598 birth center must obtain and continuously maintain certification
599 by the Centers for Medicare and Medicaid Services under the
600 federal Clinical Laboratory Improvement Amendments and the

601 federal rules adopted thereunder in order to ~~may perform simple~~
 602 laboratory tests specified, ~~as defined by rule of the agency,~~
 603 and which are appropriate to meet the needs of the patient is
 604 ~~exempt from the requirements of chapter 483, provided no more~~
 605 ~~than five physicians are employed by the birth center and~~
 606 ~~testing is conducted exclusively in connection with the~~
 607 ~~diagnosis and treatment of clients of the birth center.~~

608 Section 17. Subsection (1) and paragraph (a) of subsection
 609 (2) of section 383.33, Florida Statutes, are amended to read:

610 383.33 Administrative penalties; moratorium on
 611 admissions.—

612 (1) In addition to the requirements of part II of chapter
 613 408, the agency may impose an administrative fine not to exceed
 614 \$500 per violation per day for the violation of any provision of
 615 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
 616 applicable rules.

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

620 (a) The severity of the violation, including the
 621 probability that death or serious harm to the health or safety
 622 of any person will result or has resulted; the severity of the
 623 actual or potential harm; and the extent to which ~~the provisions~~
 624 ~~of~~ ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
 625 applicable rules were violated.

626 Section 18. Section 383.335, Florida Statutes, is
 627 repealed.

628 Section 19. Section 384.31, Florida Statutes, is amended
 629 to read:

630 384.31 Testing of pregnant women; duty of the attendant.—
 631 Every person, including every physician licensed under chapter
 632 458 or chapter 459 or midwife licensed under part I of chapter
 633 464 or chapter 467, attending a pregnant woman for conditions
 634 relating to pregnancy during the period of gestation and
 635 delivery shall cause the woman to be tested for sexually
 636 transmissible diseases, including HIV, as specified by
 637 department rule. Testing shall be performed by a laboratory
 638 appropriately certified by the Centers for Medicare and Medicaid
 639 Services under the federal Clinical Laboratory Improvement
 640 Amendments and the federal rules adopted thereunder ~~approved~~ for
 641 such purposes ~~under part I of chapter 483~~. The woman shall be
 642 informed of the tests that will be conducted and of her right to
 643 refuse testing. If a woman objects to testing, a written
 644 statement of objection, signed by the woman, shall be placed in
 645 the woman's medical record and no testing shall occur.

646 Section 20. Subsection (2) of section 385.211, Florida
 647 Statutes, is amended to read:

648 385.211 Refractory and intractable epilepsy treatment and
 649 research at recognized medical centers.—

650 (2) Notwithstanding chapter 893, medical centers

651 recognized pursuant to s. 381.925, or an academic medical
652 research institution legally affiliated with a licensed
653 children's specialty hospital as defined in s. 395.002(27) ~~s.~~
654 ~~395.002(28)~~ that contracts with the Department of Health, may
655 conduct research on cannabidiol and low-THC cannabis. This
656 research may include, but is not limited to, the agricultural
657 development, production, clinical research, and use of liquid
658 medical derivatives of cannabidiol and low-THC cannabis for the
659 treatment for refractory or intractable epilepsy. The authority
660 for recognized medical centers to conduct this research is
661 derived from 21 C.F.R. parts 312 and 316. Current state or
662 privately obtained research funds may be used to support the
663 activities described in this section.

664 Section 21. Subsection (7) of section 394.4787, Florida
665 Statutes, is amended to read:

666 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
667 and 394.4789.—As used in this section and ss. 394.4786,
668 394.4788, and 394.4789:

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

672 Section 22. Section 395.001, Florida Statutes, is amended
673 to read:

674 395.001 Legislative intent.—It is the intent of the
675 Legislature to provide for the protection of public health and

676 safety in the establishment, construction, maintenance, and
677 operation of hospitals and, ambulatory surgical centers, ~~and~~
678 ~~mobile surgical facilities~~ by providing for licensure of same
679 and for the development, establishment, and enforcement of
680 minimum standards with respect thereto.

681 Section 23. Present subsections (22) through (33) of
682 section 395.002, Florida Statutes, are redesignated as
683 subsections (21) through (32), respectively, and subsections (3)
684 and (16) of that section and present subsections (21) and (23)
685 of that section are amended, to read:

686 395.002 Definitions.—As used in this chapter:

687 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
688 ~~facility"~~ means a facility the primary purpose of which is to
689 provide elective surgical care, in which the patient is admitted
690 to and discharged from such facility within the same working day
691 and is not permitted to stay overnight, and which is not part of
692 a hospital. However, a facility existing for the primary purpose
693 of performing terminations of pregnancy, an office maintained by
694 a physician for the practice of medicine, or an office
695 maintained for the practice of dentistry may ~~shall~~ not be
696 construed to be an ambulatory surgical center, provided that any
697 facility or office which is certified or seeks certification as
698 a Medicare ambulatory surgical center shall be licensed as an
699 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
700 ~~or vehicle in which a physician maintains an office and~~

701 ~~practices surgery, and which can appear to the public to be a~~
702 ~~mobile office because the structure or vehicle operates at more~~
703 ~~than one address, shall be construed to be a mobile surgical~~
704 ~~facility.~~

705 (16) "Licensed facility" means a hospital or, ambulatory
706 surgical center, ~~or mobile surgical facility~~ licensed in
707 accordance with this chapter.

708 ~~(21) "Mobile surgical facility" is a mobile facility in~~
709 ~~which licensed health care professionals provide elective~~
710 ~~surgical care under contract with the Department of Corrections~~
711 ~~or a private correctional facility operating pursuant to chapter~~
712 ~~957 and in which inmate patients are admitted to and discharged~~
713 ~~from said facility within the same working day and are not~~
714 ~~permitted to stay overnight. However, mobile surgical facilities~~
715 ~~may only provide health care services to the inmate patients of~~
716 ~~the Department of Corrections, or inmate patients of a private~~
717 ~~correctional facility operating pursuant to chapter 957, and not~~
718 ~~to the general public.~~

719 ~~(22)~~(23) "Premises" means those buildings, beds, and
720 equipment located at the address of the licensed facility and
721 all other buildings, beds, and equipment for the provision of
722 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
723 located in such reasonable proximity to the address of the
724 licensed facility as to appear to the public to be under the
725 dominion and control of the licensee. For any licensee that is a

726 teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,
727 reasonable proximity includes any buildings, beds, services,
728 programs, and equipment under the dominion and control of the
729 licensee that are located at a site with a main address that is
730 within 1 mile of the main address of the licensed facility; and
731 all such buildings, beds, and equipment may, at the request of a
732 licensee or applicant, be included on the facility license as a
733 single premises.

734 Section 24. Paragraphs (a) and (b) of subsection (1) and
735 paragraph (b) of subsection (2) of section 395.003, Florida
736 Statutes, are amended to read:

737 395.003 Licensure; denial, suspension, and revocation.—

738 (1) (a) The requirements of part II of chapter 408 apply to
739 the provision of services that require licensure pursuant to ss.
740 395.001-395.1065 and part II of chapter 408 and to entities
741 licensed by or applying for such licensure from the Agency for
742 Health Care Administration pursuant to ss. 395.001-395.1065. A
743 license issued by the agency is required in order to operate a
744 hospital or ambulatory surgical center, ~~or mobile surgical~~
745 ~~facility~~ in this state.

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

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

756 (2) (b) The agency shall, at the request of a licensee that
757 is a teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,
758 issue a single license to a licensee for facilities that have
759 been previously licensed as separate premises, provided such
760 separately licensed facilities, taken together, constitute the
761 same premises as defined in s. 395.002 ~~s. 395.002(23)~~. Such
762 license for the single premises shall include all of the beds,
763 services, and programs that were previously included on the
764 licenses for the separate premises. The granting of a single
765 license under this paragraph may ~~shall~~ not in any manner reduce
766 the number of beds, services, or programs operated by the
767 licensee.

768 Section 25. Subsection (1) of section 395.009, Florida
769 Statutes, is amended to read:

770 395.009 Minimum standards for clinical laboratory test
771 results and diagnostic X-ray results; prerequisite for issuance
772 or renewal of license.—

773 (1) As a requirement for issuance or renewal of its
774 license, each licensed facility shall require that all clinical
775 laboratory tests performed by or for the licensed facility be

776 performed by a clinical laboratory appropriately certified by
777 the Centers for Medicare and Medicaid Services under the federal
778 Clinical Laboratory Improvement Amendments and the federal rules
779 adopted thereunder ~~licensed under the provisions of chapter 483.~~

780 Section 26. Section 395.0091, Florida Statutes, is created
781 to read:

782 395.0091 Alternate-site testing.—The agency, in
783 consultation with the Board of Clinical Laboratory Personnel,
784 shall adopt by rule the criteria for alternate-site testing to
785 be performed under the supervision of a clinical laboratory
786 director. At a minimum, the criteria must address hospital
787 internal needs assessment; a protocol for implementation,
788 including the identification of tests to be performed and who
789 will perform them; selection of the method of testing to be used
790 for alternate-site testing; minimum training and education
791 requirements for those who will perform alternate-site testing,
792 such as documented training, licensure, certification, or other
793 medical professional background not limited to laboratory
794 professionals; documented inservice training and initial and
795 ongoing competency validation; an appropriate internal and
796 external quality control protocol; an internal mechanism for the
797 central laboratory to identify and track alternate-site testing;
798 and recordkeeping requirements. Alternate-site testing locations
799 must register when the hospital applies to renew its license.
800 For purposes of this section, the term "alternate-site testing"

801 includes any laboratory testing done under the administrative
 802 control of a hospital, but performed out of the physical or
 803 administrative confines of the central laboratory.

804 Section 27. Paragraph (f) of subsection (1) of section
 805 395.0161, Florida Statutes, is amended to read:

806 395.0161 Licensure inspection.—

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

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

815 Section 28. Subsection (3) of section 395.0163, Florida
 816 Statutes, is amended to read:

817 395.0163 Construction inspections; plan submission and
 818 approval; fees.—

819 ~~(3) In addition to the requirements of s. 408.811, the~~
 820 ~~agency shall inspect a mobile surgical facility at initial~~
 821 ~~licensure and at each time the facility establishes a new~~
 822 ~~location, prior to admission of patients. However, such~~
 823 ~~inspections shall not be required when a mobile surgical~~
 824 ~~facility is moved temporarily to a location where medical~~
 825 ~~treatment will not be provided.~~

826 Section 29. Subsection (2), paragraph (c) of subsection
 827 (6), and subsections (16) and (17) of section 395.0197, Florida
 828 Statutes, are amended to read:

829 395.0197 Internal risk management program.—

830 (2) The internal risk management program is the
 831 responsibility of the governing board of the health care
 832 facility. Each licensed facility shall hire a risk manager,
 833 ~~licensed under s. 395.10974,~~ who is responsible for
 834 implementation and oversight of the such facility's internal
 835 risk management program and who demonstrates competence, through
 836 education or experience, in all of the following areas:

- 837 (a) Applicable standards of health care risk management.
- 838 (b) Applicable federal, state, and local health and safety
 839 laws and rules.
- 840 (c) General risk management administration.
- 841 (d) Patient care.
- 842 (e) Medical care.
- 843 (f) Personal and social care.
- 844 (g) Accident prevention.
- 845 (h) Departmental organization and management.
- 846 (i) Community interrelationships.
- 847 (j) Medical terminology as required by this section. A
 848 ~~risk manager must not be made responsible for more than four~~
 849 ~~internal risk management programs in separate licensed~~
 850 ~~facilities, unless the facilities are under one corporate~~

851 ~~ownership or the risk management programs are in rural~~
852 ~~hospitals.~~

853 (6) (c) The report submitted to the agency must ~~shall~~ also
854 contain the name ~~and license number~~ of the risk manager of the
855 licensed facility, a copy of its policy and procedures which
856 govern the measures taken by the facility and its risk manager
857 to reduce the risk of injuries and adverse incidents, and the
858 results of such measures. The annual report is confidential and
859 is not available to the public pursuant to s. 119.07(1) or any
860 other law providing access to public records. The annual report
861 is not discoverable or admissible in any civil or administrative
862 action, except in disciplinary proceedings by the agency or the
863 appropriate regulatory board. The annual report is not available
864 to the public as part of the record of investigation for and
865 prosecution in disciplinary proceedings made available to the
866 public by the agency or the appropriate regulatory board.
867 However, the agency or the appropriate regulatory board shall
868 make available, upon written request by a health care
869 professional against whom probable cause has been found, any
870 such records which form the basis of the determination of
871 probable cause.

872 (16) There shall be no monetary liability on the part of,
873 and no cause of action for damages shall arise against, any risk
874 manager, ~~licensed under s. 395.10974,~~ for the implementation and
875 oversight of the internal risk management program in a facility

876 licensed under this chapter or chapter 390 as required by this
 877 section, for any act or proceeding undertaken or performed
 878 within the scope of the functions of such internal risk
 879 management program if the risk manager acts without intentional
 880 fraud.

881 (17) A privilege against civil liability is hereby granted
 882 to any ~~licensed~~ risk manager or licensed facility with regard to
 883 information furnished pursuant to this chapter, unless the
 884 ~~licensed~~ risk manager or facility acted in bad faith or with
 885 malice in providing such information.

886 Section 30. Section 395.1046, Florida Statutes, is
 887 repealed.

888 Section 31. Subsections (2) and (3) of section 395.1055,
 889 Florida Statutes, are amended, and paragraph (i) is added to
 890 subsection (1), to read:

891 395.1055 Rules and enforcement.—

892 (1) The agency shall adopt rules pursuant to ss.
 893 120.536(1) and 120.54 to implement the provisions of this part,
 894 which shall include reasonable and fair minimum standards for
 895 ensuring that:

896 (i) All hospitals providing organ transplantation,
 897 neonatal intensive care services, inpatient psychiatric
 898 services, inpatient substance abuse services, or comprehensive
 899 medical rehabilitation meet the minimum licensure requirements
 900 adopted by the agency. Such licensure requirements must include

901 quality of care, nurse staffing, physician staffing, physical
 902 plant, equipment, emergency transportation, and data reporting
 903 standards.

904 (2) Separate standards may be provided for general and
 905 specialty hospitals, ambulatory surgical centers, ~~mobile~~
 906 ~~surgical facilities,~~ and statutory rural hospitals as defined in
 907 s. 395.602.

908 (3) The agency shall adopt rules with respect to the care
 909 and treatment of patients residing in distinct part nursing
 910 units of hospitals which are certified for participation in
 911 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
 912 Security Act skilled nursing facility program. Such rules shall
 913 take into account the types of patients treated in hospital
 914 skilled nursing units, including typical patient acuity levels
 915 and the average length of stay in such units, and shall be
 916 limited to the appropriate portions of the Omnibus Budget
 917 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
 918 1987), Title IV (Medicare, Medicaid, and Other Health-Related
 919 Programs), Subtitle C (Nursing Home Reform), as amended. The
 920 agency shall require level 2 background screening as specified
 921 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
 922 personnel of distinct part nursing units.

923 Section 32. Section 395.10971, Florida Statutes, is
 924 repealed.

925 Section 33. Section 395.10972, Florida Statutes, is

926 repealed.

927 Section 34. Section 395.10973, Florida Statutes, is
928 amended to read:

929 395.10973 Powers and duties of the agency.—It is the
930 function of the agency to:

931 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
932 implement ~~the provisions of~~ this part and part II of chapter 408
933 conferring duties upon it.

934 ~~(2) Develop, impose, and enforce specific standards within~~
935 ~~the scope of the general qualifications established by this part~~
936 ~~which must be met by individuals in order to receive licenses as~~
937 ~~health care risk managers. These standards shall be designed to~~
938 ~~ensure that health care risk managers are individuals of good~~
939 ~~character and otherwise suitable and, by training or experience~~
940 ~~in the field of health care risk management, qualified in~~
941 ~~accordance with the provisions of this part to serve as health~~
942 ~~care risk managers, within statutory requirements.~~

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

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

947 ~~(5) Receive, investigate, and take appropriate action with~~
948 ~~respect to any charge or complaint filed with the agency to the~~
949 ~~effect that a certified health care risk manager has failed to~~
950 ~~comply with the requirements or standards adopted by rule by the~~

951 ~~agency or to comply with the provisions of this part.~~

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

954 ~~(2)(7)~~ Develop a model risk management program for health
 955 care facilities which will satisfy the requirements of s.
 956 395.0197.

957 ~~(3)(8)~~ Enforce the special-occupancy provisions of the
 958 Florida Building Code which apply to hospitals, intermediate
 959 residential treatment facilities, and ambulatory surgical
 960 centers in conducting any inspection authorized by this chapter
 961 and part II of chapter 408.

962 Section 35. Section 395.10974, Florida Statutes, is
 963 repealed.

964 Section 36. Section 395.10975, Florida Statutes, is
 965 repealed.

966 Section 37. Subsection (2) of section 395.602, Florida
 967 Statutes, is amended to read:

968 395.602 Rural hospitals.—

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

970 ~~(a) "Emergency care hospital" means a medical facility~~
 971 ~~which provides:~~

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

973 ~~2. Inpatient care to ill or injured persons prior to their~~
 974 ~~transportation to another hospital or provides inpatient medical~~
 975 ~~care to persons needing care for a period of up to 96 hours. The~~

976 ~~96-hour limitation on inpatient care does not apply to respite,~~
977 ~~skilled nursing, hospice, or other nonacute care patients.~~

978 ~~(b) "Essential access community hospital" means any~~
979 ~~facility which:~~

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

981 ~~2. Is located more than 35 miles from any other essential~~
982 ~~access community hospital, rural referral center, or urban~~
983 ~~hospital meeting criteria for classification as a regional~~
984 ~~referral center;~~

985 ~~3. Is part of a network that includes rural primary care~~
986 ~~hospitals;~~

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

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

991 ~~6. Accepts patients transferred from rural primary care~~
992 ~~hospitals in its network.~~

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

996 ~~(a)(d)~~ "Rural area health education center" means an area
997 health education center (AHEC), as authorized by Pub. L. No. 94-
998 484, which provides services in a county with a population
999 density of up to ~~no greater than~~ 100 persons per square mile.

1000 ~~(b)(e)~~ "Rural hospital" means an acute care hospital

1001 licensed under this chapter, having 100 or fewer licensed beds
 1002 and an emergency room, which is:

1003 1. The sole provider within a county with a population
 1004 density of up to 100 persons per square mile;

1005 2. An acute care hospital, in a county with a population
 1006 density of up to 100 persons per square mile, which is at least
 1007 30 minutes of travel time, on normally traveled roads under
 1008 normal traffic conditions, from any other acute care hospital
 1009 within the same county;

1010 3. A hospital supported by a tax district or subdistrict
 1011 whose boundaries encompass a population of up to 100 persons per
 1012 square mile;

1013 4. A hospital classified as a sole community hospital
 1014 under 42 C.F.R. s. 412.92 which has up to 175, ~~regardless of the~~
 1015 ~~number of~~ licensed beds;

1016 5. A hospital with a service area that has a population of
 1017 up to 100 persons per square mile. As used in this subparagraph,
 1018 the term "service area" means the fewest number of zip codes
 1019 that account for 75 percent of the hospital's discharges for the
 1020 most recent 5-year period, based on information available from
 1021 the hospital inpatient discharge database in the Florida Center
 1022 for Health Information and Transparency at the agency; or

1023 6. A hospital designated as a critical access hospital, as
 1024 defined in s. 408.07.
 1025

1026 Population densities used in this paragraph must be based upon
 1027 the most recently completed United States census. A hospital
 1028 that received funds under s. 409.9116 for a quarter beginning no
 1029 later than July 1, 2002, is deemed to have been and shall
 1030 continue to be a rural hospital from that date through June 30,
 1031 2021, if the hospital continues to have up to 100 licensed beds
 1032 and an emergency room. An acute care hospital that has not
 1033 previously been designated as a rural hospital and that meets
 1034 the criteria of this paragraph shall be granted such designation
 1035 upon application, including supporting documentation, to the
 1036 agency. A hospital that was licensed as a rural hospital during
 1037 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
 1038 rural hospital from the date of designation through June 30,
 1039 2021, if the hospital continues to have up to 100 licensed beds
 1040 and an emergency room.

1041 ~~(f) "Rural primary care hospital" means any facility~~
 1042 ~~meeting the criteria in paragraph (c) or s. 395.605 which~~
 1043 ~~provides:~~

- 1044 ~~1. Twenty-four-hour emergency medical care;~~
- 1045 ~~2. Temporary inpatient care for periods of 72 hours or~~
 1046 ~~less to patients requiring stabilization before discharge or~~
 1047 ~~transfer to another hospital. The 72-hour limitation does not~~
 1048 ~~apply to respite, skilled nursing, hospice, or other nonacute~~
 1049 ~~care patients; and~~
- 1050 ~~3. Has no more than six licensed acute care inpatient~~

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1051 ~~beds.~~

1052 (c)~~(g)~~ "Swing-bed" means a bed which can be used
1053 interchangeably as either a hospital, skilled nursing facility
1054 (SNF), or intermediate care facility (ICF) bed pursuant to 42
1055 C.F.R. parts 405, 435, 440, 442, and 447.

1056 Section 38. Section 395.603, Florida Statutes, is amended
1057 to read:

1058 395.603 ~~Deactivation of general hospital beds;~~ Rural
1059 hospital impact statement.—

1060 ~~(1) The agency shall establish, by rule, a process by~~
1061 ~~which a rural hospital, as defined in s. 395.602, that seeks~~
1062 ~~licensure as a rural primary care hospital or as an emergency~~
1063 ~~care hospital, or becomes a certified rural health clinic as~~
1064 ~~defined in Pub. L. No. 95-210, or becomes a primary care program~~
1065 ~~such as a county health department, community health center, or~~
1066 ~~other similar outpatient program that provides preventive and~~
1067 ~~curative services, may deactivate general hospital beds. Rural~~
1068 ~~primary care hospitals and emergency care hospitals shall~~
1069 ~~maintain the number of actively licensed general hospital beds~~
1070 ~~necessary for the facility to be certified for Medicare~~
1071 ~~reimbursement. Hospitals that discontinue inpatient care to~~
1072 ~~become rural health care clinics or primary care programs shall~~
1073 ~~deactivate all licensed general hospital beds. All hospitals,~~
1074 ~~clinics, and programs with inactive beds shall provide 24-hour~~
1075 ~~emergency medical care by staffing an emergency room. Providers~~

1076 | ~~with inactive beds shall be subject to the criteria in s.~~
1077 | ~~395.1041. The agency shall specify in rule requirements for~~
1078 | ~~making 24-hour emergency care available. Inactive general~~
1079 | ~~hospital beds shall be included in the acute care bed inventory,~~
1080 | ~~maintained by the agency for certificate of need purposes, for~~
1081 | ~~10 years from the date of deactivation of the beds. After 10~~
1082 | ~~years have elapsed, inactive beds shall be excluded from the~~
1083 | ~~inventory. The agency shall, at the request of the licensee,~~
1084 | ~~reactivate the inactive general beds upon a showing by the~~
1085 | ~~licensee that licensure requirements for the inactive general~~
1086 | ~~beds are met.~~

1087 | ~~(2)~~ In formulating and implementing policies and rules
1088 | that may have significant impact on the ability of rural
1089 | hospitals to continue to provide health care services in rural
1090 | communities, the agency, the department, or the respective
1091 | regulatory board adopting policies or rules regarding the
1092 | licensure or certification of health care professionals shall
1093 | provide a rural hospital impact statement. The rural hospital
1094 | impact statement shall assess the proposed action in light of
1095 | the following questions:

1096 | (1)~~(a)~~ Do the health personnel affected by the proposed
1097 | action currently practice in rural hospitals or are they likely
1098 | to in the near future?

1099 | (2)~~(b)~~ What are the current numbers of the affected health
1100 | personnel in this state, their geographic distribution, and the

1101 number practicing in rural hospitals?

1102 (3)~~(e)~~ What are the functions presently performed by the
1103 affected health personnel, and are such functions presently
1104 performed in rural hospitals?

1105 (4)~~(d)~~ What impact will the proposed action have on the
1106 ability of rural hospitals to recruit the affected personnel to
1107 practice in their facilities?

1108 (5)~~(e)~~ What impact will the proposed action have on the
1109 limited financial resources of rural hospitals through increased
1110 salaries and benefits necessary to recruit or retain such health
1111 personnel?

1112 (6)~~(f)~~ Is there a less stringent requirement which could
1113 apply to practice in rural hospitals?

1114 (7)~~(g)~~ Will this action create staffing shortages, which
1115 could result in a loss to the public of health care services in
1116 rural hospitals or result in closure of any rural hospitals?

1117 Section 39. Section 395.604, Florida Statutes, is
1118 repealed.

1119 Section 40. Section 395.605, Florida Statutes, is
1120 repealed.

1121 Section 41. Paragraph (c) of subsection (1) of section
1122 395.701, Florida Statutes, is amended to read:

1123 395.701 Annual assessments on net operating revenues for
1124 inpatient and outpatient services to fund public medical
1125 assistance; administrative fines for failure to pay assessments

1126 when due; exemption.—

1127 (1) For the purposes of this section, the term:

1128 (c) "Hospital" means a health care institution as defined
 1129 in s. 395.002(12), but does not include any hospital operated by
 1130 a state ~~the agency or the Department of Corrections.~~

1131 Section 42. Paragraph (b) of subsection (2) of section
 1132 395.7015, Florida Statutes, is amended to read:

1133 395.7015 Annual assessment on health care entities.—

1134 (2) There is imposed an annual assessment against certain
 1135 health care entities as described in this section:

1136 (b) For the purpose of this section, "health care
 1137 entities" include the following:

1138 1. Ambulatory surgical centers ~~and mobile surgical~~
 1139 ~~facilities licensed under s. 395.003. This subsection shall only~~
 1140 ~~apply to mobile surgical facilities operating under contracts~~
 1141 ~~entered into on or after July 1, 1998.~~

1142 2. ~~Clinical laboratories licensed under s. 483.091,~~
 1143 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
 1144 ~~any clinical laboratory operated by the state or a political~~
 1145 ~~subdivision of the state, any clinical laboratory which~~
 1146 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
 1147 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
 1148 ~~percent or more of its gross revenues from services to charity~~
 1149 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
 1150 ~~bank procuring, storing, or distributing blood, plasma, or~~

1151 ~~tissue either for future manufacture or research or distributed~~
1152 ~~on a nonprofit basis, and further excluding any clinical~~
1153 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1154 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1155 ~~459 and who practice in the same group practice, and at which no~~
1156 ~~clinical laboratory work is performed for patients referred by~~
1157 ~~any health care provider who is not a member of the same group.~~

1158 2.3. Diagnostic-imaging centers that are freestanding
1159 outpatient facilities that provide specialized services for the
1160 identification or determination of a disease through examination
1161 and also provide sophisticated radiological services, and in
1162 which services are rendered by a physician licensed by the Board
1163 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1164 an osteopathic physician licensed by the Board of Osteopathic
1165 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1166 paragraph, "sophisticated radiological services" means the
1167 following: magnetic resonance imaging; nuclear medicine;
1168 angiography; arteriography; computed tomography; positron
1169 emission tomography; digital vascular imaging; bronchography;
1170 lymphangiography; splenography; ultrasound, excluding ultrasound
1171 providers that are part of a private physician's office practice
1172 or when ultrasound is provided by two or more physicians
1173 licensed under chapter 458 or chapter 459 who are members of the
1174 same professional association and who practice in the same
1175 medical specialties; and such other sophisticated radiological

1176 services, excluding mammography, as adopted in rule by the
1177 board.

1178 Section 43. Subsection (1) of section 400.0625, Florida
1179 Statutes, is amended to read:

1180 400.0625 Minimum standards for clinical laboratory test
1181 results and diagnostic X-ray results.—

1182 (1) Each nursing home, as a requirement for issuance or
1183 renewal of its license, shall require that all clinical
1184 laboratory tests performed for the nursing home be performed by
1185 a ~~clinical~~ laboratory appropriately certified by the Centers for
1186 Medicare and Medicaid Services under the federal Clinical
1187 Laboratory Improvement Amendments and the federal rules adopted
1188 thereunder ~~licensed under the provisions of chapter 483~~, except
1189 for such self-testing procedures as are approved by the agency
1190 by rule. ~~Results of clinical laboratory tests performed prior to~~
1191 ~~admission which meet the minimum standards provided in s.~~
1192 ~~483.181(3) shall be accepted in lieu of routine examinations~~
1193 ~~required upon admission and clinical laboratory tests which may~~
1194 ~~be ordered by a physician for residents of the nursing home.~~

1195 Section 44. Paragraph (a) of subsection (2) of section
1196 400.191, Florida Statutes, is amended to read:

1197 400.191 Availability, distribution, and posting of reports
1198 and records.—

1199 (2) The agency shall publish the Nursing Home Guide
1200 quarterly in electronic form to assist consumers and their

1201 families in comparing and evaluating nursing home facilities.

1202 (a) The agency shall provide an Internet site which shall
1203 include at least the following information either directly or
1204 indirectly through a link to another established site or sites
1205 of the agency's choosing:

1206 1. A section entitled "Have you considered programs that
1207 provide alternatives to nursing home care?" which shall be the
1208 first section of the Nursing Home Guide and which shall
1209 prominently display information about available alternatives to
1210 nursing homes and how to obtain additional information regarding
1211 these alternatives. The Nursing Home Guide shall explain that
1212 this state offers alternative programs that permit qualified
1213 elderly persons to stay in their homes instead of being placed
1214 in nursing homes and shall encourage interested persons to call
1215 the Comprehensive Assessment Review and Evaluation for Long-Term
1216 Care Services (CARES) Program to inquire if they qualify. The
1217 Nursing Home Guide shall list available home and community-based
1218 programs which shall clearly state the services that are
1219 provided and indicate whether nursing home services are included
1220 if needed.

1221 2. A list by name and address of all nursing home
1222 facilities in this state, including any prior name by which a
1223 facility was known during the previous 24-month period.

1224 3. Whether such nursing home facilities are proprietary or
1225 nonproprietary.

- 1226 4. The current owner of the facility's license and the
 1227 year that that entity became the owner of the license.
- 1228 5. The name of the owner or owners of each facility and
 1229 whether the facility is affiliated with a company or other
 1230 organization owning or managing more than one nursing facility
 1231 in this state.
- 1232 6. The total number of beds in each facility and the most
 1233 recently available occupancy levels.
- 1234 7. The number of private and semiprivate rooms in each
 1235 facility.
- 1236 8. The religious affiliation, if any, of each facility.
- 1237 9. The languages spoken by the administrator and staff of
 1238 each facility.
- 1239 10. Whether or not each facility accepts Medicare or
 1240 Medicaid recipients or insurance, health maintenance
 1241 organization, Veterans Administration, CHAMPUS program, or
 1242 workers' compensation coverage.
- 1243 11. Recreational and other programs available at each
 1244 facility.
- 1245 12. Special care units or programs offered at each
 1246 facility.
- 1247 13. Whether the facility is a part of a retirement
 1248 community that offers other services pursuant to part III of
 1249 this chapter or part I or part III of chapter 429.
- 1250 14. Survey and deficiency information, including all

1251 federal and state recertification, licensure, revisit, and
1252 complaint survey information, for each facility ~~for the past 30~~
1253 ~~months~~. For noncertified nursing homes, state survey and
1254 deficiency information, including licensure, revisit, and
1255 complaint survey information ~~for the past 30 months~~ shall be
1256 provided.

1257 Section 45. Subsection (1) and paragraphs (b), (e), and
1258 (f) of subsection (4) of section 400.464, Florida Statutes, are
1259 amended, and subsection (6) is added to that section, to read:

1260 400.464 Home health agencies to be licensed; expiration of
1261 license; exemptions; unlawful acts; penalties.—

1262 (1) The requirements of part II of chapter 408 apply to
1263 the provision of services that require licensure pursuant to
1264 this part and part II of chapter 408 and entities licensed or
1265 registered by or applying for such licensure or registration
1266 from the Agency for Health Care Administration pursuant to this
1267 part. A license issued by the agency is required in order to
1268 operate a home health agency in this state. A license issued on
1269 or after July 1, 2018, must specify the home health services the
1270 organization is authorized to perform and indicate whether such
1271 specified services are considered skilled care. The provision or
1272 advertising of services that require licensure pursuant to this
1273 part without such services being specified on the face of the
1274 license issued on or after July 1, 2018, constitutes unlicensed
1275 activity as prohibited under s. 408.812.

1276 (4) (b) The operation or maintenance of an unlicensed home
 1277 health agency or the performance of any home health services in
 1278 violation of this part is declared a nuisance, inimical to the
 1279 public health, welfare, and safety. The agency or any state
 1280 attorney may, in addition to other remedies provided in this
 1281 part, bring an action for an injunction to restrain such
 1282 violation, or to enjoin the future operation or maintenance of
 1283 the home health agency or the provision of home health services
 1284 in violation of this part or part II of chapter 408, until
 1285 compliance with this part or the rules adopted under this part
 1286 has been demonstrated to the satisfaction of the agency.

1287 (e) Any person who owns, operates, or maintains an
 1288 unlicensed home health agency and who, ~~within 10 working days~~
 1289 after receiving notification from the agency, fails to cease
 1290 operation and apply for a license under this part commits a
 1291 misdemeanor of the second degree, punishable as provided in s.
 1292 775.082 or s. 775.083. Each day of continued operation is a
 1293 separate offense.

1294 (f) Any home health agency that fails to cease operation
 1295 after agency notification may be fined in accordance with s.
 1296 408.812 ~~\$500 for each day of noncompliance.~~

1297 (6) Any person, entity, or organization providing home
 1298 health services which is exempt from licensure under subsection
 1299 (5) may voluntarily apply for a certificate of exemption from
 1300 licensure under its exempt status with the agency on a form that

1301 specifies its name or names and addresses, a statement of the
1302 reasons why it is exempt from licensure as a home health agency,
1303 and other information deemed necessary by the agency. A
1304 certificate of exemption is valid for a period of not more than
1305 2 years and is not transferable. The agency may charge an
1306 applicant \$100 for a certificate of exemption or charge the
1307 actual cost of processing the certificate.

1308 Section 46. Subsections (6) through (9) of section
1309 400.471, Florida Statutes, are redesignated as subsections (5)
1310 through (8), respectively, and present subsections (2), (6), and
1311 (9) of that section are amended to read:

1312 400.471 Application for license; fee.—

1313 (2) In addition to the requirements of part II of chapter
1314 408, the initial applicant, the applicant for a change of
1315 ownership, and the applicant for the addition of skilled care
1316 services must file with the application satisfactory proof that
1317 the home health agency is in compliance with this part and
1318 applicable rules, including:

1319 (a) A listing of services to be provided, either directly
1320 by the applicant or through contractual arrangements with
1321 existing providers.

1322 (b) The number and discipline of professional staff to be
1323 employed.

1324 ~~(c) Completion of questions concerning volume data on the~~
1325 ~~renewal application as determined by rule.~~

1326 (c)~~(d)~~ A business plan, signed by the applicant, which
 1327 details the home health agency's methods to obtain patients and
 1328 its plan to recruit and maintain staff.

1329 (d)~~(e)~~ Evidence of contingency funding as required under
 1330 s. 408.8065 ~~equal to 1 month's average operating expenses during~~
 1331 ~~the first year of operation.~~

1332 (e)~~(f)~~ A balance sheet, income and expense statement, and
 1333 statement of cash flows for the first 2 years of operation which
 1334 provide evidence of having sufficient assets, credit, and
 1335 projected revenues to cover liabilities and expenses. The
 1336 applicant has demonstrated financial ability to operate if the
 1337 applicant's assets, credit, and projected revenues meet or
 1338 exceed projected liabilities and expenses. An applicant may not
 1339 project an operating margin of 15 percent or greater for any
 1340 month in the first year of operation. All documents required
 1341 under this paragraph must be prepared in accordance with
 1342 generally accepted accounting principles and compiled and signed
 1343 by a certified public accountant.

1344 (f)~~(g)~~ All other ownership interests in health care
 1345 entities for each controlling interest, as defined in part II of
 1346 chapter 408.

1347 (g)~~(h)~~ In the case of an application for initial
 1348 licensure, an application for a change of ownership, or an
 1349 application for the addition of skilled care services,
 1350 documentation of accreditation, or an application for

1351 accreditation, from an accrediting organization that is
1352 recognized by the agency as having standards comparable to those
1353 required by this part and part II of chapter 408. A home health
1354 agency that ~~is not Medicare or Medicaid certified and~~ does not
1355 provide skilled care is exempt from this paragraph.
1356 Notwithstanding s. 408.806, an initial applicant ~~that has~~
1357 ~~applied for accreditation~~ must provide proof of accreditation
1358 that is not conditional or provisional and a survey
1359 demonstrating compliance with the requirements of this part,
1360 part II of chapter 408, and applicable rules from an accrediting
1361 organization that is recognized by the agency as having
1362 standards comparable to those required by this part and part II
1363 of chapter 408 within 120 days after the date of the agency's
1364 receipt of the application for licensure ~~or the application~~
1365 ~~shall be withdrawn from further consideration.~~ Such
1366 accreditation must be continuously maintained by the home health
1367 agency to maintain licensure. The agency shall accept, in lieu
1368 of its own periodic licensure survey, the submission of the
1369 survey of an accrediting organization that is recognized by the
1370 agency if the accreditation of the licensed home health agency
1371 is not provisional and if the licensed home health agency
1372 authorizes releases of, and the agency receives the report of,
1373 the accrediting organization.

1374 ~~(6) The agency may not issue a license designated as~~
1375 ~~certified to a home health agency that fails to satisfy the~~

1376 ~~requirements of a Medicare certification survey from the agency.~~

1377 (8)~~(9)~~ The agency may not issue a renewal license for a
1378 home health agency in any county having at least one licensed
1379 home health agency and that has more than one home health agency
1380 per 5,000 persons, as indicated by the most recent population
1381 estimates published by the Legislature's Office of Economic and
1382 Demographic Research, if the applicant or any controlling
1383 interest has been administratively sanctioned by the agency
1384 during the 2 years prior to the submission of the licensure
1385 renewal application for one or more of the following acts:

1386 (a) An intentional or negligent act that materially
1387 affects the health or safety of a client of the provider;

1388 (b) Knowingly providing home health services in an
1389 unlicensed assisted living facility or unlicensed adult family-
1390 care home, unless the home health agency or employee reports the
1391 unlicensed facility or home to the agency within 72 hours after
1392 providing the services;

1393 (c) Preparing or maintaining fraudulent patient records,
1394 such as, but not limited to, charting ahead, recording vital
1395 signs or symptoms which were not personally obtained or observed
1396 by the home health agency's staff at the time indicated,
1397 borrowing patients or patient records from other home health
1398 agencies to pass a survey or inspection, or falsifying
1399 signatures;

1400 (d) Failing to provide at least one service directly to a

1401 patient for a period of 60 days;

1402 (e) Demonstrating a pattern of falsifying documents
 1403 relating to the training of home health aides or certified
 1404 nursing assistants or demonstrating a pattern of falsifying
 1405 health statements for staff who provide direct care to patients.
 1406 A pattern may be demonstrated by a showing of at least three
 1407 fraudulent entries or documents;

1408 (f) Demonstrating a pattern of billing any payor for
 1409 services not provided. A pattern may be demonstrated by a
 1410 showing of at least three billings for services not provided
 1411 within a 12-month period;

1412 (g) Demonstrating a pattern of failing to provide a
 1413 service specified in the home health agency's written agreement
 1414 with a patient or the patient's legal representative, or the
 1415 plan of care for that patient, except ~~unless a reduction in~~
 1416 ~~service is mandated by Medicare, Medicaid, or a state program or~~
 1417 as provided in s. 400.492(3). A pattern may be demonstrated by a
 1418 showing of at least three incidents, regardless of the patient
 1419 or service, in which the home health agency did not provide a
 1420 service specified in a written agreement or plan of care during
 1421 a 3-month period;

1422 (h) Giving remuneration to a case manager, discharge
 1423 planner, facility-based staff member, or third-party vendor who
 1424 is involved in the discharge planning process of a facility
 1425 licensed under chapter 395, chapter 429, or this chapter from

1426 | whom the home health agency receives referrals or gives
 1427 | remuneration as prohibited in s. 400.474(6)(a);
 1428 | (i) Giving cash, or its equivalent, to a Medicare or
 1429 | Medicaid beneficiary;
 1430 | (j) Demonstrating a pattern of billing the Medicaid
 1431 | program for services to Medicaid recipients which are medically
 1432 | unnecessary as determined by a final order. A pattern may be
 1433 | demonstrated by a showing of at least two such medically
 1434 | unnecessary services within one Medicaid program integrity audit
 1435 | period;
 1436 | (k) Providing services to residents in an assisted living
 1437 | facility for which the home health agency does not receive fair
 1438 | market value remuneration; or
 1439 | (l) Providing staffing to an assisted living facility for
 1440 | which the home health agency does not receive fair market value
 1441 | remuneration.
 1442 | Section 47. Subsection (5) of section 400.474, Florida
 1443 | Statutes, is amended to read:
 1444 | 400.474 Administrative penalties.—
 1445 | (5) The agency shall impose a fine of \$5,000 against a
 1446 | home health agency that demonstrates a pattern of failing to
 1447 | provide a service specified in the home health agency's written
 1448 | agreement with a patient or the patient's legal representative,
 1449 | or the plan of care for that patient, except ~~unless a reduction~~
 1450 | ~~in service is mandated by Medicare, Medicaid, or a state program~~

1451 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
 1452 by a showing of at least three incidences, regardless of the
 1453 patient or service, where the home health agency did not provide
 1454 a service specified in a written agreement or plan of care
 1455 during a 3-month period. The agency shall impose the fine for
 1456 each occurrence. The agency may also impose additional
 1457 administrative fines under s. 400.484 for the direct or indirect
 1458 harm to a patient, or deny, revoke, or suspend the license of
 1459 the home health agency for a pattern of failing to provide a
 1460 service specified in the home health agency's written agreement
 1461 with a patient or the plan of care for that patient.

1462 Section 48. Paragraph (c) of subsection (2) of section
 1463 400.476, Florida Statutes, is amended to read:

1464 400.476 Staffing requirements; notifications; limitations
 1465 on staffing services.—

1466 (2) DIRECTOR OF NURSING.—

1467 (c) A home health agency that provides skilled nursing
 1468 care must ~~is not Medicare or Medicaid certified and does not~~
 1469 ~~provide skilled care or provides only physical, occupational, or~~
 1470 ~~speech therapy is not required to have a director of nursing and~~
 1471 ~~is exempt from paragraph (b).~~

1472 Section 49. Section 400.484, Florida Statutes, is amended
 1473 to read:

1474 400.484 Right of inspection; violations ~~deficiencies~~;
 1475 fines.—

1476 (1) In addition to the requirements of s. 408.811, the
1477 agency may make such inspections and investigations as are
1478 necessary in order to determine the state of compliance with
1479 this part, part II of chapter 408, and applicable rules.

1480 (2) The agency shall impose fines for various classes of
1481 violations ~~deficiencies~~ in accordance with the following
1482 schedule:

1483 (a) Class I violations are as provided in s. 408.813 A
1484 ~~class I deficiency is any act, omission, or practice that~~
1485 ~~results in a patient's death, disablement, or permanent injury,~~
1486 ~~or places a patient at imminent risk of death, disablement, or~~
1487 ~~permanent injury.~~ Upon finding a class I violation ~~deficiency~~,
1488 the agency shall impose an administrative fine in the amount of
1489 \$15,000 for each occurrence and each day that the violation
1490 ~~deficiency~~ exists.

1491 (b) Class II violations are as provided in s. 408.813 A
1492 ~~class II deficiency is any act, omission, or practice that has a~~
1493 ~~direct adverse effect on the health, safety, or security of a~~
1494 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1495 agency shall impose an administrative fine in the amount of
1496 \$5,000 for each occurrence and each day that the violation
1497 ~~deficiency~~ exists.

1498 (c) Class III violations are as provided in s. 408.813 A
1499 ~~class III deficiency is any act, omission, or practice that has~~
1500 ~~an indirect, adverse effect on the health, safety, or security~~

1501 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
 1502 violation deficiency, the agency shall impose an administrative
 1503 fine not to exceed \$1,000 for each occurrence and each day that
 1504 the uncorrected or repeated violation deficiency exists.

1505 (d) Class IV violations are as provided in s. 408.813 A
 1506 ~~class IV deficiency is any act, omission, or practice related to~~
 1507 ~~required reports, forms, or documents which does not have the~~
 1508 ~~potential of negatively affecting patients.~~ These violations are
 1509 of a type that the agency determines do not threaten the health,
 1510 safety, or security of patients. Upon finding an uncorrected or
 1511 repeated class IV violation deficiency, the agency shall impose
 1512 an administrative fine not to exceed \$500 for each occurrence
 1513 and each day that the uncorrected or repeated violation
 1514 deficiency exists.

1515 (3) In addition to any other penalties imposed pursuant to
 1516 this section or part, the agency may assess costs related to an
 1517 investigation that results in a successful prosecution,
 1518 excluding costs associated with an attorney's time.

1519 Section 50. Subsection (4) of section 400.497, Florida
 1520 Statutes, is amended to read:

1521 400.497 Rules establishing minimum standards.—The agency
 1522 shall adopt, publish, and enforce rules to implement part II of
 1523 chapter 408 and this part, including, as applicable, ss. 400.506
 1524 and 400.509, which must provide reasonable and fair minimum
 1525 standards relating to:

1526 (4) Licensure application and renewal and certificates of
 1527 exemption.

1528 Section 51. Subsection (5) and paragraph (a) of subsection
 1529 (15) of section 400.506, Florida Statutes, are amended to read:

1530 400.506 Licensure of nurse registries; requirements;
 1531 penalties.—

1532 (5) (a) In addition to the requirements of s. 408.812, any
 1533 person who owns, operates, or maintains an unlicensed nurse
 1534 registry and who, ~~within 10 working days~~ after receiving
 1535 notification from the agency, fails to cease operation and apply
 1536 for a license under this part commits a misdemeanor of the
 1537 second degree, punishable as provided in s. 775.082 or s.
 1538 775.083. Each day of continued operation is a separate offense.

1539 (b) If a nurse registry fails to cease operation after
 1540 agency notification, the agency may impose a fine pursuant to s.
 1541 408.812 ~~of \$500 for each day of noncompliance.~~

1542 (15) (a) The agency may deny, suspend, or revoke the
 1543 license of a nurse registry and shall impose a fine of \$5,000
 1544 against a nurse registry that:

1545 1. Provides services to residents in an assisted living
 1546 facility for which the nurse registry does not receive fair
 1547 market value remuneration.

1548 2. Provides staffing to an assisted living facility for
 1549 which the nurse registry does not receive fair market value
 1550 remuneration.

1551 3. Fails to provide the agency, upon request, with copies
 1552 of all contracts with assisted living facilities which were
 1553 executed within the last 5 years.

1554 ~~4. Gives remuneration to a case manager, discharge
 1555 planner, facility based staff member, or third party vendor who
 1556 is involved in the discharge planning process of a facility
 1557 licensed under chapter 395 or this chapter and from whom the
 1558 nurse registry receives referrals. A nurse registry is exempt
 1559 from this subparagraph if it does not bill the Florida Medicaid
 1560 program or the Medicare program or share a controlling interest
 1561 with any entity licensed, registered, or certified under part II
 1562 of chapter 408 that bills the Florida Medicaid program or the
 1563 Medicare program.~~

1564 ~~5. Gives remuneration to a physician, a member of the
 1565 physician's office staff, or an immediate family member of the
 1566 physician, and the nurse registry received a patient referral in
 1567 the last 12 months from that physician or the physician's office
 1568 staff. A nurse registry is exempt from this subparagraph if it
 1569 does not bill the Florida Medicaid program or the Medicare
 1570 program or share a controlling interest with any entity
 1571 licensed, registered, or certified under part II of chapter 408
 1572 that bills the Florida Medicaid program or the Medicare program.~~

1573 Section 52. Subsection (1) of section 400.606, Florida
 1574 Statutes, is amended to read:

1575 400.606 License; application; renewal; conditional license

1576 or permit; certificate of need.-

1577 (1) In addition to the requirements of part II of chapter
 1578 408, the initial application and change of ownership application
 1579 must be accompanied by a plan for the delivery of home,
 1580 residential, and homelike inpatient hospice services to
 1581 terminally ill persons and their families. Such plan must
 1582 contain, but need not be limited to:

1583 (a) The estimated average number of terminally ill persons
 1584 to be served monthly.

1585 (b) The geographic area in which hospice services will be
 1586 available.

1587 (c) A listing of services which are or will be provided,
 1588 either directly by the applicant or through contractual
 1589 arrangements with existing providers.

1590 (d) Provisions for the implementation of hospice home care
 1591 within 3 months after licensure.

1592 (e) Provisions for the implementation of hospice homelike
 1593 inpatient care within 12 months after licensure.

1594 (f) The number and disciplines of professional staff to be
 1595 employed.

1596 (g) The name and qualifications of any existing or
 1597 potential contractee.

1598 (h) A plan for attracting and training volunteers.

1599

1600 ~~If the applicant is an existing licensed health care provider,~~

1601 ~~the application must be accompanied by a copy of the most recent~~
 1602 ~~profit-loss statement and, if applicable, the most recent~~
 1603 ~~licensure inspection report.~~

1604 Section 53. Subsection (6) of section 400.925, Florida
 1605 Statutes, is amended to read:

1606 400.925 Definitions.—As used in this part, the term:

1607 (6) "Home medical equipment" includes any product as
 1608 defined by the Food and Drug Administration's Federal Food,
 1609 Drug, and Cosmetic Act, any products reimbursed under the
 1610 Medicare Part B Durable Medical Equipment benefits, or any
 1611 products reimbursed under the Florida Medicaid durable medical
 1612 equipment program. Home medical equipment includes:

1613 (a) Oxygen and related respiratory equipment; ~~manual,~~
 1614 ~~motorized, or customized wheelchairs and related seating and~~
 1615 ~~positioning, but does not include prosthetics or orthotics or~~
 1616 ~~any splints, braces, or aids custom fabricated by a licensed~~
 1617 ~~health care practitioner;~~

1618 (b) Motorized scooters;

1619 (c) Personal transfer systems; ~~and~~

1620 (d) Specialty beds, for use by a person with a medical
 1621 need; and

1622 (e) Manual, motorized, or customized wheelchairs and
 1623 related seating and positioning, but does not include
 1624 prosthetics or orthotics or any splints, braces, or aids custom
 1625 fabricated by a licensed health care practitioner.

1626 Section 54. Subsection (4) of section 400.931, Florida
 1627 Statutes, is amended to read:

1628 400.931 Application for license; fee.—

1629 (4) When a change of the general manager of a home medical
 1630 equipment provider occurs, the licensee must notify the agency
 1631 of the change within the timeframes established in part II of
 1632 chapter 408 and applicable rules ~~45 days~~.

1633 Section 55. Subsection (2) of section 400.933, Florida
 1634 Statutes, is amended to read:

1635 400.933 Licensure inspections and investigations.—

1636 (2) The agency shall accept, in lieu of its own periodic
 1637 inspections for licensure, submission of the following:

1638 (a) The survey or inspection of an accrediting
 1639 organization, provided the accreditation of the licensed home
 1640 medical equipment provider is not provisional and provided the
 1641 licensed home medical equipment provider authorizes release of,
 1642 and the agency receives the report of, the accrediting
 1643 organization; or

1644 (b) A copy of a valid medical oxygen retail establishment
 1645 permit issued by the Department of Business and Professional
 1646 Regulation ~~Health~~, pursuant to chapter 499.

1647 Section 56. Subsection (2) of section 400.980, Florida
 1648 Statutes, is amended to read:

1649 400.980 Health care services pools.—

1650 (2) The requirements of part II of chapter 408 apply to

1651 the provision of services that require licensure or registration
1652 pursuant to this part and part II of chapter 408 and to entities
1653 registered by or applying for such registration from the agency
1654 pursuant to this part. Registration or a license issued by the
1655 agency is required for the operation of a health care services
1656 pool in this state. In accordance with s. 408.805, an applicant
1657 or licensee shall pay a fee for each license application
1658 submitted using this part, part II of chapter 408, and
1659 applicable rules. The agency shall adopt rules and provide forms
1660 required for such registration and shall impose a registration
1661 fee in an amount sufficient to cover the cost of administering
1662 this part and part II of chapter 408. In addition to the
1663 requirements in part II of chapter 408, the registrant must
1664 provide the agency with any change of information contained on
1665 the original registration application within the timeframes
1666 established in this part, part II of chapter 408, and applicable
1667 rules 14 days prior to the change.

1668 Section 57. Paragraphs (a) through (d) of subsection (4)
1669 of section 400.9905, Florida Statutes, are amended to read:

1670 400.9905 Definitions.—

1671 (4) "Clinic" means an entity where health care services
1672 are provided to individuals and which tenders charges for
1673 reimbursement for such services, including a mobile clinic and a
1674 portable equipment provider. As used in this part, the term does
1675 not include and the licensure requirements of this part do not

1676 | apply to:

1677 | (a) Entities licensed or registered by the state under
 1678 | chapter 395; entities licensed or registered by the state and
 1679 | providing only health care services within the scope of services
 1680 | authorized under their respective licenses under ss. 383.30-
 1681 | 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,
 1682 | this chapter except part X, chapter 429, chapter 463, chapter
 1683 | 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter
 1684 | 484, or chapter 651; end-stage renal disease providers
 1685 | authorized under 42 C.F.R. part 405, subpart U; providers
 1686 | certified under 42 C.F.R. part 485, subpart B or subpart H; or
 1687 | any entity that provides neonatal or pediatric hospital-based
 1688 | health care services or other health care services by licensed
 1689 | practitioners solely within a hospital licensed under chapter
 1690 | 395.

1691 | (b) Entities that own, directly or indirectly, entities
 1692 | licensed or registered by the state pursuant to chapter 395;
 1693 | entities that own, directly or indirectly, entities licensed or
 1694 | registered by the state and providing only health care services
 1695 | within the scope of services authorized pursuant to their
 1696 | respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
 1697 | chapter 390, chapter 394, chapter 397, this chapter except part
 1698 | X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 1699 | 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
 1700 | stage renal disease providers authorized under 42 C.F.R. part

1701 405, subpart U; providers certified under 42 C.F.R. part 485,
1702 subpart B or subpart H; or any entity that provides neonatal or
1703 pediatric hospital-based health care services by licensed
1704 practitioners solely within a hospital licensed under chapter
1705 395.

1706 (c) Entities that are owned, directly or indirectly, by an
1707 entity licensed or registered by the state pursuant to chapter
1708 395; entities that are owned, directly or indirectly, by an
1709 entity licensed or registered by the state and providing only
1710 health care services within the scope of services authorized
1711 pursuant to their respective licenses under ss. 383.30-383.332
1712 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1713 chapter except part X, chapter 429, chapter 463, chapter 465,
1714 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1715 chapter 651; end-stage renal disease providers authorized under
1716 42 C.F.R. part 405, subpart U; providers certified under 42
1717 C.F.R. part 485, subpart B or subpart H; or any entity that
1718 provides neonatal or pediatric hospital-based health care
1719 services by licensed practitioners solely within a hospital
1720 under chapter 395.

1721 (d) Entities that are under common ownership, directly or
1722 indirectly, with an entity licensed or registered by the state
1723 pursuant to chapter 395; entities that are under common
1724 ownership, directly or indirectly, with an entity licensed or
1725 registered by the state and providing only health care services

1726 within the scope of services authorized pursuant to their
1727 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1728 chapter 390, chapter 394, chapter 397, this chapter except part
1729 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1730 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1731 stage renal disease providers authorized under 42 C.F.R. part
1732 405, subpart U; providers certified under 42 C.F.R. part 485,
1733 subpart B or subpart H; or any entity that provides neonatal or
1734 pediatric hospital-based health care services by licensed
1735 practitioners solely within a hospital licensed under chapter
1736 395.

1737
1738 Notwithstanding this subsection, an entity shall be deemed a
1739 clinic and must be licensed under this part in order to receive
1740 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1741 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1742 Section 58. Subsection (6) of section 400.9935, Florida
1743 Statutes, is amended to read:

1744 400.9935 Clinic responsibilities.—

1745 (6) Any person or entity providing health care services
1746 which is not a clinic, as defined under s. 400.9905, may
1747 voluntarily apply for a certificate of exemption from licensure
1748 under its exempt status with the agency on a form that sets
1749 forth its name or names and addresses, a statement of the
1750 reasons why it cannot be defined as a clinic, and other

1751 information deemed necessary by the agency. An exemption may be
1752 valid for up to 2 years and is not transferable. The agency may
1753 charge an applicant for a certificate of exemption in an amount
1754 equal to \$100 or the actual cost of processing the certificate,
1755 whichever is less. An entity seeking a certificate of exemption
1756 must publish and maintain a schedule of charges for the medical
1757 services offered to patients. The schedule must include the
1758 prices charged to an uninsured person paying for such services
1759 by cash, check, credit card, or debit card. The schedule must be
1760 posted in a conspicuous place in the reception area of the
1761 entity and must include, but is not limited to, the 50 services
1762 most frequently provided by the entity. The schedule may group
1763 services by three price levels, listing services in each price
1764 level. The posting must be at least 15 square feet in size. As a
1765 condition precedent to receiving a certificate of exemption, an
1766 applicant must provide to the agency documentation of compliance
1767 with these requirements.

1768 Section 59. Paragraph (a) of subsection (2) of section
1769 408.033, Florida Statutes, is amended to read:

1770 408.033 Local and state health planning.—

1771 (2) FUNDING.—

1772 (a) The Legislature intends that the cost of local health
1773 councils be borne by assessments on selected health care
1774 facilities subject to facility licensure by the Agency for
1775 Health Care Administration, including abortion clinics, assisted

1776 living facilities, ambulatory surgical centers, birth ~~birthing~~
1777 centers, ~~clinical laboratories except community nonprofit blood~~
1778 ~~banks and clinical laboratories operated by practitioners for~~
1779 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1780 hospices, hospitals, intermediate care facilities for the
1781 developmentally disabled, nursing homes, health care clinics,
1782 and multiphasic testing centers and by assessments on
1783 organizations subject to certification by the agency pursuant to
1784 chapter 641, part III, including health maintenance
1785 organizations and prepaid health clinics. Fees assessed may be
1786 collected prospectively at the time of licensure renewal and
1787 prorated for the licensure period.

1788 Section 60. Paragraphs (f) through (t) of subsection (3)
1789 of section 408.036, Florida Statutes, are redesignated as
1790 paragraphs (e) through (s), respectively, and present paragraphs
1791 (e) and (p) of that subsection are amended, to read:

1792 408.036 Projects subject to review; exemptions.—

1793 (3) EXEMPTIONS.—Upon request, the following projects are
1794 subject to exemption from the provisions of subsection (1):

1795 ~~(e) For mobile surgical facilities and related health care~~
1796 ~~services provided under contract with the Department of~~
1797 ~~Corrections or a private correctional facility operating~~
1798 ~~pursuant to chapter 957.~~

1799 (o) ~~(p)~~ For replacement of a licensed nursing home on the
1800 same site, or within 5 miles of the same site if within the same

1801 subdistrict, if the number of licensed beds does not increase
 1802 except as permitted under paragraph (e) ~~(f)~~.

1803 Section 61. Paragraph (b) of subsection (3) of section
 1804 408.0361, Florida Statutes, is amended to read:

1805 408.0361 Cardiovascular services and burn unit licensure.—

1806 (3) In establishing rules for adult cardiovascular
 1807 services, the agency shall include provisions that allow for:

1808 (b)1. For a hospital seeking a Level I program,
 1809 demonstration that, for the most recent 12-month period as
 1810 reported to the agency, it has provided a minimum of 300 adult
 1811 inpatient and outpatient diagnostic cardiac catheterizations or,
 1812 for the most recent 12-month period, has discharged or
 1813 transferred at least 300 patients ~~inpatients~~ with the principal
 1814 diagnosis of ischemic heart disease and that it has a
 1815 formalized, written transfer agreement with a hospital that has
 1816 a Level II program, including written transport protocols to
 1817 ensure safe and efficient transfer of a patient within 60
 1818 minutes.

1819 2.a. A hospital located more than 100 road miles from the
 1820 closest Level II adult cardiovascular services program does not
 1821 need to meet the diagnostic cardiac catheterization volume and
 1822 ischemic heart disease diagnosis volume requirements in
 1823 subparagraph 1., if the hospital demonstrates that it has, for
 1824 the most recent 12-month period as reported to the agency,
 1825 provided a minimum of 100 adult inpatient and outpatient

1826 diagnostic cardiac catheterizations or that, for the most recent
1827 12-month period, it has discharged or transferred at least 300
1828 patients with the principal diagnosis of ischemic heart disease.

1829 b. ~~However,~~ A hospital located more than 100 road miles
1830 from the closest Level II adult cardiovascular services program
1831 does not need to meet the 60-minute transfer time protocol
1832 requirement in subparagraph 1., if the hospital demonstrates
1833 that it has a formalized, written transfer agreement with a
1834 hospital that has a Level II program. The agreement must include
1835 written transport protocols to ensure the safe and efficient
1836 transfer of a patient, taking into consideration the patient's
1837 clinical and physical characteristics, road and weather
1838 conditions, and viability of ground and air ambulance service to
1839 transfer the patient.

1840 3. At a minimum, the rules for adult cardiovascular
1841 services must require nursing and technical staff to have
1842 demonstrated experience in handling acutely ill patients
1843 requiring intervention, based on the staff member's previous
1844 experience in dedicated cardiac interventional laboratories or
1845 surgical centers. If a staff member's previous experience is in
1846 a dedicated cardiac interventional laboratory at a hospital that
1847 does not have an approved adult open-heart-surgery program, the
1848 staff member's previous experience qualifies only if, at the
1849 time the staff member acquired his or her experience, the
1850 dedicated cardiac interventional laboratory:

- 1851 a. Had an annual volume of 500 or more percutaneous
- 1852 cardiac intervention procedures;
- 1853 b. Achieved a demonstrated success rate of 95 percent or
- 1854 greater for percutaneous cardiac intervention procedures;
- 1855 c. Experienced a complication rate of less than 5 percent
- 1856 for percutaneous cardiac intervention procedures; and
- 1857 d. Performed diverse cardiac procedures, including, but
- 1858 not limited to, balloon angioplasty and stenting, rotational
- 1859 atherectomy, cutting balloon atheroma remodeling, and procedures
- 1860 relating to left ventricular support capability.

1861 Section 62. Subsection (4) of section 408.061, Florida
 1862 Statutes, is amended to read:

1863 408.061 Data collection; uniform systems of financial
 1864 reporting; information relating to physician charges;
 1865 confidential information; immunity.—

1866 (4) Within 120 days after the end of its fiscal year, each
 1867 health care facility, excluding continuing care facilities,
 1868 hospitals operated by state agencies, and nursing homes as those
 1869 terms are defined in s. 408.07 ~~s. 408.07(14) and (37)~~, shall
 1870 file with the agency, on forms adopted by the agency and based
 1871 on the uniform system of financial reporting, its actual
 1872 financial experience for that fiscal year, including
 1873 expenditures, revenues, and statistical measures. Such data may
 1874 be based on internal financial reports which are certified to be
 1875 complete and accurate by the provider. However, hospitals'

1876 actual financial experience shall be their audited actual
 1877 experience. Every nursing home shall submit to the agency, in a
 1878 format designated by the agency, a statistical profile of the
 1879 nursing home residents. The agency, in conjunction with the
 1880 Department of Elderly Affairs and the Department of Health,
 1881 shall review these statistical profiles and develop
 1882 recommendations for the types of residents who might more
 1883 appropriately be placed in their homes or other noninstitutional
 1884 settings.

1885 Section 63. Subsection (11) of section 408.07, Florida
 1886 Statutes, is amended to read:

1887 408.07 Definitions.—As used in this chapter, with the
 1888 exception of ss. 408.031-408.045, the term:

1889 ~~(11) "Clinical laboratory" means a facility licensed under~~
 1890 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
 1891 ~~483.041(6); any clinical laboratory operated by the state or a~~
 1892 ~~political subdivision of the state; any blood or tissue bank~~
 1893 ~~where the majority of revenues are received from the sale of~~
 1894 ~~blood or tissue and where blood, plasma, or tissue is procured~~
 1895 ~~from volunteer donors and donated, processed, stored, or~~
 1896 ~~distributed on a nonprofit basis; and any clinical laboratory~~
 1897 ~~which is wholly owned and operated by physicians who are~~
 1898 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
 1899 ~~in the same group practice, and at which no clinical laboratory~~
 1900 ~~work is performed for patients referred by any health care~~

1901 ~~provider who is not a member of that same group practice.~~

1902 Section 64. Subsection (4) of section 408.20, Florida
 1903 Statutes, is amended to read:

1904 408.20 Assessments; Health Care Trust Fund.—

1905 (4) Hospitals operated by a state agency ~~the Department of~~
 1906 ~~Children and Families, the Department of Health, or the~~
 1907 ~~Department of Corrections~~ are exempt from the assessments
 1908 required under this section.

1909 Section 65. Section 408.7056, Florida Statutes, is
 1910 repealed.

1911 Section 66. Subsections (10), (11), and (27) of section
 1912 408.802, Florida Statutes, are amended to read:

1913 408.802 Applicability.—The provisions of this part apply
 1914 to the provision of services that require licensure as defined
 1915 in this part and to the following entities licensed, registered,
 1916 or certified by the agency, as described in chapters 112, 383,
 1917 390, 394, 395, 400, 429, 440, 483, and 765:

1918 ~~(10) Mobile surgical facilities, as provided under part I~~
 1919 ~~of chapter 395.~~

1920 ~~(11) Health care risk managers, as provided under part I~~
 1921 ~~of chapter 395.~~

1922 ~~(27) Clinical laboratories, as provided under part I of~~
 1923 ~~chapter 483.~~

1924 Section 67. Subsections (12) and (13) of section 408.803,
 1925 Florida Statutes, are redesignated as subsections (13) and (14),

1926 | respectively, and a new subsection (12) is added to that
 1927 | section, to read:

1928 | 408.803 Definitions.—As used in this part, the term:

1929 | (12) "Relative" means an individual who is the father,
 1930 | mother, stepfather, stepmother, son, daughter, brother, sister,
 1931 | grandmother, grandfather, great-grandmother, great-grandfather,
 1932 | grandson, granddaughter, uncle, aunt, first cousin, nephew,
 1933 | niece, husband, wife, father-in-law, mother-in-law, son-in-law,
 1934 | daughter-in-law, brother-in-law, sister-in-law, stepson,
 1935 | stepdaughter, stepbrother, stepsister, half-brother, or half-
 1936 | sister of a patient or client.

1937 | Section 68. Paragraph (c) of subsection (7) of section
 1938 | 408.806, Florida Statutes, is amended, and subsection (9) is
 1939 | added to that section, to read:

1940 | 408.806 License application process.—

1941 | (7) (c) If an inspection is required by the authorizing
 1942 | statute for a license application other than an initial
 1943 | application, the inspection must be unannounced. This paragraph
 1944 | does not apply to inspections required pursuant to ss. 383.324,
 1945 | 395.0161(4) and, ~~429.67(6), and 483.061(2)~~.

1946 | (9) A licensee that holds a license for multiple providers
 1947 | licensed by the agency may request that all related license
 1948 | expiration dates be aligned. Upon such request, the agency may
 1949 | issue a license for an abbreviated licensure period with a
 1950 | prorated licensure fee.

1951 Section 69. Paragraphs (d) and (e) of subsection (1) of
 1952 section 408.809, Florida Statutes, are amended to read:

1953 408.809 Background screening; prohibited offenses.—

1954 (1) Level 2 background screening pursuant to chapter 435
 1955 must be conducted through the agency on each of the following
 1956 persons, who are considered employees for the purposes of
 1957 conducting screening under chapter 435:

1958 (d) Any person who is a controlling interest ~~if the agency~~
 1959 ~~has reason to believe that such person has been convicted of any~~
 1960 ~~offense prohibited by s. 435.04. For each controlling interest~~
 1961 ~~who has been convicted of any such offense, the licensee shall~~
 1962 ~~submit to the agency a description and explanation of the~~
 1963 ~~conviction at the time of license application.~~

1964 (e) Any person, as required by authorizing statutes,
 1965 seeking employment with a licensee or provider who is expected
 1966 to, or whose responsibilities may require him or her to, provide
 1967 personal care or services directly to clients or have access to
 1968 client funds, personal property, or living areas; and any
 1969 person, as required by authorizing statutes, contracting with a
 1970 licensee or provider whose responsibilities require him or her
 1971 to provide personal care or personal services directly to
 1972 clients, or contracting with a licensee or provider to work 20
 1973 hours a week or more who will have access to client funds,
 1974 personal property, or living areas. Evidence of contractor
 1975 screening may be retained by the contractor's employer or the

1976 | licensee.

1977 | Section 70. Subsection (8) of section 408.810, Florida
 1978 | Statutes, is amended, and subsections (11), (12), and (13) are
 1979 | added to that section, to read:

1980 | 408.810 Minimum licensure requirements.—In addition to the
 1981 | licensure requirements specified in this part, authorizing
 1982 | statutes, and applicable rules, each applicant and licensee must
 1983 | comply with the requirements of this section in order to obtain
 1984 | and maintain a license.

1985 | (8) Upon application for initial licensure or change of
 1986 | ownership licensure, the applicant shall furnish satisfactory
 1987 | proof of the applicant's financial ability to operate in
 1988 | accordance with the requirements of this part, authorizing
 1989 | statutes, and applicable rules. The agency shall establish
 1990 | standards for this purpose, including information concerning the
 1991 | applicant's controlling interests. The agency shall also
 1992 | establish documentation requirements, to be completed by each
 1993 | applicant, that show anticipated provider revenues and
 1994 | expenditures, the basis for financing the anticipated cash-flow
 1995 | requirements of the provider, and an applicant's access to
 1996 | contingency financing. A current certificate of authority,
 1997 | pursuant to chapter 651, may be provided as proof of financial
 1998 | ability to operate. The agency may require a licensee to provide
 1999 | proof of financial ability to operate at any time if there is
 2000 | evidence of financial instability, including, but not limited

2001 to, unpaid expenses necessary for the basic operations of the
2002 provider. An applicant applying for change of ownership
2003 licensure is exempt from furnishing proof of financial ability
2004 to operate if the provider has been licensed for at least 5
2005 years, and:

2006 (a) The ownership change is a result of a corporate
2007 reorganization under which the controlling interest is unchanged
2008 and the applicant submits organizational charts that represent
2009 the current and proposed structure of the reorganized
2010 corporation; or

2011 (b) The ownership change is due solely to the death of a
2012 person holding a controlling interest, and the surviving
2013 controlling interests continue to hold at least 51 percent of
2014 ownership after the change of ownership.

2015 (11) The agency may adopt rules that govern the
2016 circumstances under which a controlling interest, an
2017 administrator, an employee, or a contractor, or a representative
2018 thereof, who is not a relative of the client may act as an agent
2019 of the client in authorizing consent for medical treatment,
2020 assignment of benefits, and release of information. Such rules
2021 may include requirements related to disclosure, bonding,
2022 restrictions, and client protections.

2023 (12) The licensee shall ensure that no person holds any
2024 ownership interest, either directly or indirectly, regardless of
2025 ownership structure, who:

2026 (a) Has a disqualifying offense pursuant to s. 408.809; or

2027 (b) Holds or has held any ownership interest, either
2028 directly or indirectly, regardless of ownership structure, in a
2029 provider that had a license revoked or an application denied
2030 pursuant to s. 408.815.

2031 (13) If the licensee is a publicly traded corporation or
2032 is wholly owned, directly or indirectly, by a publicly traded
2033 corporation, subsection (12) does not apply to those persons
2034 whose sole relationship with the corporation is as a shareholder
2035 of publicly traded shares. As used in this subsection, a
2036 "publicly traded corporation" is a corporation that issues
2037 securities traded on an exchange registered with the United
2038 States Securities and Exchange Commission as a national
2039 securities exchange.

2040 Section 71. Section 408.812, Florida Statutes, is amended
2041 to read:

2042 408.812 Unlicensed activity.—

2043 (1) A person or entity may not offer or advertise services
2044 that require licensure as defined by this part, authorizing
2045 statutes, or applicable rules to the public without obtaining a
2046 valid license from the agency. A licenseholder may not advertise
2047 or hold out to the public that he or she holds a license for
2048 other than that for which he or she actually holds the license.

2049 (2) The operation or maintenance of an unlicensed provider
2050 or the performance of any services that require licensure

2051 without proper licensure is a violation of this part and
2052 authorizing statutes. Unlicensed activity constitutes harm that
2053 materially affects the health, safety, and welfare of clients,
2054 and constitutes abuse and neglect, as defined in s. 415.102. The
2055 agency or any state attorney may, in addition to other remedies
2056 provided in this part, bring an action for an injunction to
2057 restrain such violation, or to enjoin the future operation or
2058 maintenance of the unlicensed provider or the performance of any
2059 services in violation of this part and authorizing statutes,
2060 until compliance with this part, authorizing statutes, and
2061 agency rules has been demonstrated to the satisfaction of the
2062 agency.

2063 (3) It is unlawful for any person or entity to own,
2064 operate, or maintain an unlicensed provider. If after receiving
2065 notification from the agency, such person or entity fails to
2066 cease operation ~~and apply for a license under this part and~~
2067 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
2068 to penalties as prescribed by authorizing statutes and
2069 applicable rules. Each day of ~~continued~~ operation is a separate
2070 offense.

2071 (4) Any person or entity that fails to cease operation
2072 after agency notification may be fined \$1,000 for each day of
2073 noncompliance.

2074 (5) When a controlling interest or licensee has an
2075 interest in more than one provider and fails to license a

2076 provider rendering services that require licensure, the agency
 2077 may revoke all licenses, and impose actions under s. 408.814,
 2078 and regardless of correction, impose a fine of \$1,000 per day,
 2079 unless otherwise specified by authorizing statutes, against each
 2080 licensee until such time as the appropriate license is obtained
 2081 or the unlicensed activity ceases ~~for the unlicensed operation.~~

2082 (6) In addition to granting injunctive relief pursuant to
 2083 subsection (2), if the agency determines that a person or entity
 2084 is operating or maintaining a provider without obtaining a
 2085 license and determines that a condition exists that poses a
 2086 threat to the health, safety, or welfare of a client of the
 2087 provider, the person or entity is subject to the same actions
 2088 and fines imposed against a licensee as specified in this part,
 2089 authorizing statutes, and agency rules.

2090 (7) Any person aware of the operation of an unlicensed
 2091 provider must report that provider to the agency.

2092 Section 72. Subsections (10), (11) and (26) of section
 2093 408.820, Florida Statutes, are amended, and subsections (12)
 2094 through (25) and (27) and (28) are redesignated as subsections
 2095 (10) through (23) and (24) and (25), respectively, to read:

2096 408.820 Exemptions.—Except as prescribed in authorizing
 2097 statutes, the following exemptions shall apply to specified
 2098 requirements of this part:

2099 ~~(10) Mobile surgical facilities, as provided under part I~~
 2100 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

2101 ~~(11) Health care risk managers, as provided under part I~~
 2102 ~~of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
 2103 ~~and 408.811.~~

2104 ~~(26) Clinical laboratories, as provided under part I of~~
 2105 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

2106 Section 73. Subsection (7) of section 409.905, Florida
 2107 Statutes, is amended to read:

2108 409.905 Mandatory Medicaid services.—The agency may make
 2109 payments for the following services, which are required of the
 2110 state by Title XIX of the Social Security Act, furnished by
 2111 Medicaid providers to recipients who are determined to be
 2112 eligible on the dates on which the services were provided. Any
 2113 service under this section shall be provided only when medically
 2114 necessary and in accordance with state and federal law.

2115 Mandatory services rendered by providers in mobile units to
 2116 Medicaid recipients may be restricted by the agency. Nothing in
 2117 this section shall be construed to prevent or limit the agency
 2118 from adjusting fees, reimbursement rates, lengths of stay,
 2119 number of visits, number of services, or any other adjustments
 2120 necessary to comply with the availability of moneys and any
 2121 limitations or directions provided for in the General
 2122 Appropriations Act or chapter 216.

2123 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
 2124 for medically necessary diagnostic laboratory procedures ordered
 2125 by a licensed physician or other licensed practitioner of the

2126 | healing arts which are provided for a recipient in a laboratory
 2127 | that meets the requirements for Medicare participation and is
 2128 | appropriately certified by the Centers for Medicare and Medicaid
 2129 | Services under the federal Clinical Laboratory Improvement
 2130 | Amendments and the federal rules adopted thereunder ~~licensed~~
 2131 | ~~under chapter 483, if required.~~

2132 | Section 74. Subsection (10) of section 409.907, Florida
 2133 | Statutes, is amended to read:

2134 | 409.907 Medicaid provider agreements.—The agency may make
 2135 | payments for medical assistance and related services rendered to
 2136 | Medicaid recipients only to an individual or entity who has a
 2137 | provider agreement in effect with the agency, who is performing
 2138 | services or supplying goods in accordance with federal, state,
 2139 | and local law, and who agrees that no person shall, on the
 2140 | grounds of handicap, race, color, or national origin, or for any
 2141 | other reason, be subjected to discrimination under any program
 2142 | or activity for which the provider receives payment from the
 2143 | agency.

2144 | (10) The agency may consider whether the provider, or any
 2145 | officer, director, agent, managing employee, or affiliated
 2146 | person, or any partner or shareholder having an ownership
 2147 | interest equal to 5 percent or greater in the provider if the
 2148 | provider is a corporation, partnership, or other business
 2149 | entity, has:

2150 | (a) Made a false representation or omission of any

2151 material fact in making the application, including the
2152 submission of an application that conceals the controlling or
2153 ownership interest of any officer, director, agent, managing
2154 employee, affiliated person, or partner or shareholder who may
2155 not be eligible to participate;

2156 (b) Been or is currently excluded, suspended, terminated
2157 from, or has involuntarily withdrawn from participation in,
2158 Florida's Medicaid program or any other state's Medicaid
2159 program, or from participation in any other governmental or
2160 private health care or health insurance program;

2161 ~~(c) Been convicted of a criminal offense relating to the~~
2162 ~~delivery of any goods or services under Medicaid or Medicare or~~
2163 ~~any other public or private health care or health insurance~~
2164 ~~program including the performance of management or~~
2165 ~~administrative services relating to the delivery of goods or~~
2166 ~~services under any such program;~~

2167 ~~(d) Been convicted under federal or state law of a~~
2168 ~~criminal offense related to the neglect or abuse of a patient in~~
2169 ~~connection with the delivery of any health care goods or~~
2170 ~~services;~~

2171 ~~(e) Been convicted under federal or state law of a~~
2172 ~~criminal offense relating to the unlawful manufacture,~~
2173 ~~distribution, prescription, or dispensing of a controlled~~
2174 ~~substance;~~

2175 ~~(f) Been convicted of any criminal offense relating to~~

2176 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~
2177 ~~or other financial misconduct;~~

2178 ~~(g) Been convicted under federal or state law of a crime~~
2179 ~~punishable by imprisonment of a year or more which involves~~
2180 ~~moral turpitude;~~

2181 ~~(h) Been convicted in connection with the interference or~~
2182 ~~obstruction of any investigation into any criminal offense~~
2183 ~~listed in this subsection;~~

2184 ~~(i) Been found to have violated federal or state laws,~~
2185 ~~rules, or regulations governing Florida's Medicaid program or~~
2186 ~~any other state's Medicaid program, the Medicare program, or any~~
2187 ~~other publicly funded federal or state health care or health~~
2188 ~~insurance program, and been sanctioned accordingly;~~

2189 (c) ~~(j)~~ Been previously found by a licensing, certifying,
2190 or professional standards board or agency to have violated the
2191 standards or conditions relating to licensure or certification
2192 or the quality of services provided; or

2193 (d) ~~(k)~~ Failed to pay any fine or overpayment properly
2194 assessed under the Medicaid program in which no appeal is
2195 pending or after resolution of the proceeding by stipulation or
2196 agreement, unless the agency has issued a specific letter of
2197 forgiveness or has approved a repayment schedule to which the
2198 provider agrees to adhere.

2199 Section 75. Subsection (6) of section 409.9116, Florida
2200 Statutes, is amended to read:

2201 409.9116 Disproportionate share/financial assistance
 2202 program for rural hospitals.—In addition to the payments made
 2203 under s. 409.911, the Agency for Health Care Administration
 2204 shall administer a federally matched disproportionate share
 2205 program and a state-funded financial assistance program for
 2206 statutory rural hospitals. The agency shall make
 2207 disproportionate share payments to statutory rural hospitals
 2208 that qualify for such payments and financial assistance payments
 2209 to statutory rural hospitals that do not qualify for
 2210 disproportionate share payments. The disproportionate share
 2211 program payments shall be limited by and conform with federal
 2212 requirements. Funds shall be distributed quarterly in each
 2213 fiscal year for which an appropriation is made. Notwithstanding
 2214 the provisions of s. 409.915, counties are exempt from
 2215 contributing toward the cost of this special reimbursement for
 2216 hospitals serving a disproportionate share of low-income
 2217 patients.

2218 (6) This section applies only to hospitals that were
 2219 defined as statutory rural hospitals, or their successor-in-
 2220 interest hospital, prior to January 1, 2001. Any additional
 2221 hospital that is defined as a statutory rural hospital, or its
 2222 successor-in-interest hospital, on or after January 1, 2001, is
 2223 not eligible for programs under this section unless additional
 2224 funds are appropriated each fiscal year specifically to the
 2225 rural hospital disproportionate share and financial assistance

2226 programs in an amount necessary to prevent any hospital, or its
2227 successor-in-interest hospital, eligible for the programs prior
2228 to January 1, 2001, from incurring a reduction in payments
2229 because of the eligibility of an additional hospital to
2230 participate in the programs. A hospital, or its successor-in-
2231 interest hospital, which received funds pursuant to this section
2232 before January 1, 2001, and which qualifies under s.
2233 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the
2234 programs under this section and is not required to seek
2235 additional appropriations under this subsection.

2236 Section 76. Paragraphs (a) and (b) of subsection (1) of
2237 section 409.975, Florida Statutes, are amended to read:

2238 409.975 Managed care plan accountability.—In addition to
2239 the requirements of s. 409.967, plans and providers
2240 participating in the managed medical assistance program shall
2241 comply with the requirements of this section.

2242 (1) PROVIDER NETWORKS.—Managed care plans must develop and
2243 maintain provider networks that meet the medical needs of their
2244 enrollees in accordance with standards established pursuant to
2245 s. 409.967(2)(c). Except as provided in this section, managed
2246 care plans may limit the providers in their networks based on
2247 credentials, quality indicators, and price.

2248 (a) Plans must include all providers in the region that
2249 are classified by the agency as essential Medicaid providers,
2250 unless the agency approves, in writing, an alternative

2251 arrangement for securing the types of services offered by the
2252 essential providers. Providers are essential for serving
2253 Medicaid enrollees if they offer services that are not available
2254 from any other provider within a reasonable access standard, or
2255 if they provided a substantial share of the total units of a
2256 particular service used by Medicaid patients within the region
2257 during the last 3 years and the combined capacity of other
2258 service providers in the region is insufficient to meet the
2259 total needs of the Medicaid patients. The agency may not
2260 classify physicians and other practitioners as essential
2261 providers. The agency, at a minimum, shall determine which
2262 providers in the following categories are essential Medicaid
2263 providers:

- 2264 1. Federally qualified health centers.
- 2265 2. Statutory teaching hospitals as defined in s.
2266 408.07(44) ~~s. 408.07(45)~~.
- 2267 3. Hospitals that are trauma centers as defined in s.
2268 395.4001(14).
- 2269 4. Hospitals located at least 25 miles from any other
2270 hospital with similar services.

2271
2272 Managed care plans that have not contracted with all essential
2273 providers in the region as of the first date of recipient
2274 enrollment, or with whom an essential provider has terminated
2275 its contract, must negotiate in good faith with such essential

2276 providers for 1 year or until an agreement is reached, whichever
2277 is first. Payments for services rendered by a nonparticipating
2278 essential provider shall be made at the applicable Medicaid rate
2279 as of the first day of the contract between the agency and the
2280 plan. A rate schedule for all essential providers shall be
2281 attached to the contract between the agency and the plan. After
2282 1 year, managed care plans that are unable to contract with
2283 essential providers shall notify the agency and propose an
2284 alternative arrangement for securing the essential services for
2285 Medicaid enrollees. The arrangement must rely on contracts with
2286 other participating providers, regardless of whether those
2287 providers are located within the same region as the
2288 nonparticipating essential service provider. If the alternative
2289 arrangement is approved by the agency, payments to
2290 nonparticipating essential providers after the date of the
2291 agency's approval shall equal 90 percent of the applicable
2292 Medicaid rate. Except for payment for emergency services, if the
2293 alternative arrangement is not approved by the agency, payment
2294 to nonparticipating essential providers shall equal 110 percent
2295 of the applicable Medicaid rate.

2296 (b) Certain providers are statewide resources and
2297 essential providers for all managed care plans in all regions.
2298 All managed care plans must include these essential providers in
2299 their networks. Statewide essential providers include:

2300 1. Faculty plans of Florida medical schools.

2301 2. Regional perinatal intensive care centers as defined in
2302 s. 383.16(2).

2303 3. Hospitals licensed as specialty children's hospitals as
2304 defined in s. 395.002(27) ~~s. 395.002(28)~~.

2305 4. Accredited and integrated systems serving medically
2306 complex children which comprise separately licensed, but
2307 commonly owned, health care providers delivering at least the
2308 following services: medical group home, in-home and outpatient
2309 nursing care and therapies, pharmacy services, durable medical
2310 equipment, and Prescribed Pediatric Extended Care.

2311
2312 Managed care plans that have not contracted with all statewide
2313 essential providers in all regions as of the first date of
2314 recipient enrollment must continue to negotiate in good faith.
2315 Payments to physicians on the faculty of nonparticipating
2316 Florida medical schools shall be made at the applicable Medicaid
2317 rate. Payments for services rendered by regional perinatal
2318 intensive care centers shall be made at the applicable Medicaid
2319 rate as of the first day of the contract between the agency and
2320 the plan. Except for payments for emergency services, payments
2321 to nonparticipating specialty children's hospitals shall equal
2322 the highest rate established by contract between that provider
2323 and any other Medicaid managed care plan.

2324 Section 77. Subsections (5) and (17) of section 429.02,
2325 Florida Statutes, are amended to read:

2326 429.02 Definitions.—When used in this part, the term:

2327 (5) "Assisted living facility" means any building or
 2328 buildings, section or distinct part of a building, private home,
 2329 boarding home, home for the aged, or other residential facility,
 2330 regardless of whether operated for profit ~~or not~~, which
 2331 ~~undertakes~~ through its ownership or management provides to
 2332 ~~provide~~ housing, meals, and one or more personal services for a
 2333 period exceeding 24 hours to one or more adults who are not
 2334 relatives of the owner or administrator.

2335 (17) "Personal services" means direct physical assistance
 2336 with or supervision of the activities of daily living, ~~and~~ the
 2337 self-administration of medication, or ~~and~~ other similar services
 2338 which the department may define by rule. The term may ~~"Personal~~
 2339 ~~services"~~ shall not be construed to mean the provision of
 2340 medical, nursing, dental, or mental health services.

2341 Section 78. Paragraphs (b) and (d) of subsection (2) of
 2342 section 429.04, Florida Statutes, are amended, and subsection
 2343 (3) is added that section, to read:

2344 429.04 Facilities to be licensed; exemptions.—

2345 (2) The following are exempt from licensure under this
 2346 part:

2347 (b) Any facility or part of a facility licensed by the
 2348 Agency for Persons with Disabilities under chapter 393, a mental
 2349 health facility licensed under ~~or~~ chapter 394, a hospital
 2350 licensed under chapter 395, a nursing home licensed under part

2351 II of chapter 400, an inpatient hospice licensed under part IV
2352 of chapter 400, a home for special services licensed under part
2353 V of chapter 400, an intermediate care facility licensed under
2354 part VIII of chapter 400, or a transitional living facility
2355 licensed under part XI of chapter 400.

2356 (d) Any person who provides housing, meals, and one or
2357 more personal services on a 24-hour basis in the person's own
2358 home to not more than two adults who do not receive optional
2359 state supplementation. The person who provides the housing,
2360 meals, and personal services must own or rent the home and must
2361 have established the home as his or her permanent residence. For
2362 purposes of this paragraph, any person holding a homestead
2363 exemption at an address other than that at which the person
2364 asserts this exemption is presumed to not have established
2365 permanent residence ~~reside therein~~. This exemption does not
2366 apply to a person or entity that previously held a license
2367 issued by the agency which was revoked or for which renewal was
2368 denied by final order of the agency, or when the person or
2369 entity voluntarily relinquished the license during agency
2370 enforcement proceedings.

2371 (3) Upon agency investigation of unlicensed activity, any
2372 person or entity that claims that it is exempt under this
2373 section must provide documentation substantiating entitlement to
2374 the exemption.

2375 Section 79. Paragraphs (b) and (d) of subsection (1) of

2376 section 429.08, Florida Statutes, are amended to read:

2377 429.08 Unlicensed facilities; referral of person for
 2378 residency to unlicensed facility; penalties.—

2379 (1) (b) ~~Except as provided under paragraph (d),~~ Any person
 2380 who owns, rents, or otherwise maintains a building or property
 2381 used as ~~operates, or maintains~~ an unlicensed assisted living
 2382 facility commits a felony of the third degree, punishable as
 2383 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
 2384 continued operation is a separate offense.

2385 (d) In addition to the requirements of s. 408.812, any
 2386 person who owns, operates, or maintains an unlicensed assisted
 2387 living facility after receiving notice from the agency ~~due to a~~
 2388 ~~change in this part or a modification in rule within 6 months~~
 2389 ~~after the effective date of such change and who, within 10~~
 2390 ~~working days after receiving notification from the agency, fails~~
 2391 ~~to cease operation or apply for a license under this part~~
 2392 commits a felony of the third degree, punishable as provided in
 2393 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
 2394 operation is a separate offense.

2395 Section 80. Section 429.176, Florida Statutes, is amended
 2396 to read:

2397 429.176 Notice of change of administrator.—If, during the
 2398 period for which a license is issued, the owner changes
 2399 administrators, the owner must notify the agency of the change
 2400 within 10 days and provide documentation within 90 days that the

2401 new administrator has completed the applicable core educational
 2402 requirements under s. 429.52. A facility may not be operated for
 2403 more than 120 consecutive days without an administrator who has
 2404 completed the core educational requirements.

2405 Section 81. Subsection (7) of section 429.19, Florida
 2406 Statutes, is amended to read:

2407 429.19 Violations; imposition of administrative fines;
 2408 grounds.—

2409 (7) In addition to any administrative fines imposed, the
 2410 agency may assess a survey fee, equal to the lesser of one half
 2411 of the facility's biennial license and bed fee or \$500, to cover
 2412 the cost of conducting initial complaint investigations that
 2413 result in the finding of a violation that was the subject of the
 2414 complaint or monitoring visits conducted ~~under s. 429.28(3)(e)~~
 2415 to verify the correction of the violations.

2416 Section 82. Subsection (2) of section 429.24, Florida
 2417 Statutes, is amended to read:

2418 429.24 Contracts.—

2419 (2) Each contract must contain express provisions
 2420 specifically setting forth the services and accommodations to be
 2421 provided by the facility; the rates or charges; provision for at
 2422 least 30 days' written notice of a rate increase; the rights,
 2423 duties, and obligations of the residents, other than those
 2424 specified in s. 429.28; and other matters that the parties deem
 2425 appropriate. A new service or accommodation added to, or

2426 implemented in, a resident's contract for which the resident was
 2427 not previously charged does not require a 30-day written notice
 2428 of a rate increase. Whenever money is deposited or advanced by a
 2429 resident in a contract as security for performance of the
 2430 contract agreement or as advance rent for other than the next
 2431 immediate rental period:

2432 (a) Such funds shall be deposited in a banking institution
 2433 in this state that is located, if possible, in the same
 2434 community in which the facility is located; shall be kept
 2435 separate from the funds and property of the facility; may not be
 2436 represented as part of the assets of the facility on financial
 2437 statements; and shall be used, or otherwise expended, only for
 2438 the account of the resident.

2439 (b) The licensee shall, within 30 days of receipt of
 2440 advance rent or a security deposit, notify the resident or
 2441 residents in writing of the manner in which the licensee is
 2442 holding the advance rent or security deposit and state the name
 2443 and address of the depository where the moneys are being held.
 2444 The licensee shall notify residents of the facility's policy on
 2445 advance deposits.

2446 Section 83. Paragraphs (e) and (j) of subsection (1) and
 2447 paragraphs (c), (d), and (e) of subsection (3) of section
 2448 429.28, Florida Statutes, are amended to read:

2449 429.28 Resident bill of rights.—

2450 (1) No resident of a facility shall be deprived of any

2451 civil or legal rights, benefits, or privileges guaranteed by
2452 law, the Constitution of the State of Florida, or the
2453 Constitution of the United States as a resident of a facility.
2454 Every resident of a facility shall have the right to:

2455 (e) Freedom to participate in and benefit from community
2456 services and activities and to pursue ~~achieve~~ the highest
2457 possible level of independence, autonomy, and interaction within
2458 the community.

2459 (j) Assistance with obtaining access to adequate and
2460 appropriate health care. For purposes of this paragraph, the
2461 term "adequate and appropriate health care" means the management
2462 of medications, assistance in making appointments for health
2463 care services, the provision of or arrangement of transportation
2464 to health care appointments, and the performance of health care
2465 services in accordance with s. 429.255 which are consistent with
2466 established and recognized standards within the community.

2467 ~~(3)(c) During any calendar year in which no survey is~~
2468 ~~conducted, the agency shall conduct at least one monitoring~~
2469 ~~visit of each facility cited in the previous year for a class I~~
2470 ~~or class II violation, or more than three uncorrected class III~~
2471 ~~violations.~~

2472 ~~(d) The agency may conduct periodic followup inspections~~
2473 ~~as necessary to monitor the compliance of facilities with a~~
2474 ~~history of any class I, class II, or class III violations that~~
2475 ~~threaten the health, safety, or security of residents.~~

2476 ~~(c) The agency may conduct complaint investigations as~~
 2477 ~~warranted to investigate any allegations of noncompliance with~~
 2478 ~~requirements required under this part or rules adopted under~~
 2479 ~~this part.~~

2480 Section 84. Subsection (1) of section 429.294, Florida
 2481 Statutes, is amended to read:

2482 429.294 Availability of facility records for investigation
 2483 of resident's rights violations and defenses; penalty.—

2484 (1) Failure to provide complete copies of a resident's
 2485 records, including, but not limited to, all medical records and
 2486 the resident's chart, within the control or possession of the
 2487 facility ~~within 10 days,~~ in accordance with ~~the provisions of s.~~
 2488 400.145, shall constitute evidence of failure of that party to
 2489 comply with good faith discovery requirements and shall waive
 2490 the good faith certificate and presuit notice requirements under
 2491 this part by the requesting party.

2492 Section 85. Subsection (2) of section 429.34, Florida
 2493 Statutes, is amended to read:

2494 429.34 Right of entry and inspection.—

2495 (2) (a) In addition to the requirements of s. 408.811, the
 2496 agency may inspect and investigate facilities as necessary to
 2497 determine compliance with this part, part II of chapter 408, and
 2498 rules adopted thereunder. ~~The agency shall inspect each licensed~~
 2499 ~~assisted living facility at least once every 24 months to~~
 2500 ~~determine compliance with this chapter and related rules. If an~~

2501 assisted living facility is cited for a class I violation or
2502 three or more class II violations arising from separate surveys
2503 within a 60-day period or due to unrelated circumstances during
2504 the same survey, the agency must conduct an additional licensure
2505 inspection within 6 months.

2506 (b) During any calendar year in which a survey is not
2507 conducted, the agency may conduct monitoring visits of each
2508 facility cited in the previous year for a class I or class II
2509 violation or for more than three uncorrected class III
2510 violations.

2511 Section 86. Subsection (4) of section 429.52, Florida
2512 Statutes, is amended to read:

2513 429.52 Staff training and educational programs; core
2514 educational requirement.—

2515 (4) Effective January 1, 2004, a new facility
2516 administrator must complete the required training and education,
2517 including the competency test, within 90 days after the date of
2518 employment ~~a reasonable time after being employed~~ as an
2519 administrator, ~~as determined by the department~~. Failure to do so
2520 is a violation of this part and subjects the violator to an
2521 administrative fine as prescribed in s. 429.19. Administrators
2522 licensed in accordance with part II of chapter 468 are exempt
2523 from this requirement. Other licensed professionals may be
2524 exempted, as determined by the department by rule.

2525 Section 87. Subsection (3) of section 435.04, Florida

2526 Statutes, is amended, and subsection (4) is added to that
2527 section, to read:

2528 435.04 Level 2 screening standards.—

2529 (3) The security background investigations under this
2530 section must ensure that no person subject to this section has
2531 been arrested for and is awaiting final disposition of, been
2532 found guilty of, regardless of adjudication, or entered a plea
2533 of nolo contendere or guilty to, any offense that constitutes
2534 domestic violence as defined in s. 741.28, whether such act was
2535 committed in this state or in another jurisdiction.

2536 (4) For the purpose of screening applicability to
2537 participate in the Medicaid program, the security background
2538 investigations under this section must ensure that a person
2539 subject to screening under this section has not been arrested
2540 for and is not awaiting final disposition of; has not been found
2541 guilty of, regardless of adjudication, or entered a plea of nolo
2542 contendere or guilty to; and has not been adjudicated delinquent
2543 and the record sealed or expunged for, any of the following
2544 offenses:

2545 (a) Violation of a federal law or a law in any state which
2546 creates a criminal offense relating to:

2547 1. The delivery of any goods or services under Medicaid or
2548 Medicare or any other public or private health care or health
2549 insurance program, including the performance of management or
2550 administrative services relating to the delivery of goods or

2551 services under any such program;
2552 2. Neglect or abuse of a patient in connection with the
2553 delivery of any health care good or service;
2554 3. Unlawful manufacture, distribution, prescription, or
2555 dispensing of a controlled substance;
2556 4. Fraud, theft, embezzlement, breach of fiduciary
2557 responsibility, or other financial misconduct; or
2558 5. Moral turpitude, if punishable by imprisonment of a
2559 year or more.
2560 6. Interference with or obstruction of an investigation
2561 into any criminal offense identified in this subsection.
2562 (b) Violation of the following state laws or laws of
2563 another jurisdiction:
2564 1. Section 817.569, criminal use of a public record or
2565 information contained in a public record;
2566 2. Section 838.016, unlawful compensation or reward for
2567 official behavior;
2568 3. Section 838.021, corruption by threat against a public
2569 servant;
2570 4. Section 838.022, official misconduct;
2571 5. Section 838.22, bid tampering;
2572 6. Section 839.13, falsifying records;
2573 7. Section 839.26, misuse of confidential information; or
2574 (c) Violation of a federal or state law, rule, or
2575 regulation governing the Florida Medicaid program or any other

2576 state Medicaid program, the Medicare program, or any other
2577 publicly funded federal or state health care or health insurance
2578 program.

2579 Section 88. Paragraph (a) of subsection (2) of section
2580 435.12, Florida Statutes, is amended to read:

2581 435.12 Care Provider Background Screening Clearinghouse.—

2582 (2) (a) To ensure that the information in the clearinghouse
2583 is current, the fingerprints of an employee required to be
2584 screened by a specified agency and included in the clearinghouse
2585 must be:

2586 1. Retained by the Department of Law Enforcement pursuant
2587 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
2588 Enforcement must report the results of searching those
2589 fingerprints against state incoming arrest fingerprint
2590 submissions to the Agency for Health Care Administration for
2591 inclusion in the clearinghouse.

2592 2. Retained by the Federal Bureau of Investigation in the
2593 national retained print arrest notification program as soon as
2594 the Department of Law Enforcement begins participation in such
2595 program. Arrest prints will be searched against retained prints
2596 at the Federal Bureau of Investigation and notification of
2597 arrests will be forwarded to the Florida Department of Law
2598 Enforcement and reported to the Agency for Health Care
2599 Administration for inclusion in the clearinghouse.

2600 3. Resubmitted for a Federal Bureau of Investigation

2601 national criminal history check every 5 years until such time as
2602 the fingerprints are retained by the Federal Bureau of
2603 Investigation.

2604 4. Subject to retention on a 5-year renewal basis with
2605 fees collected at the time of initial submission or resubmission
2606 of fingerprints.

2607 a. A person who passed a level 2 screening under s. 435.04
2608 after December 31, 2012, by a specified agency may extend the
2609 screening renewal period until January 1, 2020, unless the
2610 Department of Law Enforcement begins participation in the
2611 national retained print arrest notification program before that
2612 date.

2613 b. The retention of fingerprints by the Department of Law
2614 Enforcement pursuant to s. 943.05(2)(g) and (h) and (3) is
2615 extended until the earlier of January 1, 2021, or the date that
2616 the Department of Law Enforcement begins participation in the
2617 national retained print arrest notification program.

2618 5. Submitted with a photograph of the person taken at the
2619 time the fingerprints are submitted.

2620 Section 89. Subsection (4) of section 456.001, Florida
2621 Statutes, is amended to read:

2622 456.001 Definitions.—As used in this chapter, the term:

2623 (4) "Health care practitioner" means any person licensed
2624 under chapter 457; chapter 458; chapter 459; chapter 460;
2625 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;

2626 chapter 466; chapter 467; part I, part II, part III, part V,
2627 part X, part XIII, or part XIV of chapter 468; chapter 478;
2628 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2629 chapter 484; chapter 486; chapter 490; or chapter 491.

2630 Section 90. Subsection (3) of section 456.054, Florida
2631 Statutes, is redesignated as subsection (4), and a new
2632 subsection (3) is added to that section, to read:

2633 456.054 Kickbacks prohibited.—

2634 (3) (a) It is unlawful for any person or any entity to pay
2635 or receive, directly or indirectly, a commission, bonus,
2636 kickback, or rebate from, or to engage in any form of a split-
2637 fee arrangement with, a dialysis facility, health care
2638 practitioner, surgeon, person, or entity for referring patients
2639 to a clinical laboratory as defined in s. 483.803.

2640 (b) It is unlawful for any clinical laboratory to:

2641 1. Provide personnel to perform any functions or duties in
2642 a health care practitioner's office or dialysis facility for any
2643 purpose, including for the collection or handling of specimens,
2644 directly or indirectly through an employee, contractor,
2645 independent staffing company, lease agreement, or otherwise,
2646 unless the laboratory and the practitioner's office, or dialysis
2647 facility, are wholly owned and operated by the same entity.

2648 2. Lease space within any part of a health care
2649 practitioner's office or dialysis facility for any purpose,
2650 including for the purpose of establishing a collection station

2651 where materials or specimens are collected or drawn from
 2652 patients.

2653 Section 91. Paragraphs (h) and (i) of subsection (2) of
 2654 section 456.057, Florida Statutes, are amended to read:

2655 456.057 Ownership and control of patient records; report
 2656 or copies of records to be furnished; disclosure of
 2657 information.—

2658 (2) As used in this section, the terms "records owner,"
 2659 "health care practitioner," and "health care practitioner's
 2660 employer" do not include any of the following persons or
 2661 entities; furthermore, the following persons or entities are not
 2662 authorized to acquire or own medical records, but are authorized
 2663 under the confidentiality and disclosure requirements of this
 2664 section to maintain those documents required by the part or
 2665 chapter under which they are licensed or regulated:

2666 (h) Clinical laboratory personnel licensed under part II
 2667 ~~III~~ of chapter 483.

2668 (i) Medical physicists licensed under part III ~~IV~~ of
 2669 chapter 483.

2670 Section 92. Paragraph (j) of subsection (1) of section
 2671 456.076, Florida Statutes, is amended to read:

2672 456.076 Impaired practitioner programs.—

2673 (1) As used in this section, the term:

2674 (j) "Practitioner" means a person licensed, registered,
 2675 certified, or regulated by the department under part III of

2676 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
2677 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2678 chapter 466; chapter 467; part I, part II, part III, part V,
2679 part X, part XIII, or part XIV of chapter 468; chapter 478;
2680 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2681 chapter 484; chapter 486; chapter 490; or chapter 491; or an
2682 applicant for a license, registration, or certification under
2683 the same laws.

2684 Section 93. Subsection (2) of section 458.307, Florida
2685 Statutes, is amended to read:

2686 458.307 Board of Medicine.—

2687 (2) Twelve members of the board must be licensed
2688 physicians in good standing in this state who are residents of
2689 the state and who have been engaged in the active practice or
2690 teaching of medicine for at least 4 years immediately preceding
2691 their appointment. One of the physicians must be on the full-
2692 time faculty of a medical school in this state, and one of the
2693 physicians must be in private practice and on the full-time
2694 staff of a statutory teaching hospital in this state as defined
2695 in s. 408.07. At least one of the physicians must be a graduate
2696 of a foreign medical school. The remaining three members must be
2697 residents of the state who are not, and never have been,
2698 licensed health care practitioners. One member must be a health
2699 care risk manager ~~licensed under s. 395.10974~~. At least one
2700 member of the board must be 60 years of age or older.

2701 Section 94. Subsection (1) of section 458.345, Florida
 2702 Statutes, is amended to read:

2703 458.345 Registration of resident physicians, interns, and
 2704 fellows; list of hospital employees; prescribing of medicinal
 2705 drugs; penalty.—

2706 (1) Any person desiring to practice as a resident
 2707 physician, assistant resident physician, house physician,
 2708 intern, or fellow in fellowship training which leads to
 2709 subspecialty board certification in this state, or any person
 2710 desiring to practice as a resident physician, assistant resident
 2711 physician, house physician, intern, or fellow in fellowship
 2712 training in a teaching hospital in this state as defined in s.
 2713 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a
 2714 valid, active license issued under this chapter shall apply to
 2715 the department to be registered and shall remit a fee not to
 2716 exceed \$300 as set by the board. The department shall register
 2717 any applicant the board certifies has met the following
 2718 requirements:

2719 (a) Is at least 21 years of age.

2720 (b) Has not committed any act or offense within or without
 2721 the state which would constitute the basis for refusal to
 2722 certify an application for licensure pursuant to s. 458.331.

2723 (c) Is a graduate of a medical school or college as
 2724 specified in s. 458.311(1)(f).

2725 Section 95. Subsection (1) of s. 459.021, Florida

2726 Statutes, is amended to read:

2727 459.021 Registration of resident physicians, interns, and
 2728 fellows; list of hospital employees; penalty.—

2729 (1) Any person who holds a degree of Doctor of Osteopathic
 2730 Medicine from a college of osteopathic medicine recognized and
 2731 approved by the American Osteopathic Association who desires to
 2732 practice as a resident physician, intern, or fellow in
 2733 fellowship training which leads to subspecialty board
 2734 certification in this state, or any person desiring to practice
 2735 as a resident physician, intern, or fellow in fellowship
 2736 training in a teaching hospital in this state as defined in s.
 2737 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
 2738 active license issued under this chapter shall apply to the
 2739 department to be registered, on an application provided by the
 2740 department, before commencing such a training program and shall
 2741 remit a fee not to exceed \$300 as set by the board.

2742 Section 96. Part I of chapter 483, Florida Statutes,
 2743 consisting of sections 483.011, 483.021, 483.031, 483.035,
 2744 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
 2745 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
 2746 is repealed.

2747 Section 97. Section 483.294, Florida Statutes, is amended
 2748 to read:

2749 483.294 Inspection of centers.—In accordance with s.
 2750 408.811, the agency shall, ~~at least once annually,~~ inspect the

2751 premises and operations of all centers subject to licensure
2752 under this part.

2753 Section 98. Subsections (3) and (5) of section 483.801,
2754 Florida Statutes, are amended, and subsection (6) is added to
2755 that section, to read:

2756 483.801 Exemptions.—This part applies to all clinical
2757 laboratories and clinical laboratory personnel within this
2758 state, except:

2759 (3) Persons engaged in testing performed by laboratories
2760 that are wholly owned and operated by one or more practitioners
2761 licensed under chapter 458, chapter 459, chapter 460, chapter
2762 461, chapter 462, chapter 463, or chapter 466 who practice in
2763 the same group practice, and in which no clinical laboratory
2764 work is performed for patients referred by any health care
2765 provider who is not a member of that group practice regulated
2766 under s. 483.035(1) or exempt from regulation under s.
2767 483.031(2).

2768 (5) Advanced registered nurse practitioners licensed under
2769 part I of chapter 464 who perform provider-performed microscopy
2770 procedures (PPMP) in a ~~an exclusive-use~~ laboratory setting
2771 pursuant to subsection (3).

2772 (6) Persons performing laboratory testing within a
2773 physician office practice for patients referred by a health care
2774 provider who is a member of the same physician office practice,
2775 if the laboratory or entity operating the laboratory within a

2776 physician office practice is under common ownership, directly or
 2777 indirectly, with an entity licensed pursuant to chapter 395.

2778 Section 99. Subsections (2), (3), and (4) of section
 2779 483.803, Florida Statutes, are amended to read:

2780 483.803 Definitions.—As used in this part, the term:

2781 (2) "Clinical laboratory" means the physical location in
 2782 which one or more of the following services are performed to
 2783 provide information or materials for use in the diagnosis,
 2784 prevention, or treatment of a disease or the identification or
 2785 assessment of a medical or physical condition:

2786 (a) Clinical laboratory services, which entail the
 2787 examination of fluids or other materials taken from the human
 2788 body.

2789 (b) Anatomic laboratory services, which entail the
 2790 examination of tissue taken from the human body.

2791 (c) Cytology laboratory services, which entail the
 2792 examination of cells from individual tissues or fluid taken from
 2793 the human body ~~a clinical laboratory as defined in s. 483.041.~~

2794 (3) "Clinical laboratory examination" means a procedure
 2795 performed to deliver the services identified in subsection (2),
 2796 including the oversight or interpretation of such services
 2797 ~~clinical laboratory examination as defined in s. 483.041.~~

2798 (4) "Clinical laboratory personnel" includes a clinical
 2799 laboratory director, supervisor, technologist, blood gas
 2800 analyst, or technician who performs or is responsible for

2801 laboratory test procedures, but the term does not include
 2802 trainees, persons who perform screening for blood banks or
 2803 plasmapheresis centers, phlebotomists, or persons employed by a
 2804 clinical laboratory to perform manual pretesting duties or
 2805 clerical, personnel, or other administrative responsibilities,
 2806 ~~or persons engaged in testing performed by laboratories~~
 2807 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
 2808 ~~483.031(2).~~

2809 Section 100. Section 483.813, Florida Statutes, is amended
 2810 to read:

2811 483.813 Clinical laboratory personnel license.—A person
 2812 may not conduct a clinical laboratory examination or report the
 2813 results of such examination unless such person is licensed under
 2814 this part to perform such procedures. However, this provision
 2815 does not apply to any practitioner of the healing arts
 2816 authorized to practice in this state ~~or to persons engaged in~~
 2817 ~~testing performed by laboratories regulated under s. 483.035(1)~~
 2818 ~~or exempt from regulation under s. 483.031(2).~~ The department
 2819 may grant a temporary license to any candidate it deems properly
 2820 qualified, for a period not to exceed 1 year.

2821 Section 101. Subsection (2) of section 483.823, Florida
 2822 Statutes, is amended to read:

2823 483.823 Qualifications of clinical laboratory personnel.—

2824 (2) Personnel qualifications may require appropriate
 2825 education, training, or experience or the passing of an

2826 examination in appropriate subjects or any combination of these,
2827 but a ~~no~~ practitioner of the healing arts licensed to practice
2828 in this state is not required to obtain any license ~~under this~~
2829 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~
2830 ~~required for clinical laboratory licensure.~~

2831 Section 102. Paragraph (c) of subsection (7) and
2832 subsections (8) and (9) of section 491.003, Florida Statutes,
2833 are amended to read:

2834 491.003 Definitions.—As used in this chapter:

2835 (7) The "practice of clinical social work" is defined as
2836 the use of scientific and applied knowledge, theories, and
2837 methods for the purpose of describing, preventing, evaluating,
2838 and treating individual, couple, marital, family, or group
2839 behavior, based on the person-in-situation perspective of
2840 psychosocial development, normal and abnormal behavior,
2841 psychopathology, unconscious motivation, interpersonal
2842 relationships, environmental stress, differential assessment,
2843 differential planning, and data gathering. The purpose of such
2844 services is the prevention and treatment of undesired behavior
2845 and enhancement of mental health. The practice of clinical
2846 social work includes methods of a psychological nature used to
2847 evaluate, assess, diagnose, treat, and prevent emotional and
2848 mental disorders and dysfunctions (whether cognitive, affective,
2849 or behavioral), sexual dysfunction, behavioral disorders,
2850 alcoholism, and substance abuse. The practice of clinical social

2851 work includes, but is not limited to, psychotherapy,
2852 hypnotherapy, and sex therapy. The practice of clinical social
2853 work also includes counseling, behavior modification,
2854 consultation, client-centered advocacy, crisis intervention, and
2855 the provision of needed information and education to clients,
2856 when using methods of a psychological nature to evaluate,
2857 assess, diagnose, treat, and prevent emotional and mental
2858 disorders and dysfunctions (whether cognitive, affective, or
2859 behavioral), sexual dysfunction, behavioral disorders,
2860 alcoholism, or substance abuse. The practice of clinical social
2861 work may also include clinical research into more effective
2862 psychotherapeutic modalities for the treatment and prevention of
2863 such conditions.

2864 (c) The terms "diagnose" and "treat," as used in this
2865 chapter, when considered in isolation or in conjunction with ~~any~~
2866 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2867 to permit the performance of any act which clinical social
2868 workers are not educated and trained to perform, including, but
2869 not limited to, admitting persons to hospitals for treatment of
2870 the foregoing conditions, treating persons in hospitals without
2871 medical supervision, prescribing medicinal drugs as defined in
2872 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2873 ~~to chapter 483~~, or radiological procedures, or use of
2874 electroconvulsive therapy. In addition, this definition ~~shall~~
2875 may not be construed to permit any person licensed,

2876 provisionally licensed, registered, or certified pursuant to
2877 this chapter to describe or label any test, report, or procedure
2878 as "psychological," except to relate specifically to the
2879 definition of practice authorized in this subsection.

2880 (8) The term "practice of marriage and family therapy"
2881 means ~~is defined as~~ the use of scientific and applied marriage
2882 and family theories, methods, and procedures for the purpose of
2883 describing, evaluating, and modifying marital, family, and
2884 individual behavior, within the context of marital and family
2885 systems, including the context of marital formation and
2886 dissolution, and is based on marriage and family systems theory,
2887 marriage and family development, human development, normal and
2888 abnormal behavior, psychopathology, human sexuality,
2889 psychotherapeutic and marriage and family therapy theories and
2890 techniques. The practice of marriage and family therapy includes
2891 methods of a psychological nature used to evaluate, assess,
2892 diagnose, treat, and prevent emotional and mental disorders or
2893 dysfunctions (whether cognitive, affective, or behavioral),
2894 sexual dysfunction, behavioral disorders, alcoholism, and
2895 substance abuse. The practice of marriage and family therapy
2896 includes, but is not limited to, marriage and family therapy,
2897 psychotherapy, including behavioral family therapy,
2898 hypnotherapy, and sex therapy. The practice of marriage and
2899 family therapy also includes counseling, behavior modification,
2900 consultation, client-centered advocacy, crisis intervention, and

2901 the provision of needed information and education to clients,
2902 when using methods of a psychological nature to evaluate,
2903 assess, diagnose, treat, and prevent emotional and mental
2904 disorders and dysfunctions (whether cognitive, affective, or
2905 behavioral), sexual dysfunction, behavioral disorders,
2906 alcoholism, or substance abuse. The practice of marriage and
2907 family therapy may also include clinical research into more
2908 effective psychotherapeutic modalities for the treatment and
2909 prevention of such conditions.

2910 (a) Marriage and family therapy may be rendered to
2911 individuals, including individuals affected by termination of
2912 marriage, to couples, whether married or unmarried, to families,
2913 or to groups.

2914 (b) The use of specific methods, techniques, or modalities
2915 within the practice of marriage and family therapy is restricted
2916 to marriage and family therapists appropriately trained in the
2917 use of such methods, techniques, or modalities.

2918 (c) The terms "diagnose" and "treat," as used in this
2919 chapter, when considered in isolation or in conjunction with ~~any~~
2920 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2921 to permit the performance of any act that ~~which~~ marriage and
2922 family therapists are not educated and trained to perform,
2923 including, but not limited to, admitting persons to hospitals
2924 for treatment of the foregoing conditions, treating persons in
2925 hospitals without medical supervision, prescribing medicinal

2926 | drugs as defined in chapter 465, authorizing clinical laboratory
 2927 | procedures ~~pursuant to chapter 483,~~ or radiological procedures,
 2928 | or the use of electroconvulsive therapy. In addition, this
 2929 | definition may ~~shall~~ not be construed to permit any person
 2930 | licensed, provisionally licensed, registered, or certified
 2931 | pursuant to this chapter to describe or label any test, report,
 2932 | or procedure as "psychological," except to relate specifically
 2933 | to the definition of practice authorized in this subsection.

2934 | (d) The definition of "marriage and family therapy"
 2935 | contained in this subsection includes all services offered
 2936 | directly to the general public or through organizations, whether
 2937 | public or private, and applies whether payment is requested or
 2938 | received for services rendered.

2939 | (9) The term "practice of mental health counseling" means
 2940 | ~~is defined as~~ the use of scientific and applied behavioral
 2941 | science theories, methods, and techniques for the purpose of
 2942 | describing, preventing, and treating undesired behavior and
 2943 | enhancing mental health and human development and is based on
 2944 | the person-in-situation perspectives derived from research and
 2945 | theory in personality, family, group, and organizational
 2946 | dynamics and development, career planning, cultural diversity,
 2947 | human growth and development, human sexuality, normal and
 2948 | abnormal behavior, psychopathology, psychotherapy, and
 2949 | rehabilitation. The practice of mental health counseling
 2950 | includes methods of a psychological nature used to evaluate,

2951 assess, diagnose, and treat emotional and mental dysfunctions or
2952 disorders, whether cognitive, affective, or behavioral,
2953 ~~behavioral disorders~~, interpersonal relationships, sexual
2954 dysfunction, alcoholism, and substance abuse. The practice of
2955 mental health counseling includes, but is not limited to,
2956 psychotherapy, hypnotherapy, and sex therapy. The practice of
2957 mental health counseling also includes counseling, behavior
2958 modification, consultation, client-centered advocacy, crisis
2959 intervention, and the provision of needed information and
2960 education to clients, when using methods of a psychological
2961 nature to evaluate, assess, diagnose, treat, and prevent
2962 emotional and mental disorders and dysfunctions (whether
2963 cognitive, affective, or behavioral), behavioral disorders,
2964 sexual dysfunction, alcoholism, or substance abuse. The practice
2965 of mental health counseling may also include clinical research
2966 into more effective psychotherapeutic modalities for the
2967 treatment and prevention of such conditions.

2968 (a) Mental health counseling may be rendered to
2969 individuals, including individuals affected by the termination
2970 of marriage, and to couples, families, groups, organizations,
2971 and communities.

2972 (b) The use of specific methods, techniques, or modalities
2973 within the practice of mental health counseling is restricted to
2974 mental health counselors appropriately trained in the use of
2975 such methods, techniques, or modalities.

2976 (c) The terms "diagnose" and "treat," as used in this
 2977 chapter, when considered in isolation or in conjunction with any
 2978 provision of the rules of the board, may ~~shall~~ not be construed
 2979 to permit the performance of any act that ~~which~~ mental health
 2980 counselors are not educated and trained to perform, including,
 2981 but not limited to, admitting persons to hospitals for treatment
 2982 of the foregoing conditions, treating persons in hospitals
 2983 without medical supervision, prescribing medicinal drugs as
 2984 defined in chapter 465, authorizing clinical laboratory
 2985 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
 2986 or the use of electroconvulsive therapy. In addition, this
 2987 definition may ~~shall~~ not be construed to permit any person
 2988 licensed, provisionally licensed, registered, or certified
 2989 pursuant to this chapter to describe or label any test, report,
 2990 or procedure as "psychological," except to relate specifically
 2991 to the definition of practice authorized in this subsection.

2992 (d) The definition of "mental health counseling" contained
 2993 in this subsection includes all services offered directly to the
 2994 general public or through organizations, whether public or
 2995 private, and applies whether payment is requested or received
 2996 for services rendered.

2997 Section 103. Paragraph (h) of subsection (4) of section
 2998 627.351, Florida Statutes, is amended to read:

2999 627.351 Insurance risk apportionment plans.—

3000 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

3001 (h) As used in this subsection:

3002 1. "Health care provider" means hospitals licensed under
 3003 chapter 395; physicians licensed under chapter 458; osteopathic
 3004 physicians licensed under chapter 459; podiatric physicians
 3005 licensed under chapter 461; dentists licensed under chapter 466;
 3006 chiropractic physicians licensed under chapter 460; naturopaths
 3007 licensed under chapter 462; nurses licensed under part I of
 3008 chapter 464; midwives licensed under chapter 467; ~~clinical~~
 3009 ~~laboratories registered under chapter 483~~; physician assistants
 3010 licensed under chapter 458 or chapter 459; physical therapists
 3011 and physical therapist assistants licensed under chapter 486;
 3012 health maintenance organizations certificated under part I of
 3013 chapter 641; ambulatory surgical centers licensed under chapter
 3014 395; other medical facilities as defined in subparagraph 2.;
 3015 blood banks, plasma centers, industrial clinics, and renal
 3016 dialysis facilities; or professional associations, partnerships,
 3017 corporations, joint ventures, or other associations for
 3018 professional activity by health care providers.

3019 2. "Other medical facility" means a facility the primary
 3020 purpose of which is to provide human medical diagnostic services
 3021 or a facility providing nonsurgical human medical treatment, to
 3022 which facility the patient is admitted and from which facility
 3023 the patient is discharged within the same working day, and which
 3024 facility is not part of a hospital. However, a facility existing
 3025 for the primary purpose of performing terminations of pregnancy

3026 or an office maintained by a physician or dentist for the
 3027 practice of medicine may ~~shall~~ not be construed to be an "other
 3028 medical facility."

3029 3. "Health care facility" means any hospital licensed
 3030 under chapter 395, health maintenance organization certificated
 3031 under part I of chapter 641, ambulatory surgical center licensed
 3032 under chapter 395, or other medical facility as defined in
 3033 subparagraph 2.

3034 Section 104. Paragraph (h) of subsection (1) of section
 3035 627.602, Florida Statutes, is amended to read:

3036 627.602 Scope, format of policy.—

3037 (1) Each health insurance policy delivered or issued for
 3038 delivery to any person in this state must comply with all
 3039 applicable provisions of this code and all of the following
 3040 requirements:

3041 (h) Section 641.312 and the provisions of the Employee
 3042 Retirement Income Security Act of 1974, as implemented by 29
 3043 C.F.R. s. 2560.503-1, relating to internal grievances. This
 3044 paragraph does not apply ~~to a health insurance policy that is~~
 3045 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
 3046 ~~or~~ to the types of benefits or coverages provided under s.
 3047 627.6513(1)-(14) issued in any market.

3048 Section 105. Subsection (1) of section 627.6406, Florida
 3049 Statutes, is amended to read:

3050 627.6406 Maternity care.—

3051 (1) Any policy of health insurance which ~~that~~ provides
 3052 coverage for maternity care must also cover the services of
 3053 certified nurse-midwives and midwives licensed pursuant to
 3054 chapter 467, and the services of birth centers licensed under
 3055 ss. 383.30-383.332 ~~383.30-383.335~~.

3056 Section 106. Paragraphs (b) and (e) of subsection (1) of
 3057 section 627.64194, Florida Statutes, are amended to read:

3058 627.64194 Coverage requirements for services provided by
 3059 nonparticipating providers; payment collection limitations.—

3060 (1) As used in this section, the term:

3061 (b) "Facility" means a licensed facility as defined in s.
 3062 395.002(16) and an urgent care center as defined in s. 395.002
 3063 ~~s. 395.002(30)~~.

3064 (e) "Nonparticipating provider" means a provider who is
 3065 not a preferred provider as defined in s. 627.6471 or a provider
 3066 who is not an exclusive provider as defined in s. 627.6472. For
 3067 purposes of covered emergency services under this section, a
 3068 facility licensed under chapter 395 or an urgent care center
 3069 defined in s. 395.002 ~~s. 395.002(30)~~ is a nonparticipating
 3070 provider if the facility has not contracted with an insurer to
 3071 provide emergency services to its insureds at a specified rate.

3072 Section 107. Section 627.6513, Florida Statutes, is
 3073 amended to read:

3074 627.6513 Scope.—Section 641.312 and the provisions of the
 3075 Employee Retirement Income Security Act of 1974, as implemented

3076 | by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
 3077 | apply to all group health insurance policies issued under this
 3078 | part. This section does not apply to ~~a group health insurance~~
 3079 | ~~policy that is subject to the Subscriber Assistance Program in~~
 3080 | ~~s. 408.7056 or to:~~

3081 | (1) Coverage only for accident insurance, or disability
 3082 | income insurance, or any combination thereof.

3083 | (2) Coverage issued as a supplement to liability
 3084 | insurance.

3085 | (3) Liability insurance, including general liability
 3086 | insurance and automobile liability insurance.

3087 | (4) Workers' compensation or similar insurance.

3088 | (5) Automobile medical payment insurance.

3089 | (6) Credit-only insurance.

3090 | (7) Coverage for onsite medical clinics, including prepaid
 3091 | health clinics under part II of chapter 641.

3092 | (8) Other similar insurance coverage, specified in rules
 3093 | adopted by the commission, under which benefits for medical care
 3094 | are secondary or incidental to other insurance benefits. To the
 3095 | extent possible, such rules must be consistent with regulations
 3096 | adopted by the United States Department of Health and Human
 3097 | Services.

3098 | (9) Limited scope dental or vision benefits, if offered
 3099 | separately.

3100 | (10) Benefits for long-term care, nursing home care, home

3101 health care, or community-based care, or any combination
 3102 thereof, if offered separately.

3103 (11) Other similar, limited benefits, if offered
 3104 separately, as specified in rules adopted by the commission.

3105 (12) Coverage only for a specified disease or illness, if
 3106 offered as independent, noncoordinated benefits.

3107 (13) Hospital indemnity or other fixed indemnity
 3108 insurance, if offered as independent, noncoordinated benefits.

3109 (14) Benefits provided through a Medicare supplemental
 3110 health insurance policy, as defined under s. 1882(g)(1) of the
 3111 Social Security Act, coverage supplemental to the coverage
 3112 provided under 10 U.S.C. chapter 55, and similar supplemental
 3113 coverage provided to coverage under a group health plan, which
 3114 are offered as a separate insurance policy and as independent,
 3115 noncoordinated benefits.

3116 Section 108. Subsection (1) of section 627.6574, Florida
 3117 Statutes, is amended to read:

3118 627.6574 Maternity care.—

3119 (1) Any group, blanket, or franchise policy of health
 3120 insurance which ~~that~~ provides coverage for maternity care must
 3121 also cover the services of certified nurse-midwives and midwives
 3122 licensed pursuant to chapter 467, and the services of birth
 3123 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

3124 Section 109. Paragraph (j) of subsection (1) of section
 3125 641.185, Florida Statutes, is amended to read:

3126 641.185 Health maintenance organization subscriber
3127 protections.—

3128 (1) With respect to the provisions of this part and part
3129 III, the principles expressed in the following statements ~~shall~~
3130 serve as standards to be followed by the commission, the office,
3131 the department, and the Agency for Health Care Administration in
3132 exercising their powers and duties, in exercising administrative
3133 discretion, in administrative interpretations of the law, in
3134 enforcing its provisions, and in adopting rules:

3135 ~~(j) A health maintenance organization should receive~~
3136 ~~timely and, if necessary, urgent review by an independent state~~
3137 ~~external review organization for unresolved grievances and~~
3138 ~~appeals pursuant to s. 408.7056.~~

3139 Section 110. Paragraph (a) of subsection (18) of section
3140 641.31, Florida Statutes, is amended to read:

3141 641.31 Health maintenance contracts.—

3142 (18) (a) Health maintenance contracts that provide
3143 coverage, benefits, or services for maternity care must provide,
3144 as an option to the subscriber, the services of nurse-midwives
3145 and midwives licensed pursuant to chapter 467, and the services
3146 of birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~
3147 ~~383.335~~, if such services are available within the service area.

3148 Section 111. Section 641.312, Florida Statutes, is amended
3149 to read:

3150 641.312 Scope.—The Office of Insurance Regulation may

3151 adopt rules to administer ~~the provisions of~~ the National
3152 Association of Insurance Commissioners' Uniform Health Carrier
3153 External Review Model Act, issued by the National Association of
3154 Insurance Commissioners and dated April 2010. This section does
3155 not apply to a ~~health maintenance contract that is subject to~~
3156 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
3157 types of benefits or coverages provided under s. 627.6513(1)-
3158 (14) issued in any market.

3159 Section 112. Subsection (4) of section 641.3154, Florida
3160 Statutes, is amended to read:

3161 641.3154 Organization liability; provider billing
3162 prohibited.—

3163 (4) A provider or any representative of a provider,
3164 regardless of whether the provider is under contract with the
3165 health maintenance organization, may not collect or attempt to
3166 collect money from, maintain any action at law against, or
3167 report to a credit agency a subscriber of an organization for
3168 payment of services for which the organization is liable, if the
3169 provider in good faith knows or should know that the
3170 organization is liable. This prohibition applies during the
3171 pendency of any claim for payment made by the provider to the
3172 organization for payment of the services and any legal
3173 proceedings or dispute resolution process to determine whether
3174 the organization is liable for the services if the provider is
3175 informed that such proceedings are taking place. It is presumed

3176 that a provider does not know and should not know that an
 3177 organization is liable unless:

3178 (a) The provider is informed by the organization that it
 3179 accepts liability;

3180 (b) A court of competent jurisdiction determines that the
 3181 organization is liable; or

3182 ~~(c) The office or agency makes a final determination that~~
 3183 ~~the organization is required to pay for such services subsequent~~
 3184 ~~to a recommendation made by the Subscriber Assistance Panel~~
 3185 ~~pursuant to s. 408.7056; or~~

3186 (c) ~~(d)~~ The agency issues a final order that the
 3187 organization is required to pay for such services subsequent to
 3188 a recommendation made by a resolution organization pursuant to
 3189 s. 408.7057.

3190 Section 113. Paragraph (c) of subsection (5) of section
 3191 641.51, Florida Statutes, is amended to read:

3192 641.51 Quality assurance program; second medical opinion
 3193 requirement.—

3194 (5) (c) For second opinions provided by contract physicians
 3195 the organization is prohibited from charging a fee to the
 3196 subscriber in an amount in excess of the subscriber fees
 3197 established by contract for referral contract physicians. The
 3198 organization shall pay the amount of all charges, which are
 3199 usual, reasonable, and customary in the community, for second
 3200 opinion services performed by a physician not under contract

3201 with the organization, but may require the subscriber to be
 3202 responsible for up to 40 percent of such amount. The
 3203 organization may require that any tests deemed necessary by a
 3204 noncontract physician shall be conducted by the organization.
 3205 The organization may deny reimbursement rights granted under
 3206 this section in the event the subscriber seeks in excess of
 3207 three such referrals per year if such subsequent referral costs
 3208 are deemed by the organization to be evidence that the
 3209 subscriber has unreasonably overutilized the second opinion
 3210 privilege. A subscriber ~~thus~~ denied reimbursement under this
 3211 section has ~~shall have~~ recourse to grievance procedures as
 3212 specified in ss. ~~408.7056~~, 641.495, and 641.511. The
 3213 organization's physician's professional judgment concerning the
 3214 treatment of a subscriber derived after review of a second
 3215 opinion is ~~shall be~~ controlling as to the treatment obligations
 3216 of the health maintenance organization. Treatment not authorized
 3217 by the health maintenance organization is ~~shall be~~ at the
 3218 subscriber's expense.

3219 Section 114. Subsection (1), paragraph (e) of subsection
 3220 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of
 3221 subsection (6), and subsections (7) through (12) of section
 3222 641.511, Florida Statutes, are amended to read:

3223 641.511 Subscriber grievance reporting and resolution
 3224 requirements.—

3225 (1) Every organization must have a grievance procedure

3226 available to its subscribers for the purpose of addressing
3227 complaints and grievances. Every organization must notify its
3228 subscribers that a subscriber must submit a grievance within 1
3229 year after the date of occurrence of the action that initiated
3230 the grievance, ~~and may submit the grievance for review to the~~
3231 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
3232 ~~after receiving a final disposition of the grievance through the~~
3233 ~~organization's grievance process.~~ An organization shall maintain
3234 records of all grievances and shall report annually to the
3235 agency the total number of grievances handled, a categorization
3236 of the cases underlying the grievances, and the final
3237 disposition of the grievances.

3238 (3) Each organization's grievance procedure, as required
3239 under subsection (1), must include, at a minimum:

3240 (e) A notice that a subscriber may voluntarily pursue
3241 binding arbitration in accordance with the terms of the contract
3242 if offered by the organization, after completing the
3243 organization's grievance procedure ~~and as an alternative to the~~
3244 ~~Subscriber Assistance Program.~~ Such notice shall include an
3245 explanation that the subscriber may incur some costs if the
3246 subscriber pursues binding arbitration, depending upon the terms
3247 of the subscriber's contract.

3248 (4) ~~(d) In any case when the review process does not~~
3249 ~~resolve a difference of opinion between the organization and the~~
3250 ~~subscriber or the provider acting on behalf of the subscriber,~~

3251 ~~the subscriber or the provider acting on behalf of the~~
 3252 ~~subscriber may submit a written grievance to the Subscriber~~
 3253 ~~Assistance Program.~~

3254 ~~(6) (g) In any case when the expedited review process does~~
 3255 ~~not resolve a difference of opinion between the organization and~~
 3256 ~~the subscriber or the provider acting on behalf of the~~
 3257 ~~subscriber, the subscriber or the provider acting on behalf of~~
 3258 ~~the subscriber may submit a written grievance to the Subscriber~~
 3259 ~~Assistance Program.~~

3260 ~~(g) (h)~~ An organization shall not provide an expedited
 3261 retrospective review of an adverse determination.

3262 ~~(7) Each organization shall send to the agency a copy of~~
 3263 ~~its quarterly grievance reports submitted to the office pursuant~~
 3264 ~~to s. 408.7056(12).~~

3265 ~~(7) (8)~~ The agency shall investigate all reports of
 3266 unresolved quality of care grievances received from:

3267 ~~(a) annual and quarterly grievance reports submitted by~~
 3268 ~~the organization to the office.~~

3269 ~~(b) Review requests of subscribers whose grievances remain~~
 3270 ~~unresolved after the subscriber has followed the full grievance~~
 3271 ~~procedure of the organization.~~

3272 ~~(9) (a) The agency shall advise subscribers with grievances~~
 3273 ~~to follow their organization's formal grievance process for~~
 3274 ~~resolution prior to review by the Subscriber Assistance Program.~~
 3275 ~~The subscriber may, however, submit a copy of the grievance to~~

3276 | ~~the agency at any time during the process.~~

3277 | ~~(b) Requiring completion of the organization's grievance~~
3278 | ~~process before the Subscriber Assistance Program panel's review~~
3279 | ~~does not preclude the agency from investigating any complaint or~~
3280 | ~~grievance before the organization makes its final determination.~~

3281 | ~~(10) Each organization must notify the subscriber in a~~
3282 | ~~final decision letter that the subscriber may request review of~~
3283 | ~~the organization's decision concerning the grievance by the~~
3284 | ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
3285 | ~~the grievance is not resolved to the satisfaction of the~~
3286 | ~~subscriber. The final decision letter must inform the subscriber~~
3287 | ~~that the request for review must be made within 365 days after~~
3288 | ~~receipt of the final decision letter, must explain how to~~
3289 | ~~initiate such a review, and must include the addresses and toll-~~
3290 | ~~free telephone numbers of the agency and the Subscriber~~
3291 | ~~Assistance Program.~~

3292 | (8)~~(11)~~ Each organization, as part of its contract with
3293 | any provider, must require the provider to post a consumer
3294 | assistance notice prominently displayed in the reception area of
3295 | the provider and clearly noticeable by all patients. The
3296 | consumer assistance notice must state the addresses and toll-
3297 | free telephone numbers of the Agency for Health Care
3298 | Administration, ~~the Subscriber Assistance Program,~~ and the
3299 | Department of Financial Services. The consumer assistance notice
3300 | must also clearly state that the address and toll-free telephone

3301 number of the organization's grievance department shall be
3302 provided upon request. The agency may adopt rules to implement
3303 this section.

3304 (9)~~(12)~~ The agency may impose administrative sanction, in
3305 accordance with s. 641.52, against an organization for
3306 noncompliance with this section.

3307 Section 115. Subsection (1) of section 641.515, Florida
3308 Statutes, is amended to read:

3309 641.515 Investigation by the agency.—

3310 (1) The agency shall investigate further any quality of
3311 care issue contained in recommendations and reports submitted
3312 pursuant to s. ~~ss. 408.7056~~ and 641.511. The agency shall also
3313 investigate further any information that indicates that the
3314 organization does not meet accreditation standards or the
3315 standards of the review organization performing the external
3316 quality assurance assessment pursuant to reports submitted under
3317 s. 641.512. Every organization shall submit its books and
3318 records and take other appropriate action as may be necessary to
3319 facilitate an examination. The agency shall have access to the
3320 organization's medical records of individuals and records of
3321 employed and contracted physicians, with the consent of the
3322 subscriber or by court order, as necessary to administer ~~carry~~
3323 ~~out the provisions of~~ this part.

3324 Section 116. Subsection (2) of section 641.55, Florida
3325 Statutes, is amended to read:

3326 641.55 Internal risk management program.—
 3327 (2) The risk management program shall be the
 3328 responsibility of the governing authority or board of the
 3329 organization. Every organization which has an annual premium
 3330 volume of \$10 million or more and which directly provides health
 3331 care in a building owned or leased by the organization shall
 3332 hire a risk manager, ~~certified under ss. 395.10971-395.10975,~~
 3333 who is ~~shall be~~ responsible for implementation of the
 3334 organization's risk management program required by this section.
 3335 A part-time risk manager may ~~shall~~ not be responsible for risk
 3336 management programs in more than four organizations or
 3337 facilities. Every organization that ~~which~~ does not directly
 3338 provide health care in a building owned or leased by the
 3339 organization and every organization with an annual premium
 3340 volume of less than \$10 million shall designate an officer or
 3341 employee of the organization to serve as the risk manager.
 3342
 3343 The gross data compiled under this section or s. 395.0197 shall
 3344 be furnished by the agency upon request to organizations to be
 3345 utilized for risk management purposes. The agency shall adopt
 3346 rules necessary to administer ~~carry out the provisions of~~ this
 3347 section.
 3348 Section 117. Section 641.60, Florida Statutes, is
 3349 repealed.
 3350 Section 118. Section 641.65, Florida Statutes, is

3351 repealed.

3352 Section 119. Section 641.67, Florida Statutes, is
 3353 repealed.

3354 Section 120. Section 641.68, Florida Statutes, is
 3355 repealed.

3356 Section 121. Section 641.70, Florida Statutes, is
 3357 repealed.

3358 Section 122. Section 641.75, Florida Statutes, is
 3359 repealed.

3360 Section 123. Paragraph (b) of subsection (6) of section
 3361 766.118, Florida Statutes, is amended to read:

3362 766.118 Determination of noneconomic damages.—

3363 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
 3364 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
 3365 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
 3366 respect to a cause of action for personal injury or wrongful
 3367 death arising from medical negligence of a practitioner
 3368 committed in the course of providing medical services and
 3369 medical care to a Medicaid recipient, regardless of the number
 3370 of such practitioner defendants providing the services and care,
 3371 noneconomic damages may not exceed \$300,000 per claimant, unless
 3372 the claimant pleads and proves, by clear and convincing
 3373 evidence, that the practitioner acted in a wrongful manner. A
 3374 practitioner providing medical services and medical care to a
 3375 Medicaid recipient is not liable for more than \$200,000 in

3376 noneconomic damages, regardless of the number of claimants,
 3377 unless the claimant pleads and proves, by clear and convincing
 3378 evidence, that the practitioner acted in a wrongful manner. The
 3379 fact that a claimant proves that a practitioner acted in a
 3380 wrongful manner does not preclude the application of the
 3381 limitation on noneconomic damages prescribed elsewhere in this
 3382 section. For purposes of this subsection:

3383 (b) The term "practitioner," in addition to the meaning
 3384 prescribed in subsection (1), includes any hospital or
 3385 ambulatory surgical center, ~~or mobile surgical facility~~ as
 3386 defined and licensed under chapter 395.

3387 Section 124. Subsection (4) of section 766.202, Florida
 3388 Statutes, is amended to read:

3389 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
 3390 766.201-766.212, the term:

3391 (4) "Health care provider" means any hospital or
 3392 ambulatory surgical center, ~~or mobile surgical facility~~ as
 3393 defined and licensed under chapter 395; a birth center licensed
 3394 under chapter 383; any person licensed under chapter 458,
 3395 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 3396 part I of chapter 464, chapter 466, chapter 467, part XIV of
 3397 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
 3398 ~~chapter 483~~; a health maintenance organization certificated
 3399 under part I of chapter 641; a blood bank; a plasma center; an
 3400 industrial clinic; a renal dialysis facility; or a professional

3401 association partnership, corporation, joint venture, or other
3402 association for professional activity by health care providers.

3403 Section 125. Section 945.36, Florida Statutes, is amended
3404 to read:

3405 945.36 ~~Exemption from health testing regulations for Law~~
3406 enforcement personnel authorized to conduct ~~conducting~~ drug
3407 tests on inmates and releasees.—

3408 (1) Any law enforcement officer, state or county probation
3409 officer, employee of the Department of Corrections, or employee
3410 of a contracted community correctional center who is certified
3411 by the Department of Corrections pursuant to subsection (2) may
3412 ~~administer, is exempt from part I of chapter 483, for the~~
3413 ~~limited purpose of administering~~ a urine screen drug test to:

3414 (a) Persons during incarceration;

3415 (b) Persons released as a condition of probation for
3416 either a felony or misdemeanor;

3417 (c) Persons released as a condition of community control;

3418 (d) Persons released as a condition of conditional
3419 release;

3420 (e) Persons released as a condition of parole;

3421 (f) Persons released as a condition of provisional
3422 release;

3423 (g) Persons released as a condition of pretrial release;

3424 or

3425 (h) Persons released as a condition of control release.

3426 (2) The Department of Corrections shall develop a
3427 procedure for certification of any law enforcement officer,
3428 state or county probation officer, employee of the Department of
3429 Corrections, or employee of a contracted community correctional
3430 center to perform a urine screen drug test on the persons
3431 specified in subsection (1).

3432 Section 126. Paragraph (b) of subsection (2) of section
3433 1009.65, Florida Statutes, is amended to read:

3434 1009.65 Medical Education Reimbursement and Loan Repayment
3435 Program.—

3436 (2) From the funds available, the Department of Health
3437 shall make payments to selected medical professionals as
3438 follows:

3439 (b) All payments are ~~shall be~~ contingent on continued
3440 proof of primary care practice in an area defined in s.
3441 395.602(2)(b) ~~s. 395.602(2)(c)~~, or an underserved area
3442 designated by the Department of Health, provided the
3443 practitioner accepts Medicaid reimbursement if eligible for such
3444 reimbursement. Correctional facilities, state hospitals, and
3445 other state institutions that employ medical personnel shall be
3446 designated by the Department of Health as underserved locations.
3447 Locations with high incidences of infant mortality, high
3448 morbidity, or low Medicaid participation by health care
3449 professionals may be designated as underserved.

3450 Section 127. Subsection (2) of section 1011.52, Florida

3451 Statutes, is amended to read:

3452 1011.52 Appropriation to first accredited medical school.—

3453 (2) In order for a medical school to qualify under ~~the~~
 3454 ~~provisions of~~ this section and to be entitled to the benefits
 3455 herein, such medical school:

3456 (a) Must be primarily operated and established to offer,
 3457 afford, and render a medical education to residents of the state
 3458 qualifying for admission to such institution;

3459 (b) Must be operated by a municipality or county of this
 3460 state, or by a nonprofit organization heretofore or hereafter
 3461 established exclusively for educational purposes;

3462 (c) Must, upon the formation and establishment of an
 3463 accredited medical school, transmit and file with the Department
 3464 of Education documentary proof evidencing the facts that such
 3465 institution has been certified and approved by the council on
 3466 medical education and hospitals of the American Medical
 3467 Association and has adequately met the requirements of that
 3468 council in regard to its administrative facilities,
 3469 administrative plant, clinical facilities, curriculum, and all
 3470 other such requirements as may be necessary to qualify with the
 3471 council as a recognized, approved, and accredited medical
 3472 school;

3473 (d) Must certify to the Department of Education the name,
 3474 address, and educational history of each student approved and
 3475 accepted for enrollment in such institution for the ensuing

3476 school year; and

3477 (e) Must have in place an operating agreement with a
3478 government-owned hospital that is located in the same county as
3479 the medical school and that is a statutory teaching hospital as
3480 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
3481 must ~~shall~~ provide for the medical school to maintain the same
3482 level of affiliation with the hospital, including the level of
3483 services to indigent and charity care patients served by the
3484 hospital, which was in place in the prior fiscal year. Each
3485 year, documentation demonstrating that an operating agreement is
3486 in effect shall be submitted jointly to the Department of
3487 Education by the hospital and the medical school prior to the
3488 payment of moneys from the annual appropriation.

3489 Section 128. This act shall take effect July 1, 2018.