

By the Committee on Appropriations; and Senators Grimsley and Bean

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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

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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; requiring the agency to adopt rules
44 establishing standards for pediatric cardiac
45 catheterization and pediatric cardiovascular surgery
46 programs located in licensed hospitals; providing
47 requirements for such programs; establishing minimum
48 standards for rules for such pediatric cardiac
49 programs; requiring hospitals with pediatric cardiac
50 programs to participate in the clinical outcome
51 reporting systems; revising duties and membership of
52 the pediatric cardiac technical advisory panel;
53 repealing ss. 395.10971 and 395.10972, F.S., relating
54 to the purpose and the establishment of the Health
55 Care Risk Manager Advisory Council, respectively;
56 amending s. 395.10973, F.S.; removing requirements
57 relating to agency standards for health care risk
58 managers to conform provisions to changes made by the

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59 act; repealing s. 395.10974, F.S., relating to
60 licensure of health care risk managers,
61 qualifications, licensure, and fees; repealing s.
62 395.10975, F.S., relating to grounds for denial,
63 suspension, or revocation of a health care risk
64 manager's license and an administrative fine; amending
65 s. 395.602, F.S.; deleting definitions for the terms
66 "emergency care hospital," "essential access community
67 hospital," "inactive rural hospital bed," and "rural
68 primary care hospital"; amending s. 395.603, F.S.;
69 deleting provisions relating to deactivation of
70 general hospital beds by certain rural and emergency
71 care hospitals; repealing s. 395.604, F.S., relating
72 to other rural hospital programs; repealing s.
73 395.605, F.S., relating to emergency care hospitals;
74 amending s. 395.701, F.S.; revising the definition of
75 the term "hospital" to exclude hospitals operated by a
76 state agency; amending s. 400.191, F.S.; removing the
77 30-month reporting timeframe for the Nursing Home
78 Guide; amending s. 400.464, F.S.; requiring that a
79 license issued to a home health agency on or after a
80 specified date specify the services the organization
81 is authorized to perform and whether the services
82 constitute skilled care; providing that the provision
83 or advertising of certain services constitutes
84 unlicensed activity under certain circumstances;
85 authorizing certain persons, entities or organizations
86 providing home health services to voluntarily apply
87 for a certificate of exemption from licensure by

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88 providing certain information to the agency; providing
89 that the certificate is valid for a specified time and
90 is nontransferable; authorizing the agency to charge a
91 fee for the certificate; amending s. 400.471, F.S.;
92 revising home health agency licensure requirements;
93 providing requirements for proof of accreditation for
94 home health agencies applying for change of ownership
95 or the addition of skilled care services; removing a
96 provision prohibiting the agency from issuing a
97 license to a home health agency that fails to satisfy
98 the requirements of a Medicare certification survey
99 from the agency; amending s. 400.474, F.S.; revising
100 conditions for the imposition of a fine against a home
101 health agency; amending s. 400.476, F.S.; requiring a
102 home health agency providing skilled nursing care to
103 have a director of nursing; amending s. 400.484, F.S.;
104 imposing administrative fines on home health agencies
105 for specified classes of violations; amending s.
106 400.497, F.S.; requiring the agency to adopt, publish,
107 and enforce rules establishing standards for
108 certificates of exemption; amending s. 400.506, F.S.;
109 specifying a criminal penalty for any person who owns,
110 operates, or maintains an unlicensed nurse registry
111 that fails to cease operation immediately and apply
112 for a license after notification from the agency;
113 revising provisions authorizing the agency to impose a
114 fine on a nurse registry that fails to cease operation
115 after agency notification; revising circumstances
116 under which the agency is authorized to deny, suspend,

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117 or revoke a license or impose a fine on a nurse
118 registry; prohibiting a nurse registry from
119 monitoring, supervising, managing, or training a
120 certain caregiver who is an independent contractor;
121 amending s. 400.606, F.S.; removing a requirement that
122 an existing licensed health care provider's hospice
123 licensure application be accompanied by a copy of the
124 most recent profit-loss statement and licensure
125 inspection report; amending s. 400.925, F.S.; revising
126 the definition of the term "home medical equipment";
127 amending s. 400.931, F.S.; requiring a home medical
128 equipment provider to notify the agency of certain
129 personnel changes within a specified timeframe;
130 amending s. 400.933, F.S.; requiring the agency to
131 accept the submission of a valid medical oxygen retail
132 establishment permit issued by the Department of
133 Business and Professional Regulation in lieu of an
134 agency inspection for licensure; amending s. 400.980,
135 F.S.; revising the timeframe within which a health
136 care services pool registrant must provide the agency
137 with certain changes of information; amending s.
138 400.9935, F.S.; specifying that a voluntary
139 certificate of exemption may be valid for up to 2
140 years; amending s. 408.036, F.S.; conforming
141 provisions to changes made by the act; deleting
142 obsolete provisions relating to certificate of need
143 requirements for specified services; amending s.
144 408.0361, F.S.; providing an exception for a hospital
145 to become a Level I Adult Cardiovascular provider if

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146 certain requirements are met; amending s. 408.05,
147 F.S.; requiring the agency to contract with the
148 Society of Thoracic Surgeons and the American College
149 of Cardiology for the collection of certain data for
150 publication on the agency's website for certain
151 purposes; amending s. 408.061, F.S.; excluding
152 hospitals operated by state agencies from certain
153 financial reporting requirements; conforming a cross-
154 reference; amending s. 408.07, F.S.; deleting the
155 definition for the term "clinical laboratory";
156 amending s. 408.20, F.S.; exempting hospitals operated
157 by any state agency from assessments against the
158 Health Care Trust Fund to fund certain agency
159 activities; repealing s. 408.7056, F.S., relating to
160 the Subscriber Assistance Program; amending s.
161 408.803, F.S.; defining the term "relative" for
162 purposes of the Health Care Licensing Procedures Act;
163 amending s. 408.806, F.S.; authorizing licensees who
164 hold licenses for multiple providers to request that
165 the agency align related license expiration dates;
166 authorizing the agency to issue licenses for an
167 abbreviated licensure period and to charge a prorated
168 licensure fee; amending s. 408.809, F.S.; expanding
169 the scope of persons subject to a level 2 background
170 screening to include any employee of a licensee who is
171 a controlling interest and certain part-time
172 contractors; amending s. 408.810, F.S.; providing that
173 an applicant for change of ownership licensure is
174 exempt from furnishing proof of financial ability to

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175 operate if certain conditions are met; authorizing the
176 agency to adopt rules governing circumstances under
177 which a controlling interest may act in certain legal
178 capacities on behalf of a patient or client; requiring
179 a licensee to ensure that certain persons do not hold
180 an ownership interest if the licensee is not organized
181 as or owned by a publicly traded corporation; defining
182 the term "publicly traded corporation"; amending s.
183 408.812, F.S.; providing that certain unlicensed
184 activity by a provider constitutes abuse and neglect;
185 clarifying that the agency may impose a fine or
186 penalty, as prescribed in an authorizing statute, if
187 an unlicensed provider who has received notification
188 fails to cease operation; authorizing the agency to
189 revoke all licenses and impose a fine or penalties
190 upon a controlling interest or licensee who has an
191 interest in more than one provider and who fails to
192 license a provider rendering services that require
193 licensure in certain circumstances; amending s.
194 408.820, F.S.; deleting certain exemptions from part
195 II of ch. 408, F.S., for specified providers to
196 conform provisions to changes made by the act;
197 amending s. 409.907, F.S.; removing the agency's
198 authority to consider certain factors in determining
199 whether to enter into, and in maintaining, a Medicaid
200 provider agreement; amending s. 429.02, F.S.; revising
201 definitions of the terms "assisted living facility"
202 and "personal services"; amending s. 429.04, F.S.;
203 providing additional exemptions from licensure as an

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204 assisted living facility; requiring a person or entity
205 asserting the exemption to provide documentation that
206 substantiates the claim upon agency investigation of
207 unlicensed activity; amending s. 429.08, F.S.;

208 providing criminal penalties and fines for a person
209 who rents or otherwise maintains a building or
210 property used as an unlicensed assisted living
211 facility; providing criminal penalties and fines for a
212 person who owns, operates, or maintains an unlicensed
213 assisted living facility after receiving notice from
214 the agency; amending s. 429.176, F.S.; prohibiting an
215 assisted living facility from operating for more than
216 a specified time without an administrator who has
217 completed certain educational requirements; amending
218 s. 429.24, F.S.; providing that 30-day written notice
219 of rate increase for residency in an assisted living
220 facility is not required in certain situations;

221 amending s. 429.28, F.S.; revising the assisted living
222 facility resident bill of rights to include assistance
223 with obtaining access to adequate and appropriate
224 health care; defining the term "adequate and
225 appropriate health care"; deleting a requirement that
226 the agency conduct at least one monitoring visit under
227 certain circumstances; deleting provisions authorizing
228 the agency to conduct periodic followup inspections
229 and complaint investigations under certain
230 circumstances; amending s. 429.294, F.S.; deleting the
231 specified timeframe within which an assisted living
232 facility must provide complete copies of a resident's

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233 records in an investigation of resident's rights;
234 amending s. 429.34, F.S.; authorizing the agency to
235 inspect and investigate assisted living facilities as
236 necessary to determine compliance with certain laws;
237 removing a provision requiring the agency to inspect
238 each licensed assisted living facility at least
239 biennially; authorizing the agency to conduct
240 monitoring visits of each facility cited for prior
241 violations under certain circumstances; amending s.
242 429.52, F.S.; requiring an assisted living facility
243 administrator to complete required training and
244 education within a specified timeframe; amending s.
245 435.04, F.S.; providing that security background
246 investigations must ensure that a person has not been
247 arrested for, and is not awaiting final disposition
248 of, certain offenses; requiring that security
249 background investigations for purposes of
250 participation in the Medicaid program screen for
251 violations of federal or state law, rule, or
252 regulation governing any state Medicaid program, the
253 Medicare program, or any other publicly funded federal
254 or state health care or health insurance program;
255 specifying offenses under federal law or any state law
256 that the security background investigations must
257 screen for; amending s. 456.054, F.S.; prohibiting any
258 person or entity from paying or receiving a kickback
259 for referring patients to a clinical laboratory;
260 prohibiting a clinical laboratory from providing
261 personnel to perform certain functions or duties in a

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262 health care practitioner's office or dialysis
263 facility; providing an exception; prohibiting a
264 clinical laboratory from leasing space in any part of
265 a health care practitioner's office or dialysis
266 facility; repealing part I of ch. 483, F.S., relating
267 to clinical laboratories; amending s. 483.294, F.S.;
268 removing a requirement that the agency inspect
269 multiphasic health testing centers at least once
270 annually; amending s. 483.801, F.S.; providing an
271 exemption from regulation for certain persons employed
272 by certain laboratories; amending s. 483.803, F.S.;
273 revising definitions of the terms "clinical
274 laboratory" and "clinical laboratory examination";
275 removing a cross-reference; amending s. 641.511, F.S.;
276 revising health maintenance organization subscriber
277 grievance reporting requirements; repealing s. 641.60,
278 F.S., relating to the Statewide Managed Care Ombudsman
279 Committee; repealing s. 641.65, F.S., relating to
280 district managed care ombudsman committees; repealing
281 s. 641.67, F.S., relating to a district managed care
282 ombudsman committee, exemption from public records
283 requirements, and exceptions; repealing s. 641.68,
284 F.S., relating to a district managed care ombudsman
285 committee and exemption from public meeting
286 requirements; repealing s. 641.70, F.S., relating to
287 agency duties relating to the Statewide Managed Care
288 Ombudsman Committee and the district managed care
289 ombudsman committees; repealing s. 641.75, F.S.,
290 relating to immunity from liability and limitation on

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291 testimony; amending s. 945.36, F.S.; authorizing law
292 enforcement personnel to conduct drug tests on certain
293 inmates and releasees; amending ss. 20.43, 220.1845,
294 376.30781, 376.86, 381.0034, 381.0405, 383.14, 383.30,
295 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
296 394.4787, 395.001, 395.003, 395.7015, 400.9905,
297 408.033, 408.802, 409.9116, 409.975, 429.19, 456.001,
298 456.057, 456.076, 458.307, 458.345, 459.021, 483.813,
299 483.823, 491.003, 627.351, 627.602, 627.6406,
300 627.64194, 627.6513, 627.6574, 641.185, 641.31,
301 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
302 766.202, 1009.65, and 1011.52, F.S.; conforming
303 provisions to changes made by the act; providing an
304 effective date.

305

306 Be It Enacted by the Legislature of the State of Florida:

307

308 Section 1. Paragraph (g) of subsection (3) of section
309 20.43, Florida Statutes, is amended to read:

310 20.43 Department of Health.—There is created a Department
311 of Health.

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

314 (g) Division of Medical Quality Assurance, which is
315 responsible for the following boards and professions established
316 within the division:

- 317 1. The Board of Acupuncture, created under chapter 457.
- 318 2. The Board of Medicine, created under chapter 458.
- 319 3. The Board of Osteopathic Medicine, created under chapter

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- 320 459.
- 321 4. The Board of Chiropractic Medicine, created under
322 chapter 460.
- 323 5. The Board of Podiatric Medicine, created under chapter
324 461.
- 325 6. Naturopathy, as provided under chapter 462.
- 326 7. The Board of Optometry, created under chapter 463.
- 327 8. The Board of Nursing, created under part I of chapter
328 464.
- 329 9. Nursing assistants, as provided under part II of chapter
330 464.
- 331 10. The Board of Pharmacy, created under chapter 465.
- 332 11. The Board of Dentistry, created under chapter 466.
- 333 12. Midwifery, as provided under chapter 467.
- 334 13. The Board of Speech-Language Pathology and Audiology,
335 created under part I of chapter 468.
- 336 14. The Board of Nursing Home Administrators, created under
337 part II of chapter 468.
- 338 15. The Board of Occupational Therapy, created under part
339 III of chapter 468.
- 340 16. Respiratory therapy, as provided under part V of
341 chapter 468.
- 342 17. Dietetics and nutrition practice, as provided under
343 part X of chapter 468.
- 344 18. The Board of Athletic Training, created under part XIII
345 of chapter 468.
- 346 19. The Board of Orthotists and Prosthetists, created under
347 part XIV of chapter 468.
- 348 20. Electrolysis, as provided under chapter 478.

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349 21. The Board of Massage Therapy, created under chapter
350 480.

351 22. The Board of Clinical Laboratory Personnel, created
352 under part II ~~III~~ of chapter 483.

353 23. Medical physicists, as provided under part IV of
354 chapter 483.

355 24. The Board of Opticianry, created under part I of
356 chapter 484.

357 25. The Board of Hearing Aid Specialists, created under
358 part II of chapter 484.

359 26. The Board of Physical Therapy Practice, created under
360 chapter 486.

361 27. The Board of Psychology, created under chapter 490.

362 28. School psychologists, as provided under chapter 490.

363 29. The Board of Clinical Social Work, Marriage and Family
364 Therapy, and Mental Health Counseling, created under chapter
365 491.

366 30. Emergency medical technicians and paramedics, as
367 provided under part III of chapter 401.

368 Section 2. Section 154.13, Florida Statutes, is created to
369 read:

370 154.13 Designated facilities; jurisdiction.—Any designated
371 facility owned or operated by a public health trust and located
372 within the boundaries of a municipality is under the exclusive
373 jurisdiction of the county creating the public health trust and
374 is not within the jurisdiction of the municipality.

375 Section 3. Paragraph (k) of subsection (2) of section
376 220.1845, Florida Statutes, is amended to read:

377 220.1845 Contaminated site rehabilitation tax credit.—

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

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

392 Section 4. Paragraph (f) of subsection (3) of section
 393 376.30781, Florida Statutes, is amended to read:

394 376.30781 Tax credits for rehabilitation of drycleaning-
 395 solvent-contaminated sites and brownfield sites in designated
 396 brownfield areas; application process; rulemaking authority;
 397 revocation authority.—

398 (3)

399 (f) In order to encourage the construction and operation of
 400 a new health care facility or a health care provider, as defined
 401 in s. 408.032 or s. 408.07, ~~or s. 408.7056~~, on a brownfield
 402 site, an applicant for a tax credit may claim an additional 25
 403 percent of the total site rehabilitation costs, not to exceed
 404 \$500,000, if the applicant meets the requirements of this
 405 paragraph. In order to receive this additional tax credit, the
 406 applicant must provide documentation indicating that the

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407 construction of the health care facility or health care provider
408 by the applicant on the brownfield site has received a
409 certificate of occupancy or a license or certificate has been
410 issued for the operation of the health care facility or health
411 care provider.

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

414 376.86 Brownfield Areas Loan Guarantee Program.—

415 (1) The Brownfield Areas Loan Guarantee Council is created
416 to review and approve or deny, by a majority vote of its
417 membership, the situations and circumstances for participation
418 in partnerships by agreements with local governments, financial
419 institutions, and others associated with the redevelopment of
420 brownfield areas pursuant to the Brownfields Redevelopment Act
421 for a limited state guaranty of up to 5 years of loan guarantees
422 or loan loss reserves issued pursuant to law. The limited state
423 loan guaranty applies only to 50 percent of the primary lenders
424 loans for redevelopment projects in brownfield areas. If the
425 redevelopment project is for affordable housing, as defined in
426 s. 420.0004, in a brownfield area, the limited state loan
427 guaranty applies to 75 percent of the primary lender's loan. If
428 the redevelopment project includes the construction and
429 operation of a new health care facility or a health care
430 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
431 ~~408.7056~~, on a brownfield site and the applicant has obtained
432 documentation in accordance with s. 376.30781 indicating that
433 the construction of the health care facility or health care
434 provider by the applicant on the brownfield site has received a
435 certificate of occupancy or a license or certificate has been

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436 issued for the operation of the health care facility or health
437 care provider, the limited state loan guaranty applies to 75
438 percent of the primary lender's loan. A limited state guaranty
439 of private loans or a loan loss reserve is authorized for
440 lenders licensed to operate in the state upon a determination by
441 the council that such an arrangement would be in the public
442 interest and the likelihood of the success of the loan is great.

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

445 381.0031 Epidemiological research; report of diseases of
446 public health significance to department.-

447 (2) Any practitioner licensed in this state to practice
448 medicine, osteopathic medicine, chiropractic medicine,
449 naturopathy, or veterinary medicine; any hospital licensed under
450 part I of chapter 395; or any laboratory appropriately certified
451 by the Centers for Medicare and Medicaid Services under the
452 federal Clinical Laboratory Improvement Amendments and the
453 federal rules adopted thereunder which ~~licensed under chapter~~
454 ~~483 that~~ diagnoses or suspects the existence of a disease of
455 public health significance shall immediately report the fact to
456 the Department of Health.

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

459 381.0034 Requirement for instruction on HIV and AIDS.-

460 (3) The department shall require, as a condition of
461 granting a license under chapter 467 or part II ~~III~~ of chapter
462 483, that an applicant making initial application for licensure
463 complete an educational course acceptable to the department on
464 human immunodeficiency virus and acquired immune deficiency

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465 syndrome. Upon submission of an affidavit showing good cause, an
466 applicant who has not taken a course at the time of licensure
467 shall be allowed 6 months to complete this requirement.

468 Section 8. Paragraph (c) of subsection (4) of section
469 381.004, Florida Statutes, is amended to read:

470 381.004 HIV testing.—

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

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

485 Section 9. Paragraph (f) of subsection (4) of section
486 381.0405, Florida Statutes, is amended to read:

487 381.0405 Office of Rural Health.—

488 (4) COORDINATION.—The office shall:

489 (f) Assume responsibility for state coordination of the
490 Rural Hospital Transition Grant Program, ~~the Essential Access~~
491 ~~Community Hospital Program,~~ and other federal rural health care
492 programs.

493 Section 10. Paragraph (a) of subsection (2) of section

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494 383.14, Florida Statutes, is amended to read:

495 383.14 Screening for metabolic disorders, other hereditary
496 and congenital disorders, and environmental risk factors.—

497 (2) RULES.—

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

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

503 2. Be tested for any condition included on the federal
504 Recommended Uniform Screening Panel which the council advises
505 the department should be included under the state's screening
506 program. After the council recommends that a condition be
507 included, the department shall submit a legislative budget
508 request to seek an appropriation to add testing of the condition
509 to the newborn screening program. The department shall expand
510 statewide screening of newborns to include screening for such
511 conditions within 18 months after the council renders such
512 advice, if a test approved by the United States Food and Drug
513 Administration or a test offered by an alternative vendor ~~which~~
514 ~~is compatible with the clinical standards established under part~~
515 ~~I of chapter 483~~ is available. If such a test is not available
516 within 18 months after the council makes its recommendation, the
517 department shall implement such screening as soon as a test
518 offered by the United States Food and Drug Administration or by
519 an alternative vendor is available; and

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

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523 Section 11. Section 383.30, Florida Statutes, is amended to
524 read:

525 383.30 Birth Center Licensure Act; short title.—Sections
526 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as
527 the "Birth Center Licensure Act."

528 Section 12. Section 383.301, Florida Statutes, is amended
529 to read:

530 383.301 Licensure and regulation of birth centers;
531 legislative intent.—It is the intent of the Legislature to
532 provide for the protection of public health and safety in the
533 establishment, maintenance, and operation of birth centers by
534 providing for licensure of birth centers and for the
535 development, establishment, and enforcement of minimum standards
536 with respect to birth centers. The requirements of part II of
537 chapter 408 shall apply to the provision of services that
538 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~
539 and part II of chapter 408 and to entities licensed by or
540 applying for such licensure from the Agency for Health Care
541 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A
542 license issued by the agency is required in order to operate a
543 birth center in this state.

544 Section 13. Section 383.302, Florida Statutes, is amended
545 to read:

546 383.302 Definitions of terms used in ss. 383.30-383.332
547 ~~383.30-383.335~~.—As used in ss. 383.30-383.332 ~~383.30-383.335~~,
548 the term:

549 (1) "Agency" means the Agency for Health Care
550 Administration.

551 (2) "Birth center" means any facility, institution, or

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552 place, which is not an ambulatory surgical center or a hospital
553 or in a hospital, in which births are planned to occur away from
554 the mother's usual residence following a normal, uncomplicated,
555 low-risk pregnancy.

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

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

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

564 (b) Has hospital obstetrical privileges.

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

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

571 (7) "Licensed facility" means a facility licensed in
572 accordance with s. 383.305.

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

577 (9) "Person" means any individual, firm, partnership,
578 corporation, company, association, institution, or joint stock
579 association and means any legal successor of any of the
580 foregoing.

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581 (10) "Premises" means those buildings, beds, and facilities
582 located at the main address of the licensee and all other
583 buildings, beds, and facilities for the provision of maternity
584 care located in such reasonable proximity to the main address of
585 the licensee as to appear to the public to be under the dominion
586 and control of the licensee.

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

589 383.305 Licensure; fees.—

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

594 Section 15. Subsection (1) of section 383.309, Florida
595 Statutes, is amended to read:

596 383.309 Minimum standards for birth centers; rules and
597 enforcement.—

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

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

605 (b) Infection control, housekeeping, sanitary conditions,
606 disaster plan, and medical record procedures that will
607 adequately protect patient care and provide safety are
608 established and implemented.

609 (c) Licensed facilities are established, organized, and

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610 operated consistent with established programmatic standards.

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

613 383.313 Performance of laboratory and surgical services;
614 use of anesthetic and chemical agents.—

615 (1) LABORATORY SERVICES.—A birth center may collect
616 specimens for those tests that are requested under protocol. A
617 birth center must obtain and continuously maintain certification
618 by the Centers for Medicare and Medicaid Services under the
619 federal Clinical Laboratory Improvement Amendments and the
620 federal rules adopted thereunder in order to ~~may perform simple~~
621 ~~laboratory tests specified, as defined~~ by rule of the agency,
622 and which are appropriate to meet the needs of the patient ~~is~~
623 ~~exempt from the requirements of chapter 483, provided no more~~
624 ~~than five physicians are employed by the birth center and~~
625 ~~testing is conducted exclusively in connection with the~~
626 ~~diagnosis and treatment of clients of the birth center.~~

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

629 383.33 Administrative penalties; moratorium on admissions.—

630 (1) In addition to the requirements of part II of chapter
631 408, the agency may impose an administrative fine not to exceed
632 \$500 per violation per day for the violation of any provision of
633 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
634 applicable rules.

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

638 (a) The severity of the violation, including the

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639 probability that death or serious harm to the health or safety
640 of any person will result or has resulted; the severity of the
641 actual or potential harm; and the extent to which ~~the provisions~~
642 ~~of ss. 383.30-383.332 ~~383.30-383.335~~~~, part II of chapter 408, or
643 applicable rules were violated.

644 Section 18. Section 383.335, Florida Statutes, is repealed.

645 Section 19. Section 384.31, Florida Statutes, is amended to
646 read:

647 384.31 Testing of pregnant women; duty of the attendant.—
648 Every person, including every physician licensed under chapter
649 458 or chapter 459 or midwife licensed under part I of chapter
650 464 or chapter 467, attending a pregnant woman for conditions
651 relating to pregnancy during the period of gestation and
652 delivery shall cause the woman to be tested for sexually
653 transmissible diseases, including HIV, as specified by
654 department rule. Testing shall be performed by a laboratory
655 appropriately certified by the Centers for Medicare and Medicaid
656 Services under the federal Clinical Laboratory Improvement
657 Amendments and the federal rules adopted thereunder ~~approved~~ for
658 such purposes ~~under part I of chapter 483~~. The woman shall be
659 informed of the tests that will be conducted and of her right to
660 refuse testing. If a woman objects to testing, a written
661 statement of objection, signed by the woman, shall be placed in
662 the woman's medical record and no testing shall occur.

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

665 385.211 Refractory and intractable epilepsy treatment and
666 research at recognized medical centers.—

667 (2) Notwithstanding chapter 893, medical centers recognized

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668 pursuant to s. 381.925, or an academic medical research
669 institution legally affiliated with a licensed children's
670 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~
671 that contracts with the Department of Health, may conduct
672 research on cannabidiol and low-THC cannabis. This research may
673 include, but is not limited to, the agricultural development,
674 production, clinical research, and use of liquid medical
675 derivatives of cannabidiol and low-THC cannabis for the
676 treatment for refractory or intractable epilepsy. The authority
677 for recognized medical centers to conduct this research is
678 derived from 21 C.F.R. parts 312 and 316. Current state or
679 privately obtained research funds may be used to support the
680 activities described in this section.

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

683 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
684 394.4789.—As used in this section and ss. 394.4786, 394.4788,
685 and 394.4789:

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

689 Section 22. Section 395.001, Florida Statutes, is amended
690 to read:

691 395.001 Legislative intent.—It is the intent of the
692 Legislature to provide for the protection of public health and
693 safety in the establishment, construction, maintenance, and
694 operation of hospitals and, ambulatory surgical centers, ~~and~~
695 ~~mobile surgical facilities~~ by providing for licensure of same
696 and for the development, establishment, and enforcement of

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697 minimum standards with respect thereto.

698 Section 23. Present subsections (22) through (33) of
699 section 395.002, Florida Statutes, are redesignated as
700 subsections (21) through (32), respectively, and subsections (3)
701 and (16) of that section and present subsections (21) and (23)
702 of that section are amended, to read:

703 395.002 Definitions.—As used in this chapter:

704 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
705 ~~facility"~~ means a facility the primary purpose of which is to
706 provide elective surgical care, in which the patient is admitted
707 to and discharged from such facility within the same working day
708 and is not permitted to stay overnight, and which is not part of
709 a hospital. However, a facility existing for the primary purpose
710 of performing terminations of pregnancy, an office maintained by
711 a physician for the practice of medicine, or an office
712 maintained for the practice of dentistry may ~~shall~~ not be
713 construed to be an ambulatory surgical center, provided that any
714 facility or office which is certified or seeks certification as
715 a Medicare ambulatory surgical center shall be licensed as an
716 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
717 ~~or vehicle in which a physician maintains an office and~~
718 ~~practices surgery, and which can appear to the public to be a~~
719 ~~mobile office because the structure or vehicle operates at more~~
720 ~~than one address, shall be construed to be a mobile surgical~~
721 ~~facility.~~

722 (16) "Licensed facility" means a hospital or, ambulatory
723 surgical center, ~~or mobile surgical facility~~ licensed in
724 accordance with this chapter.

725 ~~(21) "Mobile surgical facility" is a mobile facility in~~

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726 ~~which licensed health care professionals provide elective~~
727 ~~surgical care under contract with the Department of Corrections~~
728 ~~or a private correctional facility operating pursuant to chapter~~
729 ~~957 and in which inmate patients are admitted to and discharged~~
730 ~~from said facility within the same working day and are not~~
731 ~~permitted to stay overnight. However, mobile surgical facilities~~
732 ~~may only provide health care services to the inmate patients of~~
733 ~~the Department of Corrections, or inmate patients of a private~~
734 ~~correctional facility operating pursuant to chapter 957, and not~~
735 ~~to the general public.~~

736 (22)~~(23)~~ "Premises" means those buildings, beds, and
737 equipment located at the address of the licensed facility and
738 all other buildings, beds, and equipment for the provision of
739 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
740 located in such reasonable proximity to the address of the
741 licensed facility as to appear to the public to be under the
742 dominion and control of the licensee. For any licensee that is a
743 teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,
744 reasonable proximity includes any buildings, beds, services,
745 programs, and equipment under the dominion and control of the
746 licensee that are located at a site with a main address that is
747 within 1 mile of the main address of the licensed facility; and
748 all such buildings, beds, and equipment may, at the request of a
749 licensee or applicant, be included on the facility license as a
750 single premises.

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

754 395.003 Licensure; denial, suspension, and revocation.—

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755 (1) (a) The requirements of part II of chapter 408 apply to
756 the provision of services that require licensure pursuant to ss.
757 395.001-395.1065 and part II of chapter 408 and to entities
758 licensed by or applying for such licensure from the Agency for
759 Health Care Administration pursuant to ss. 395.001-395.1065. A
760 license issued by the agency is required in order to operate a
761 hospital or, ambulatory surgical center, ~~or mobile surgical~~
762 ~~facility~~ in this state.

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

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

773 (2)

774 (b) The agency shall, at the request of a licensee that is
775 a teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~, issue
776 a single license to a licensee for facilities that have been
777 previously licensed as separate premises, provided such
778 separately licensed facilities, taken together, constitute the
779 same premises as defined in s. 395.002 ~~s. 395.002(23)~~. Such
780 license for the single premises shall include all of the beds,
781 services, and programs that were previously included on the
782 licenses for the separate premises. The granting of a single
783 license under this paragraph may ~~shall~~ not in any manner reduce

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784 the number of beds, services, or programs operated by the
785 licensee.

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

788 395.009 Minimum standards for clinical laboratory test
789 results and diagnostic X-ray results; prerequisite for issuance
790 or renewal of license.—

791 (1) As a requirement for issuance or renewal of its
792 license, each licensed facility shall require that all clinical
793 laboratory tests performed by or for the licensed facility be
794 performed by a clinical laboratory appropriately certified by
795 the Centers for Medicare and Medicaid Services under the federal
796 Clinical Laboratory Improvement Amendments and the federal rules
797 adopted thereunder ~~licensed under the provisions of chapter 483.~~

798 Section 26. Section 395.0091, Florida Statutes, is created
799 to read:

800 395.0091 Alternate-site testing.—The agency, in
801 consultation with the Board of Clinical Laboratory Personnel,
802 shall adopt by rule the criteria for alternate-site testing to
803 be performed under the supervision of a clinical laboratory
804 director. At a minimum, the criteria must address hospital
805 internal needs assessment; a protocol for implementation,
806 including the identification of tests to be performed and who
807 will perform them; selection of the method of testing to be used
808 for alternate-site testing; minimum training and education
809 requirements for those who will perform alternate-site testing,
810 such as documented training, licensure, certification, or other
811 medical professional background not limited to laboratory
812 professionals; documented inservice training and initial and

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813 ongoing competency validation; an appropriate internal and
814 external quality control protocol; an internal mechanism for the
815 central laboratory to identify and track alternate-site testing;
816 and recordkeeping requirements. Alternate-site testing locations
817 must register when the hospital applies to renew its license.
818 For purposes of this section, the term "alternate-site testing"
819 includes any laboratory testing done under the administrative
820 control of a hospital, but performed out of the physical or
821 administrative confines of the central laboratory.

822 Section 27. Paragraph (f) of subsection (1) of section
823 395.0161, Florida Statutes, is amended to read:

824 395.0161 Licensure inspection.—

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

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

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

835 395.0163 Construction inspections; plan submission and
836 approval; fees.—

837 ~~(3) In addition to the requirements of s. 408.811, the~~
838 ~~agency shall inspect a mobile surgical facility at initial~~
839 ~~licensure and at each time the facility establishes a new~~
840 ~~location, prior to admission of patients. However, such~~
841 ~~inspections shall not be required when a mobile surgical~~

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842 ~~facility is moved temporarily to a location where medical~~
843 ~~treatment will not be provided.~~

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

847 395.0197 Internal risk management program.—

848 (2) The internal risk management program is the
849 responsibility of the governing board of the health care
850 facility. Each licensed facility shall hire a risk manager,
851 ~~licensed under s. 395.10974,~~ who is responsible for
852 implementation and oversight of the such facility's internal
853 risk management program and who demonstrates competence, through
854 education or experience, in all of the following areas:

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

856 (b) Applicable federal, state, and local health and safety
857 laws and rules.

858 (c) General risk management administration.

859 (d) Patient care.

860 (e) Medical care.

861 (f) Personal and social care.

862 (g) Accident prevention.

863 (h) Departmental organization and management.

864 (i) Community interrelationships.

865 (j) Medical terminology as required by this section. A risk
866 manager must not be made responsible for more than four internal
867 risk management programs in separate licensed facilities, unless
868 the facilities are under one corporate ownership or the risk
869 management programs are in rural hospitals.

870 (6)

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871 (c) The report submitted to the agency must ~~shall~~ also
872 contain the name ~~and license number~~ of the risk manager of the
873 licensed facility, a copy of its policy and procedures which
874 govern the measures taken by the facility and its risk manager
875 to reduce the risk of injuries and adverse incidents, and the
876 results of such measures. The annual report is confidential and
877 is not available to the public pursuant to s. 119.07(1) or any
878 other law providing access to public records. The annual report
879 is not discoverable or admissible in any civil or administrative
880 action, except in disciplinary proceedings by the agency or the
881 appropriate regulatory board. The annual report is not available
882 to the public as part of the record of investigation for and
883 prosecution in disciplinary proceedings made available to the
884 public by the agency or the appropriate regulatory board.
885 However, the agency or the appropriate regulatory board shall
886 make available, upon written request by a health care
887 professional against whom probable cause has been found, any
888 such records which form the basis of the determination of
889 probable cause.

890 (16) There shall be no monetary liability on the part of,
891 and no cause of action for damages shall arise against, any risk
892 manager, ~~licensed under s. 395.10974,~~ for the implementation and
893 oversight of the internal risk management program in a facility
894 licensed under this chapter or chapter 390 as required by this
895 section, for any act or proceeding undertaken or performed
896 within the scope of the functions of such internal risk
897 management program if the risk manager acts without intentional
898 fraud.

899 (17) A privilege against civil liability is hereby granted

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900 to any ~~licensed~~ risk manager or licensed facility with regard to
901 information furnished pursuant to this chapter, unless the
902 ~~licensed~~ risk manager or facility acted in bad faith or with
903 malice in providing such information.

904 Section 30. Section 395.1046, Florida Statutes, is
905 repealed.

906 Section 31. Present subsection (10) of section 395.1055,
907 Florida Statutes, is redesignated as subsection (12),
908 subsections (2), (3), and (9) of that section are amended,
909 paragraph (i) is added to subsection (1) of that section, and a
910 new subsection (10) and subsection (11) are added to that
911 section, to read:

912 395.1055 Rules and enforcement.—

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

916 (i) All hospitals providing organ transplantation, neonatal
917 intensive care services, inpatient psychiatric services,
918 inpatient substance abuse services, or comprehensive medical
919 rehabilitation meet the minimum licensure requirements adopted
920 by the agency. Such licensure requirements must include quality
921 of care, nurse staffing, physician staffing, physical plant,
922 equipment, emergency transportation, and data reporting
923 standards.

924 (2) Separate standards may be provided for general and
925 specialty hospitals, ambulatory surgical centers, ~~mobile~~
926 ~~surgical facilities,~~ and statutory rural hospitals as defined in
927 s. 395.602.

928 (3) The agency shall adopt rules with respect to the care

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929 and treatment of patients residing in distinct part nursing
930 units of hospitals which are certified for participation in
931 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
932 Security Act skilled nursing facility program. Such rules shall
933 take into account the types of patients treated in hospital
934 skilled nursing units, including typical patient acuity levels
935 and the average length of stay in such units, and shall be
936 limited to the appropriate portions of the Omnibus Budget
937 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
938 1987), Title IV (Medicare, Medicaid, and Other Health-Related
939 Programs), Subtitle C (Nursing Home Reform), as amended. The
940 agency shall require level 2 background screening as specified
941 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
942 personnel of distinct part nursing units.

943 (9) The agency shall establish a technical advisory panel,
944 pursuant to s. 20.052, to develop procedures and standards for
945 measuring outcomes of pediatric cardiac catheterization programs
946 and pediatric cardiovascular ~~open-heart~~ surgery programs.

947 (a) Members of the panel must have technical expertise in
948 pediatric cardiac medicine, shall serve without compensation,
949 and may not be reimbursed for per diem and travel expenses. ~~be~~
950 ~~composed~~

951 (b) Voting members of the panel shall include: 3 at-large
952 members, including 1 cardiologist who is board certified in
953 caring for adults with congenital heart disease and 2 board-
954 certified pediatric cardiologists, neither of whom may be
955 employed by any of the hospitals specified in subparagraphs 1.-
956 10. or their affiliates, each of whom is appointed by the
957 Secretary of Health Care Administration, and 10 members, and an

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958 alternate for each member, each of whom is a pediatric
959 cardiologist or a pediatric cardiovascular surgeon, each
960 appointed by the chief executive officer of ~~one~~ of the following
961 hospitals:

- 962 1. Johns Hopkins All Children's Hospital in St. Petersburg.
- 963 2. Arnold Palmer Hospital for Children in Orlando.
- 964 3. Joe DiMaggio Children's Hospital in Hollywood.
- 965 4. Nicklaus Children's Hospital in Miami.
- 966 5. St. Joseph's Children's Hospital in Tampa.
- 967 6. University of Florida Health Shands Hospital in
968 Gainesville.
- 969 7. University of Miami Holtz Children's Hospital in Miami.
- 970 8. Wolfson Children's Hospital in Jacksonville.
- 971 9. Florida Hospital for Children in Orlando.
- 972 10. Nemours Children's Hospital in Orlando.

973
974 Appointments made under subparagraphs 1.-10. are contingent upon
975 the hospital's maintenance of pediatric certificates of need and
976 the hospital's compliance with this section and rules adopted
977 thereunder, as determined by the Secretary of Health Care
978 Administration. A member appointed under subparagraphs 1.-10.
979 whose hospital fails to maintain such certificates or comply
980 with standards may serve only as a nonvoting member until the
981 hospital restores such certificates or complies with such
982 standards.

983 (c) The Secretary of Health Care Administration may appoint
984 nonvoting members to the panel. Nonvoting members may include:

- 985 1. The Secretary of Health Care Administration.
- 986 2. The Surgeon General.

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987 3. The Deputy Secretary of Children's Medical Services.

988 4. Any current or past Division Director of Children's
989 Medical Services.

990 5. A parent of a child with congenital heart disease.

991 6. An adult with congenital heart disease.

992 7. A representative from each of the following
993 organizations: the Florida Chapter of the American Academy of
994 Pediatrics, the Florida Chapter of the American College of
995 Cardiology, the Greater Southeast Affiliate of the American
996 Heart Association, the Adult Congenital Heart Association, the
997 March of Dimes, the Florida Association of Children's Hospitals,
998 and the Florida Society of Thoracic and Cardiovascular Surgeons.

999 (d) The panel shall meet biannually, or more frequently
1000 upon the call of the Secretary of Health Care Administration.
1001 Such meetings may be conducted telephonically, or by other
1002 electronic means.

1003 (e) The duties of the panel include recommending to the
1004 agency standards for quality of care, personnel, physical plant,
1005 equipment, emergency transportation, and data reporting for
1006 hospitals that provide pediatric cardiac services.

1007 (f) Beginning on January 1, 2020, and annually thereafter,
1008 the panel shall submit a report to the Governor, the President
1009 of the Senate, the Speaker of the House of Representatives, the
1010 Secretary of Health Care Administration, and the State Surgeon
1011 General. The report must summarize the panel's activities during
1012 the preceding fiscal year and include data and performance
1013 measures on surgical morbidity and mortality for all pediatric
1014 cardiac programs.

1015 ~~(b) Based on the recommendations of the panel, the agency~~

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1016 ~~shall develop and adopt rules for pediatric cardiac~~
1017 ~~catheterization programs and pediatric open-heart surgery~~
1018 ~~programs which include at least the following:~~

1019 ~~1. A risk adjustment procedure that accounts for the~~
1020 ~~variations in severity and case mix found in hospitals in this~~
1021 ~~state;~~

1022 ~~2. Outcome standards specifying expected levels of~~
1023 ~~performance in pediatric cardiac programs. Such standards may~~
1024 ~~include, but are not limited to, in-hospital mortality,~~
1025 ~~infection rates, nonfatal myocardial infarctions, length of~~
1026 ~~postoperative bleeds, and returns to surgery; and~~

1027 ~~3. Specific steps to be taken by the agency and licensed~~
1028 ~~facilities that do not meet the outcome standards within a~~
1029 ~~specified time, including time required for detailed case~~
1030 ~~reviews and development and implementation of corrective action~~
1031 ~~plans.~~

1032 ~~(c) This subsection is repealed on July 1, 2022.~~

1033 (10) Based on the recommendations of the advisory panel in
1034 subsection (9), the agency shall adopt rules for pediatric
1035 cardiac programs which, at a minimum, include:

1036 (a) Standards for pediatric cardiac catheterization
1037 services and pediatric cardiovascular surgery including quality
1038 of care, personnel, physical plant, equipment, emergency
1039 transportation, data reporting, and appropriate operating hours
1040 and timeframes for mobilization for emergency procedures.

1041 (b) Outcome standards consistent with nationally
1042 established levels of performance in pediatric cardiac programs.

1043 (c) Specific steps to be taken by the agency and licensed
1044 facilities when the facilities do not meet the outcome standards

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1045 within a specified time, including time required for detailed
1046 case reviews and the development and implementation of
1047 corrective action plans.

1048 (11) A pediatric cardiac program shall:

1049 (a) Be located in a hospital licensed under this chapter
1050 and include the following colocated components: a pediatric
1051 cardiology clinic, a pediatric cardiac catheterization
1052 laboratory, and a pediatric cardiovascular surgery program.

1053 (b) Have a risk adjustment surgical procedure protocol
1054 following the guidelines established by the Society of Thoracic
1055 Surgeons.

1056 (c) Have quality assurance and quality improvement
1057 processes in place to enhance clinical operation and patient
1058 satisfaction with services.

1059 (d) Participate in the clinical outcome reporting systems
1060 operated by the Society of Thoracic Surgeons and the American
1061 College of Cardiology.

1062 (12)~~(10)~~ The agency may adopt rules to administer the
1063 requirements of part II of chapter 408.

1064 Section 32. Section 395.10971, Florida Statutes, is
1065 repealed.

1066 Section 33. Section 395.10972, Florida Statutes, is
1067 repealed.

1068 Section 34. Section 395.10973, Florida Statutes, is amended
1069 to read:

1070 395.10973 Powers and duties of the agency.—It is the
1071 function of the agency to:

1072 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
1073 implement ~~the provisions of~~ this part and part II of chapter 408

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1074 conferring duties upon it.

1075 ~~(2) Develop, impose, and enforce specific standards within~~
1076 ~~the scope of the general qualifications established by this part~~
1077 ~~which must be met by individuals in order to receive licenses as~~
1078 ~~health care risk managers. These standards shall be designed to~~
1079 ~~ensure that health care risk managers are individuals of good~~
1080 ~~character and otherwise suitable and, by training or experience~~
1081 ~~in the field of health care risk management, qualified in~~
1082 ~~accordance with the provisions of this part to serve as health~~
1083 ~~care risk managers, within statutory requirements.~~

1084 ~~(3) Develop a method for determining whether an individual~~
1085 ~~meets the standards set forth in s. 395.10974.~~

1086 ~~(4) Issue licenses to qualified individuals meeting the~~
1087 ~~standards set forth in s. 395.10974.~~

1088 ~~(5) Receive, investigate, and take appropriate action with~~
1089 ~~respect to any charge or complaint filed with the agency to the~~
1090 ~~effect that a certified health care risk manager has failed to~~
1091 ~~comply with the requirements or standards adopted by rule by the~~
1092 ~~agency or to comply with the provisions of this part.~~

1093 ~~(6) Establish procedures for providing periodic reports on~~
1094 ~~persons certified or disciplined by the agency under this part.~~

1095 (2)~~(7)~~ Develop a model risk management program for health
1096 care facilities which will satisfy the requirements of s.
1097 395.0197.

1098 (3)~~(8)~~ Enforce the special-occupancy provisions of the
1099 Florida Building Code which apply to hospitals, intermediate
1100 residential treatment facilities, and ambulatory surgical
1101 centers in conducting any inspection authorized by this chapter
1102 and part II of chapter 408.

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

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

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

395.602 Rural hospitals.—

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

(a) ~~“Emergency care hospital” means a medical facility which provides:~~

- ~~1. Emergency medical treatment; and~~
- ~~2. Inpatient care to ill or injured persons prior to their transportation to another hospital or provides inpatient medical care to persons needing care for a period of up to 96 hours. The 96-hour limitation on inpatient care does not apply to respite, skilled nursing, hospice, or other nonacute care patients.~~

(b) ~~“Essential access community hospital” means any facility which:~~

- ~~1. Has at least 100 beds;~~
- ~~2. Is located more than 35 miles from any other essential access community hospital, rural referral center, or urban hospital meeting criteria for classification as a regional referral center;~~
- ~~3. Is part of a network that includes rural primary care hospitals;~~
- ~~4. Provides emergency and medical backup services to rural primary care hospitals in its rural health network;~~
- ~~5. Extends staff privileges to rural primary care hospital physicians in its network; and~~

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1132 ~~6. Accepts patients transferred from rural primary care~~
1133 ~~hospitals in its network.~~

1134 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
1135 ~~care hospital bed, as defined in s. 395.002(13), that is~~
1136 ~~inactive in that it cannot be occupied by acute care inpatients.~~

1137 (a) ~~(d)~~ "Rural area health education center" means an area
1138 health education center (AHEC), as authorized by Pub. L. No. 94-
1139 484, which provides services in a county with a population
1140 density of up to ~~no greater than~~ 100 persons per square mile.

1141 (b) ~~(e)~~ "Rural hospital" means an acute care hospital
1142 licensed under this chapter, having 100 or fewer licensed beds
1143 and an emergency room, which is:

1144 1. The sole provider within a county with a population
1145 density of up to 100 persons per square mile;

1146 2. An acute care hospital, in a county with a population
1147 density of up to 100 persons per square mile, which is at least
1148 30 minutes of travel time, on normally traveled roads under
1149 normal traffic conditions, from any other acute care hospital
1150 within the same county;

1151 3. A hospital supported by a tax district or subdistrict
1152 whose boundaries encompass a population of up to 100 persons per
1153 square mile;

1154 4. A hospital classified as a sole community hospital under
1155 42 C.F.R. s. 412.92, regardless of the number of licensed beds;

1156 5. A hospital with a service area that has a population of
1157 up to 100 persons per square mile. As used in this subparagraph,
1158 the term "service area" means the fewest number of zip codes
1159 that account for 75 percent of the hospital's discharges for the
1160 most recent 5-year period, based on information available from

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1161 the hospital inpatient discharge database in the Florida Center
1162 for Health Information and Transparency at the agency; or

1163 6. A hospital designated as a critical access hospital, as
1164 defined in s. 408.07.

1165

1166 Population densities used in this paragraph must be based upon
1167 the most recently completed United States census. A hospital
1168 that received funds under s. 409.9116 for a quarter beginning no
1169 later than July 1, 2002, is deemed to have been and shall
1170 continue to be a rural hospital from that date through June 30,
1171 2021, if the hospital continues to have up to 100 licensed beds
1172 and an emergency room. An acute care hospital that has not
1173 previously been designated as a rural hospital and that meets
1174 the criteria of this paragraph shall be granted such designation
1175 upon application, including supporting documentation, to the
1176 agency. A hospital that was licensed as a rural hospital during
1177 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
1178 rural hospital from the date of designation through June 30,
1179 2021, if the hospital continues to have up to 100 licensed beds
1180 and an emergency room.

1181 ~~(f) "Rural primary care hospital" means any facility~~
1182 ~~meeting the criteria in paragraph (c) or s. 395.605 which~~
1183 ~~provides:~~

1184 ~~1. Twenty-four-hour emergency medical care;~~

1185 ~~2. Temporary inpatient care for periods of 72 hours or less~~
1186 ~~to patients requiring stabilization before discharge or transfer~~
1187 ~~to another hospital. The 72-hour limitation does not apply to~~
1188 ~~respite, skilled nursing, hospice, or other nonacute care~~
1189 ~~patients; and~~

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1190 ~~3. Has no more than six licensed acute care inpatient beds.~~

1191 (c)~~(g)~~ "Swing-bed" means a bed which can be used
1192 interchangeably as either a hospital, skilled nursing facility
1193 (SNF), or intermediate care facility (ICF) bed pursuant to 42
1194 C.F.R. parts 405, 435, 440, 442, and 447.

1195 Section 38. Section 395.603, Florida Statutes, is amended
1196 to read:

1197 ~~395.603 Deactivation of general hospital beds; Rural~~
1198 ~~hospital impact statement.-~~

1199 ~~(1) The agency shall establish, by rule, a process by which~~
1200 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
1201 ~~as a rural primary care hospital or as an emergency care~~
1202 ~~hospital, or becomes a certified rural health clinic as defined~~
1203 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
1204 ~~a county health department, community health center, or other~~
1205 ~~similar outpatient program that provides preventive and curative~~
1206 ~~services, may deactivate general hospital beds. Rural primary~~
1207 ~~care hospitals and emergency care hospitals shall maintain the~~
1208 ~~number of actively licensed general hospital beds necessary for~~
1209 ~~the facility to be certified for Medicare reimbursement.~~
1210 ~~Hospitals that discontinue inpatient care to become rural health~~
1211 ~~care clinics or primary care programs shall deactivate all~~
1212 ~~licensed general hospital beds. All hospitals, clinics, and~~
1213 ~~programs with inactive beds shall provide 24-hour emergency~~
1214 ~~medical care by staffing an emergency room. Providers with~~
1215 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~
1216 ~~The agency shall specify in rule requirements for making 24-hour~~
1217 ~~emergency care available. Inactive general hospital beds shall~~
1218 ~~be included in the acute care bed inventory, maintained by the~~

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1219 ~~agency for certificate of need purposes, for 10 years from the~~
1220 ~~date of deactivation of the beds. After 10 years have elapsed,~~
1221 ~~inactive beds shall be excluded from the inventory. The agency~~
1222 ~~shall, at the request of the licensee, reactivate the inactive~~
1223 ~~general beds upon a showing by the licensee that licensure~~
1224 ~~requirements for the inactive general beds are met.~~

1225 ~~(2)~~ In formulating and implementing policies and rules that
1226 may have significant impact on the ability of rural hospitals to
1227 continue to provide health care services in rural communities,
1228 the agency, the department, or the respective regulatory board
1229 adopting policies or rules regarding the licensure or
1230 certification of health care professionals shall provide a rural
1231 hospital impact statement. The rural hospital impact statement
1232 shall assess the proposed action in light of the following
1233 questions:

1234 (1) ~~(a)~~ Do the health personnel affected by the proposed
1235 action currently practice in rural hospitals or are they likely
1236 to in the near future?

1237 (2) ~~(b)~~ What are the current numbers of the affected health
1238 personnel in this state, their geographic distribution, and the
1239 number practicing in rural hospitals?

1240 (3) ~~(c)~~ What are the functions presently performed by the
1241 affected health personnel, and are such functions presently
1242 performed in rural hospitals?

1243 (4) ~~(d)~~ What impact will the proposed action have on the
1244 ability of rural hospitals to recruit the affected personnel to
1245 practice in their facilities?

1246 (5) ~~(e)~~ What impact will the proposed action have on the
1247 limited financial resources of rural hospitals through increased

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1248 salaries and benefits necessary to recruit or retain such health
1249 personnel?

1250 (6)~~(f)~~ Is there a less stringent requirement which could
1251 apply to practice in rural hospitals?

1252 (7)~~(g)~~ Will this action create staffing shortages, which
1253 could result in a loss to the public of health care services in
1254 rural hospitals or result in closure of any rural hospitals?

1255 Section 39. Section 395.604, Florida Statutes, is repealed.

1256 Section 40. Section 395.605, Florida Statutes, is repealed.

1257 Section 41. Paragraph (c) of subsection (1) of section
1258 395.701, Florida Statutes, is amended to read:

1259 395.701 Annual assessments on net operating revenues for
1260 inpatient and outpatient services to fund public medical
1261 assistance; administrative fines for failure to pay assessments
1262 when due; exemption.—

1263 (1) For the purposes of this section, the term:

1264 (c) "Hospital" means a health care institution as defined
1265 in s. 395.002(12), but does not include any hospital operated by
1266 a state ~~the agency or the Department of Corrections.~~

1267 Section 42. Paragraph (b) of subsection (2) of section
1268 395.7015, Florida Statutes, is amended to read:

1269 395.7015 Annual assessment on health care entities.—

1270 (2) There is imposed an annual assessment against certain
1271 health care entities as described in this section:

1272 (b) For the purpose of this section, "health care entities"
1273 include the following:

1274 1. Ambulatory surgical centers ~~and mobile surgical~~
1275 ~~facilities licensed under s. 395.003. This subsection shall only~~
1276 ~~apply to mobile surgical facilities operating under contracts~~

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1277 ~~entered into on or after July 1, 1998.~~

1278 ~~2. Clinical laboratories licensed under s. 483.091,~~
1279 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
1280 ~~any clinical laboratory operated by the state or a political~~
1281 ~~subdivision of the state, any clinical laboratory which~~
1282 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
1283 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
1284 ~~percent or more of its gross revenues from services to charity~~
1285 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
1286 ~~bank procuring, storing, or distributing blood, plasma, or~~
1287 ~~tissue either for future manufacture or research or distributed~~
1288 ~~on a nonprofit basis, and further excluding any clinical~~
1289 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1290 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1291 ~~459 and who practice in the same group practice, and at which no~~
1292 ~~clinical laboratory work is performed for patients referred by~~
1293 ~~any health care provider who is not a member of the same group.~~

1294 2.3. Diagnostic-imaging centers that are freestanding
1295 outpatient facilities that provide specialized services for the
1296 identification or determination of a disease through examination
1297 and also provide sophisticated radiological services, and in
1298 which services are rendered by a physician licensed by the Board
1299 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1300 an osteopathic physician licensed by the Board of Osteopathic
1301 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1302 paragraph, "sophisticated radiological services" means the
1303 following: magnetic resonance imaging; nuclear medicine;
1304 angiography; arteriography; computed tomography; positron
1305 emission tomography; digital vascular imaging; bronchography;

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1306 lymphangiography; splenography; ultrasound, excluding ultrasound
1307 providers that are part of a private physician's office practice
1308 or when ultrasound is provided by two or more physicians
1309 licensed under chapter 458 or chapter 459 who are members of the
1310 same professional association and who practice in the same
1311 medical specialties; and such other sophisticated radiological
1312 services, excluding mammography, as adopted in rule by the
1313 board.

1314 Section 43. Subsection (1) of section 400.0625, Florida
1315 Statutes, is amended to read:

1316 400.0625 Minimum standards for clinical laboratory test
1317 results and diagnostic X-ray results.—

1318 (1) Each nursing home, as a requirement for issuance or
1319 renewal of its license, shall require that all clinical
1320 laboratory tests performed for the nursing home be performed by
1321 a ~~clinical~~ laboratory appropriately certified by the Centers for
1322 Medicare and Medicaid Services under the federal Clinical
1323 Laboratory Improvement Amendments and the federal rules adopted
1324 thereunder ~~licensed under the provisions of chapter 483~~, except
1325 for such self-testing procedures as are approved by the agency
1326 by rule. ~~Results of clinical laboratory tests performed prior to~~
1327 ~~admission which meet the minimum standards provided in s.~~
1328 ~~483.181(3) shall be accepted in lieu of routine examinations~~
1329 ~~required upon admission and clinical laboratory tests which may~~
1330 ~~be ordered by a physician for residents of the nursing home.~~

1331 Section 44. Paragraph (a) of subsection (2) of section
1332 400.191, Florida Statutes, is amended to read:

1333 400.191 Availability, distribution, and posting of reports
1334 and records.—

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1335 (2) The agency shall publish the Nursing Home Guide
1336 quarterly in electronic form to assist consumers and their
1337 families in comparing and evaluating nursing home facilities.

1338 (a) The agency shall provide an Internet site which shall
1339 include at least the following information either directly or
1340 indirectly through a link to another established site or sites
1341 of the agency's choosing:

1342 1. A section entitled "Have you considered programs that
1343 provide alternatives to nursing home care?" which shall be the
1344 first section of the Nursing Home Guide and which shall
1345 prominently display information about available alternatives to
1346 nursing homes and how to obtain additional information regarding
1347 these alternatives. The Nursing Home Guide shall explain that
1348 this state offers alternative programs that permit qualified
1349 elderly persons to stay in their homes instead of being placed
1350 in nursing homes and shall encourage interested persons to call
1351 the Comprehensive Assessment Review and Evaluation for Long-Term
1352 Care Services (CARES) Program to inquire if they qualify. The
1353 Nursing Home Guide shall list available home and community-based
1354 programs which shall clearly state the services that are
1355 provided and indicate whether nursing home services are included
1356 if needed.

1357 2. A list by name and address of all nursing home
1358 facilities in this state, including any prior name by which a
1359 facility was known during the previous 24-month period.

1360 3. Whether such nursing home facilities are proprietary or
1361 nonproprietary.

1362 4. The current owner of the facility's license and the year
1363 that that entity became the owner of the license.

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1364 5. The name of the owner or owners of each facility and
1365 whether the facility is affiliated with a company or other
1366 organization owning or managing more than one nursing facility
1367 in this state.

1368 6. The total number of beds in each facility and the most
1369 recently available occupancy levels.

1370 7. The number of private and semiprivate rooms in each
1371 facility.

1372 8. The religious affiliation, if any, of each facility.

1373 9. The languages spoken by the administrator and staff of
1374 each facility.

1375 10. Whether or not each facility accepts Medicare or
1376 Medicaid recipients or insurance, health maintenance
1377 organization, Veterans Administration, CHAMPUS program, or
1378 workers' compensation coverage.

1379 11. Recreational and other programs available at each
1380 facility.

1381 12. Special care units or programs offered at each
1382 facility.

1383 13. Whether the facility is a part of a retirement
1384 community that offers other services pursuant to part III of
1385 this chapter or part I or part III of chapter 429.

1386 14. Survey and deficiency information, including all
1387 federal and state recertification, licensure, revisit, and
1388 complaint survey information, for each facility ~~for the past 30~~
1389 ~~months~~. For noncertified nursing homes, state survey and
1390 deficiency information, including licensure, revisit, and
1391 complaint survey information ~~for the past 30 months~~ shall be
1392 provided.

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1393 Section 45. Subsection (1) and paragraphs (b), (e), and (f)
1394 of subsection (4) of section 400.464, Florida Statutes, are
1395 amended, and subsection (6) is added to that section, to read:

1396 400.464 Home health agencies to be licensed; expiration of
1397 license; exemptions; unlawful acts; penalties.—

1398 (1) The requirements of part II of chapter 408 apply to the
1399 provision of services that require licensure pursuant to this
1400 part and part II of chapter 408 and entities licensed or
1401 registered by or applying for such licensure or registration
1402 from the Agency for Health Care Administration pursuant to this
1403 part. A license issued by the agency is required in order to
1404 operate a home health agency in this state. A license issued on
1405 or after July 1, 2018, must specify the home health services the
1406 organization is authorized to perform and indicate whether such
1407 specified services are considered skilled care. The provision or
1408 advertising of services that require licensure pursuant to this
1409 part without such services being specified on the face of the
1410 license issued on or after July 1, 2018, constitutes unlicensed
1411 activity as prohibited under s. 408.812.

1412 (4)

1413 (b) The operation or maintenance of an unlicensed home
1414 health agency or the performance of any home health services in
1415 violation of this part is declared a nuisance, inimical to the
1416 public health, welfare, and safety. The agency or any state
1417 attorney may, in addition to other remedies provided in this
1418 part, bring an action for an injunction to restrain such
1419 violation, or to enjoin the future operation or maintenance of
1420 the home health agency or the provision of home health services
1421 in violation of this part or part II of chapter 408, until

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1422 compliance with this part or the rules adopted under this part
1423 has been demonstrated to the satisfaction of the agency.

1424 (e) Any person who owns, operates, or maintains an
1425 unlicensed home health agency and who, ~~within 10 working days~~
1426 after receiving notification from the agency, fails to cease
1427 operation and apply for a license under this part commits a
1428 misdemeanor of the second degree, punishable as provided in s.
1429 775.082 or s. 775.083. Each day of continued operation is a
1430 separate offense.

1431 (f) Any home health agency that fails to cease operation
1432 after agency notification may be fined in accordance with s.
1433 408.812 \$500 for each day of noncompliance.

1434 (6) Any person, entity, or organization providing home
1435 health services which is exempt from licensure under subsection
1436 (5) may voluntarily apply for a certificate of exemption from
1437 licensure under its exempt status with the agency on a form that
1438 specifies its name or names and addresses, a statement of the
1439 reasons why it is exempt from licensure as a home health agency,
1440 and other information deemed necessary by the agency. A
1441 certificate of exemption is valid for a period of not more than
1442 2 years and is not transferable. The agency may charge an
1443 applicant \$100 for a certificate of exemption or charge the
1444 actual cost of processing the certificate.

1445 Section 46. Subsections (6) through (9) of section 400.471,
1446 Florida Statutes, are redesignated as subsections (5) through
1447 (8), respectively, and present subsections (2), (6), and (9) of
1448 that section are amended, to read:

1449 400.471 Application for license; fee.—

1450 (2) In addition to the requirements of part II of chapter

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1451 408, the initial applicant, the applicant for a change of
1452 ownership, and the applicant for the addition of skilled care
1453 services must file with the application satisfactory proof that
1454 the home health agency is in compliance with this part and
1455 applicable rules, including:

1456 (a) A listing of services to be provided, either directly
1457 by the applicant or through contractual arrangements with
1458 existing providers.

1459 (b) The number and discipline of professional staff to be
1460 employed.

1461 ~~(c) Completion of questions concerning volume data on the~~
1462 ~~renewal application as determined by rule.~~

1463 (c) ~~(d)~~ A business plan, signed by the applicant, which
1464 details the home health agency's methods to obtain patients and
1465 its plan to recruit and maintain staff.

1466 (d) ~~(e)~~ Evidence of contingency funding as required under s.
1467 408.8065 ~~equal to 1 month's average operating expenses during~~
1468 ~~the first year of operation.~~

1469 (e) ~~(f)~~ A balance sheet, income and expense statement, and
1470 statement of cash flows for the first 2 years of operation which
1471 provide evidence of having sufficient assets, credit, and
1472 projected revenues to cover liabilities and expenses. The
1473 applicant has demonstrated financial ability to operate if the
1474 applicant's assets, credit, and projected revenues meet or
1475 exceed projected liabilities and expenses. An applicant may not
1476 project an operating margin of 15 percent or greater for any
1477 month in the first year of operation. All documents required
1478 under this paragraph must be prepared in accordance with
1479 generally accepted accounting principles and compiled and signed

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1480 by a certified public accountant.

1481 ~~(f)(g)~~ All other ownership interests in health care
1482 entities for each controlling interest, as defined in part II of
1483 chapter 408.

1484 ~~(g)(h)~~ In the case of an application for initial licensure,
1485 an application for a change of ownership, or an application for
1486 the addition of skilled care services, documentation of
1487 accreditation, or an application for accreditation, from an
1488 accrediting organization that is recognized by the agency as
1489 having standards comparable to those required by this part and
1490 part II of chapter 408. A home health agency that ~~is not~~
1491 ~~Medicare or Medicaid certified and~~ does not provide skilled care
1492 is exempt from this paragraph. Notwithstanding s. 408.806, an
1493 initial applicant ~~that has applied for accreditation~~ must
1494 provide proof of accreditation that is not conditional or
1495 provisional and a survey demonstrating compliance with the
1496 requirements of this part, part II of chapter 408, and
1497 applicable rules from an accrediting organization that is
1498 recognized by the agency as having standards comparable to those
1499 required by this part and part II of chapter 408 within 120 days
1500 after the date of the agency's receipt of the application for
1501 licensure ~~or the application shall be withdrawn from further~~
1502 ~~consideration~~. Such accreditation must be continuously
1503 maintained by the home health agency to maintain licensure. The
1504 agency shall accept, in lieu of its own periodic licensure
1505 survey, the submission of the survey of an accrediting
1506 organization that is recognized by the agency if the
1507 accreditation of the licensed home health agency is not
1508 provisional and if the licensed home health agency authorizes

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1509 releases of, and the agency receives the report of, the
1510 accrediting organization.

1511 ~~(6) The agency may not issue a license designated as~~
1512 ~~certified to a home health agency that fails to satisfy the~~
1513 ~~requirements of a Medicare certification survey from the agency.~~

1514 (8)~~(9)~~ The agency may not issue a renewal license for a
1515 home health agency in any county having at least one licensed
1516 home health agency and that has more than one home health agency
1517 per 5,000 persons, as indicated by the most recent population
1518 estimates published by the Legislature's Office of Economic and
1519 Demographic Research, if the applicant or any controlling
1520 interest has been administratively sanctioned by the agency
1521 during the 2 years prior to the submission of the licensure
1522 renewal application for one or more of the following acts:

1523 (a) An intentional or negligent act that materially affects
1524 the health or safety of a client of the provider;

1525 (b) Knowingly providing home health services in an
1526 unlicensed assisted living facility or unlicensed adult family-
1527 care home, unless the home health agency or employee reports the
1528 unlicensed facility or home to the agency within 72 hours after
1529 providing the services;

1530 (c) Preparing or maintaining fraudulent patient records,
1531 such as, but not limited to, charting ahead, recording vital
1532 signs or symptoms which were not personally obtained or observed
1533 by the home health agency's staff at the time indicated,
1534 borrowing patients or patient records from other home health
1535 agencies to pass a survey or inspection, or falsifying
1536 signatures;

1537 (d) Failing to provide at least one service directly to a

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1538 patient for a period of 60 days;

1539 (e) Demonstrating a pattern of falsifying documents
1540 relating to the training of home health aides or certified
1541 nursing assistants or demonstrating a pattern of falsifying
1542 health statements for staff who provide direct care to patients.
1543 A pattern may be demonstrated by a showing of at least three
1544 fraudulent entries or documents;

1545 (f) Demonstrating a pattern of billing any payor for
1546 services not provided. A pattern may be demonstrated by a
1547 showing of at least three billings for services not provided
1548 within a 12-month period;

1549 (g) Demonstrating a pattern of failing to provide a service
1550 specified in the home health agency's written agreement with a
1551 patient or the patient's legal representative, or the plan of
1552 care for that patient, except ~~unless a reduction in service is~~
1553 ~~mandated by Medicare, Medicaid, or a state program~~ or as
1554 provided in s. 400.492(3). A pattern may be demonstrated by a
1555 showing of at least three incidents, regardless of the patient
1556 or service, in which the home health agency did not provide a
1557 service specified in a written agreement or plan of care during
1558 a 3-month period;

1559 (h) Giving remuneration to a case manager, discharge
1560 planner, facility-based staff member, or third-party vendor who
1561 is involved in the discharge planning process of a facility
1562 licensed under chapter 395, chapter 429, or this chapter from
1563 whom the home health agency receives referrals or gives
1564 remuneration as prohibited in s. 400.474(6)(a);

1565 (i) Giving cash, or its equivalent, to a Medicare or
1566 Medicaid beneficiary;

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1567 (j) Demonstrating a pattern of billing the Medicaid program
1568 for services to Medicaid recipients which are medically
1569 unnecessary as determined by a final order. A pattern may be
1570 demonstrated by a showing of at least two such medically
1571 unnecessary services within one Medicaid program integrity audit
1572 period;

1573 (k) Providing services to residents in an assisted living
1574 facility for which the home health agency does not receive fair
1575 market value remuneration; or

1576 (l) Providing staffing to an assisted living facility for
1577 which the home health agency does not receive fair market value
1578 remuneration.

1579 Section 47. Subsection (5) of section 400.474, Florida
1580 Statutes, is amended to read:

1581 400.474 Administrative penalties.—

1582 (5) The agency shall impose a fine of \$5,000 against a home
1583 health agency that demonstrates a pattern of failing to provide
1584 a service specified in the home health agency's written
1585 agreement with a patient or the patient's legal representative,
1586 or the plan of care for that patient, except ~~unless a reduction~~
1587 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1588 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1589 by a showing of at least three incidences, regardless of the
1590 patient or service, where the home health agency did not provide
1591 a service specified in a written agreement or plan of care
1592 during a 3-month period. The agency shall impose the fine for
1593 each occurrence. The agency may also impose additional
1594 administrative fines under s. 400.484 for the direct or indirect
1595 harm to a patient, or deny, revoke, or suspend the license of

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1596 the home health agency for a pattern of failing to provide a
1597 service specified in the home health agency's written agreement
1598 with a patient or the plan of care for that patient.

1599 Section 48. Paragraph (c) of subsection (2) of section
1600 400.476, Florida Statutes, is amended to read:

1601 400.476 Staffing requirements; notifications; limitations
1602 on staffing services.—

1603 (2) DIRECTOR OF NURSING.—

1604 (c) A home health agency that provides skilled nursing care
1605 must ~~is not Medicare or Medicaid certified and does not provide~~
1606 ~~skilled care or provides only physical, occupational, or speech~~
1607 ~~therapy is not required to have a director of nursing and is~~
1608 ~~exempt from paragraph (b).~~

1609 Section 49. Section 400.484, Florida Statutes, is amended
1610 to read:

1611 400.484 Right of inspection; violations ~~deficiencies~~;
1612 fines.—

1613 (1) In addition to the requirements of s. 408.811, the
1614 agency may make such inspections and investigations as are
1615 necessary in order to determine the state of compliance with
1616 this part, part II of chapter 408, and applicable rules.

1617 (2) The agency shall impose fines for various classes of
1618 violations ~~deficiencies~~ in accordance with the following
1619 schedule:

1620 (a) Class I violations are as provided in s. 408.813 A
1621 ~~class I deficiency is any act, omission, or practice that~~
1622 ~~results in a patient's death, disablement, or permanent injury,~~
1623 ~~or places a patient at imminent risk of death, disablement, or~~
1624 ~~permanent injury.~~ Upon finding a class I violation ~~deficiency~~,

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1625 the agency shall impose an administrative fine in the amount of
1626 \$15,000 for each occurrence and each day that the violation
1627 ~~deficiency~~ exists.

1628 (b) Class II violations are as provided in s. 408.813 A
1629 ~~class II deficiency is any act, omission, or practice that has a~~
1630 ~~direct adverse effect on the health, safety, or security of a~~
1631 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1632 agency shall impose an administrative fine in the amount of
1633 \$5,000 for each occurrence and each day that the violation
1634 ~~deficiency~~ exists.

1635 (c) Class III violations are as provided in s. 408.813 A
1636 ~~class III deficiency is any act, omission, or practice that has~~
1637 ~~an indirect, adverse effect on the health, safety, or security~~
1638 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
1639 violation ~~deficiency~~, the agency shall impose an administrative
1640 fine not to exceed \$1,000 for each occurrence and each day that
1641 the uncorrected or repeated violation ~~deficiency~~ exists.

1642 (d) Class IV violations are as provided in s. 408.813 A
1643 ~~class IV deficiency is any act, omission, or practice related to~~
1644 ~~required reports, forms, or documents which does not have the~~
1645 ~~potential of negatively affecting patients.~~ These violations are
1646 of a type that the agency determines do not threaten the health,
1647 safety, or security of patients. Upon finding an uncorrected or
1648 repeated class IV violation ~~deficiency~~, the agency shall impose
1649 an administrative fine not to exceed \$500 for each occurrence
1650 and each day that the uncorrected or repeated violation
1651 ~~deficiency~~ exists.

1652 (3) In addition to any other penalties imposed pursuant to
1653 this section or part, the agency may assess costs related to an

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1654 investigation that results in a successful prosecution,
1655 excluding costs associated with an attorney's time.

1656 Section 50. Subsection (4) of section 400.497, Florida
1657 Statutes, is amended to read:

1658 400.497 Rules establishing minimum standards.—The agency
1659 shall adopt, publish, and enforce rules to implement part II of
1660 chapter 408 and this part, including, as applicable, ss. 400.506
1661 and 400.509, which must provide reasonable and fair minimum
1662 standards relating to:

1663 (4) Licensure application and renewal and certificates of
1664 exemption.

1665 Section 51. Subsection (5), paragraphs (d) and (e) of
1666 subsection (6), paragraph (a) of subsection (15), and subsection
1667 (19) of section 400.506, Florida Statutes, are amended to read:

1668 400.506 Licensure of nurse registries; requirements;
1669 penalties.—

1670 (5) (a) In addition to the requirements of s. 408.812, any
1671 person who owns, operates, or maintains an unlicensed nurse
1672 registry and who, ~~within 10 working days~~ after receiving
1673 notification from the agency, fails to cease operation and apply
1674 for a license under this part commits a misdemeanor of the
1675 second degree, punishable as provided in s. 775.082 or s.
1676 775.083. Each day of continued operation is a separate offense.

1677 (b) If a nurse registry fails to cease operation after
1678 agency notification, the agency may impose a fine pursuant to s.
1679 408.812 ~~of \$500 for each day of noncompliance~~.

1680 (6)

1681 (d) A registered nurse, licensed practical nurse, certified
1682 nursing assistant, companion or homemaker, or home health aide

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1683 referred for contract under this chapter by a nurse registry is
1684 deemed an independent contractor and not an employee of the
1685 nurse registry under any chapter regardless of the obligations
1686 imposed on a nurse registry under this chapter or chapter 408.

1687 (e) Upon referral of a registered nurse, licensed practical
1688 nurse, certified nursing assistant, companion or homemaker, or
1689 home health aide for contract in a private residence or
1690 facility, the nurse registry shall advise the patient, the
1691 patient's family, or any other person acting on behalf of the
1692 patient, at the time of the contract for services, that the
1693 caregiver referred by the nurse registry is an independent
1694 contractor and that the ~~it is not the obligation of a nurse~~
1695 registry may not ~~to~~ monitor, supervise, manage, or train a
1696 caregiver referred for contract under this chapter.

1697 (15) (a) The agency may deny, suspend, or revoke the license
1698 of a nurse registry and shall impose a fine of \$5,000 against a
1699 nurse registry that:

1700 1. Provides services to residents in an assisted living
1701 facility for which the nurse registry does not receive fair
1702 market value remuneration.

1703 2. Provides staffing to an assisted living facility for
1704 which the nurse registry does not receive fair market value
1705 remuneration.

1706 3. Fails to provide the agency, upon request, with copies
1707 of all contracts with assisted living facilities which were
1708 executed within the last 5 years.

1709 ~~4. Gives remuneration to a case manager, discharge planner,~~
1710 ~~facility-based staff member, or third-party vendor who is~~
1711 ~~involved in the discharge planning process of a facility~~

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1712 ~~licensed under chapter 395 or this chapter and from whom the~~
1713 ~~nurse registry receives referrals. A nurse registry is exempt~~
1714 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1715 ~~program or the Medicare program or share a controlling interest~~
1716 ~~with any entity licensed, registered, or certified under part II~~
1717 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1718 ~~Medicare program.~~

1719 ~~5. Gives remuneration to a physician, a member of the~~
1720 ~~physician's office staff, or an immediate family member of the~~
1721 ~~physician, and the nurse registry received a patient referral in~~
1722 ~~the last 12 months from that physician or the physician's office~~
1723 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1724 ~~does not bill the Florida Medicaid program or the Medicare~~
1725 ~~program or share a controlling interest with any entity~~
1726 ~~licensed, registered, or certified under part II of chapter 408~~
1727 ~~that bills the Florida Medicaid program or the Medicare program.~~

1728 ~~(19) It is not the obligation of~~ A nurse registry may not
1729 ~~to~~ monitor, supervise, manage, or train a registered nurse,
1730 licensed practical nurse, certified nursing assistant, companion
1731 or homemaker, or home health aide referred for contract under
1732 this chapter. In the event of a violation of this chapter or a
1733 violation of any other law of this state by a referred
1734 registered nurse, licensed practical nurse, certified nursing
1735 assistant, companion or homemaker, or home health aide, or a
1736 deficiency in credentials which comes to the attention of the
1737 nurse registry, the nurse registry shall advise the patient to
1738 terminate the referred person's contract, providing the reason
1739 for the suggested termination; cease referring the person to
1740 other patients or facilities; and, if practice violations are

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1741 involved, notify the licensing board. This section does not
1742 affect or negate any other obligations imposed on a nurse
1743 registry under chapter 408.

1744 Section 52. Subsection (1) of section 400.606, Florida
1745 Statutes, is amended to read:

1746 400.606 License; application; renewal; conditional license
1747 or permit; certificate of need.—

1748 (1) In addition to the requirements of part II of chapter
1749 408, the initial application and change of ownership application
1750 must be accompanied by a plan for the delivery of home,
1751 residential, and homelike inpatient hospice services to
1752 terminally ill persons and their families. Such plan must
1753 contain, but need not be limited to:

1754 (a) The estimated average number of terminally ill persons
1755 to be served monthly.

1756 (b) The geographic area in which hospice services will be
1757 available.

1758 (c) A listing of services which are or will be provided,
1759 either directly by the applicant or through contractual
1760 arrangements with existing providers.

1761 (d) Provisions for the implementation of hospice home care
1762 within 3 months after licensure.

1763 (e) Provisions for the implementation of hospice homelike
1764 inpatient care within 12 months after licensure.

1765 (f) The number and disciplines of professional staff to be
1766 employed.

1767 (g) The name and qualifications of any existing or
1768 potential contractee.

1769 (h) A plan for attracting and training volunteers.

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1770

1771 ~~If the applicant is an existing licensed health care provider,~~
1772 ~~the application must be accompanied by a copy of the most recent~~
1773 ~~profit loss statement and, if applicable, the most recent~~
1774 ~~licensure inspection report.~~

1775 Section 53. Subsection (6) of section 400.925, Florida
1776 Statutes, is amended to read:

1777 400.925 Definitions.—As used in this part, the term:

1778 (6) "Home medical equipment" includes any product as
1779 defined by the Food and Drug Administration's Federal Food,
1780 Drug, and Cosmetic Act, any products reimbursed under the
1781 Medicare Part B Durable Medical Equipment benefits, or any
1782 products reimbursed under the Florida Medicaid durable medical
1783 equipment program. Home medical equipment includes:

1784 (a) Oxygen and related respiratory equipment; ~~manual,~~
1785 ~~motorized, or customized wheelchairs and related seating and~~
1786 ~~positioning, but does not include prosthetics or orthotics or~~
1787 ~~any splints, braces, or aids custom fabricated by a licensed~~
1788 ~~health care practitioner;~~

1789 (b) Motorized scooters;

1790 (c) Personal transfer systems; and

1791 (d) Specialty beds, for use by a person with a medical
1792 need; and

1793 (e) Manual, motorized, or customized wheelchairs and
1794 related seating and positioning, but does not include
1795 prosthetics or orthotics or any splints, braces, or aids custom
1796 fabricated by a licensed health care practitioner.

1797 Section 54. Subsection (4) of section 400.931, Florida
1798 Statutes, is amended to read:

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1799 400.931 Application for license; fee.—

1800 (4) When a change of the general manager of a home medical
1801 equipment provider occurs, the licensee must notify the agency
1802 of the change within the timeframes established in part II of
1803 chapter 408 and applicable rules ~~45 days~~.

1804 Section 55. Subsection (2) of section 400.933, Florida
1805 Statutes, is amended to read:

1806 400.933 Licensure inspections and investigations.—

1807 (2) The agency shall accept, in lieu of its own periodic
1808 inspections for licensure, submission of the following:

1809 (a) The survey or inspection of an accrediting
1810 organization, provided the accreditation of the licensed home
1811 medical equipment provider is not provisional and provided the
1812 licensed home medical equipment provider authorizes release of,
1813 and the agency receives the report of, the accrediting
1814 organization; or

1815 (b) A copy of a valid medical oxygen retail establishment
1816 permit issued by the Department of Business and Professional
1817 Regulation Health, pursuant to chapter 499.

1818 Section 56. Subsection (2) of section 400.980, Florida
1819 Statutes, is amended to read:

1820 400.980 Health care services pools.—

1821 (2) The requirements of part II of chapter 408 apply to the
1822 provision of services that require licensure or registration
1823 pursuant to this part and part II of chapter 408 and to entities
1824 registered by or applying for such registration from the agency
1825 pursuant to this part. Registration or a license issued by the
1826 agency is required for the operation of a health care services
1827 pool in this state. In accordance with s. 408.805, an applicant

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1828 or licensee shall pay a fee for each license application
1829 submitted using this part, part II of chapter 408, and
1830 applicable rules. The agency shall adopt rules and provide forms
1831 required for such registration and shall impose a registration
1832 fee in an amount sufficient to cover the cost of administering
1833 this part and part II of chapter 408. In addition to the
1834 requirements in part II of chapter 408, the registrant must
1835 provide the agency with any change of information contained on
1836 the original registration application within the timeframes
1837 established in this part, part II of chapter 408, and applicable
1838 rules ~~14 days prior to the change.~~

1839 Section 57. Paragraphs (a) through (d) of subsection (4) of
1840 section 400.9905, Florida Statutes, are amended to read:

1841 400.9905 Definitions.—

1842 (4) "Clinic" means an entity where health care services are
1843 provided to individuals and which tenders charges for
1844 reimbursement for such services, including a mobile clinic and a
1845 portable equipment provider. As used in this part, the term does
1846 not include and the licensure requirements of this part do not
1847 apply to:

1848 (a) Entities licensed or registered by the state under
1849 chapter 395; entities licensed or registered by the state and
1850 providing only health care services within the scope of services
1851 authorized under their respective licenses under ss. 383.30-
1852 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,
1853 this chapter except part X, chapter 429, chapter 463, chapter
1854 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter
1855 484, or chapter 651; end-stage renal disease providers
1856 authorized under 42 C.F.R. part 405, subpart U; providers

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1857 certified under 42 C.F.R. part 485, subpart B or subpart H; or
1858 any entity that provides neonatal or pediatric hospital-based
1859 health care services or other health care services by licensed
1860 practitioners solely within a hospital licensed under chapter
1861 395.

1862 (b) Entities that own, directly or indirectly, entities
1863 licensed or registered by the state pursuant to chapter 395;
1864 entities that own, directly or indirectly, entities licensed or
1865 registered by the state and providing only health care services
1866 within the scope of services authorized pursuant to their
1867 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1868 chapter 390, chapter 394, chapter 397, this chapter except part
1869 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1870 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1871 stage renal disease providers authorized under 42 C.F.R. part
1872 405, subpart U; providers certified under 42 C.F.R. part 485,
1873 subpart B or subpart H; or any entity that provides neonatal or
1874 pediatric hospital-based health care services by licensed
1875 practitioners solely within a hospital licensed under chapter
1876 395.

1877 (c) Entities that are owned, directly or indirectly, by an
1878 entity licensed or registered by the state pursuant to chapter
1879 395; entities that are owned, directly or indirectly, by an
1880 entity licensed or registered by the state and providing only
1881 health care services within the scope of services authorized
1882 pursuant to their respective licenses under ss. 383.30-383.332
1883 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1884 chapter except part X, chapter 429, chapter 463, chapter 465,
1885 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or

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1886 chapter 651; end-stage renal disease providers authorized under
1887 42 C.F.R. part 405, subpart U; providers certified under 42
1888 C.F.R. part 485, subpart B or subpart H; or any entity that
1889 provides neonatal or pediatric hospital-based health care
1890 services by licensed practitioners solely within a hospital
1891 under chapter 395.

1892 (d) Entities that are under common ownership, directly or
1893 indirectly, with an entity licensed or registered by the state
1894 pursuant to chapter 395; entities that are under common
1895 ownership, directly or indirectly, with an entity licensed or
1896 registered by the state and providing only health care services
1897 within the scope of services authorized pursuant to their
1898 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1899 chapter 390, chapter 394, chapter 397, this chapter except part
1900 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1901 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1902 stage renal disease providers authorized under 42 C.F.R. part
1903 405, subpart U; providers certified under 42 C.F.R. part 485,
1904 subpart B or subpart H; or any entity that provides neonatal or
1905 pediatric hospital-based health care services by licensed
1906 practitioners solely within a hospital licensed under chapter
1907 395.

1908
1909 Notwithstanding this subsection, an entity shall be deemed a
1910 clinic and must be licensed under this part in order to receive
1911 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1912 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1913 Section 58. Subsection (6) of section 400.9935, Florida
1914 Statutes, is amended to read:

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1915 400.9935 Clinic responsibilities.—

1916 (6) Any person or entity providing health care services
1917 which is not a clinic, as defined under s. 400.9905, may
1918 voluntarily apply for a certificate of exemption from licensure
1919 under its exempt status with the agency on a form that sets
1920 forth its name or names and addresses, a statement of the
1921 reasons why it cannot be defined as a clinic, and other
1922 information deemed necessary by the agency. An exemption may be
1923 valid for up to 2 years and is not transferable. The agency may
1924 charge an applicant for a certificate of exemption in an amount
1925 equal to \$100 or the actual cost of processing the certificate,
1926 whichever is less. An entity seeking a certificate of exemption
1927 must publish and maintain a schedule of charges for the medical
1928 services offered to patients. The schedule must include the
1929 prices charged to an uninsured person paying for such services
1930 by cash, check, credit card, or debit card. The schedule must be
1931 posted in a conspicuous place in the reception area of the
1932 entity and must include, but is not limited to, the 50 services
1933 most frequently provided by the entity. The schedule may group
1934 services by three price levels, listing services in each price
1935 level. The posting must be at least 15 square feet in size. As a
1936 condition precedent to receiving a certificate of exemption, an
1937 applicant must provide to the agency documentation of compliance
1938 with these requirements.

1939 Section 59. Paragraph (a) of subsection (2) of section
1940 408.033, Florida Statutes, is amended to read:

1941 408.033 Local and state health planning.—

1942 (2) FUNDING.—

1943 (a) The Legislature intends that the cost of local health

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1944 councils be borne by assessments on selected health care
1945 facilities subject to facility licensure by the Agency for
1946 Health Care Administration, including abortion clinics, assisted
1947 living facilities, ambulatory surgical centers, birth birthing
1948 centers, ~~clinical laboratories except community nonprofit blood~~
1949 ~~banks and clinical laboratories operated by practitioners for~~
1950 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1951 hospices, hospitals, intermediate care facilities for the
1952 developmentally disabled, nursing homes, health care clinics,
1953 and multiphasic testing centers and by assessments on
1954 organizations subject to certification by the agency pursuant to
1955 chapter 641, part III, including health maintenance
1956 organizations and prepaid health clinics. Fees assessed may be
1957 collected prospectively at the time of licensure renewal and
1958 prorated for the licensure period.

1959 Section 60. Present paragraphs (f) through (l) of
1960 subsection (3) of section 408.036, Florida Statutes, are
1961 redesignated as paragraphs (e) through (k), respectively,
1962 present paragraphs (o) through (t) of that subsection are
1963 redesignated as paragraphs (l) through (q), respectively, and
1964 present paragraphs (e), (m), (n), and (p) of that subsection are
1965 amended, to read:

1966 408.036 Projects subject to review; exemptions.—

1967 (3) EXEMPTIONS.—Upon request, the following projects are
1968 subject to exemption from the provisions of subsection (1):

1969 ~~(e) For mobile surgical facilities and related health care~~
1970 ~~services provided under contract with the Department of~~
1971 ~~Corrections or a private correctional facility operating~~
1972 ~~pursuant to chapter 957.~~

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1973 ~~(m)1. For the provision of adult open heart services in a~~
1974 ~~hospital located within the boundaries of a health service~~
1975 ~~planning district, as defined in s. 408.032(5), which has~~
1976 ~~experienced an annual net out migration of at least 600 open-~~
1977 ~~heart surgery cases for 3 consecutive years according to the~~
1978 ~~most recent data reported to the agency, and the district's~~
1979 ~~population per licensed and operational open-heart programs~~
1980 ~~exceeds the state average of population per licensed and~~
1981 ~~operational open heart programs by at least 25 percent. All~~
1982 ~~hospitals within a health service planning district which meet~~
1983 ~~the criteria reference in sub-subparagraphs 2.a. h. shall be~~
1984 ~~eligible for this exemption on July 1, 2004, and shall receive~~
1985 ~~the exemption upon filing for it and subject to the following:~~

1986 ~~a. A hospital that has received a notice of intent to grant~~
1987 ~~a certificate of need or a final order of the agency granting a~~
1988 ~~certificate of need for the establishment of an open-heart-~~
1989 ~~surgery program is entitled to receive a letter of exemption for~~
1990 ~~the establishment of an adult open heart surgery program upon~~
1991 ~~filing a request for exemption and complying with the criteria~~
1992 ~~enumerated in sub-subparagraphs 2.a. h., and is entitled to~~
1993 ~~immediately commence operation of the program.~~

1994 ~~b. An otherwise eligible hospital that has not received a~~
1995 ~~notice of intent to grant a certificate of need or a final order~~
1996 ~~of the agency granting a certificate of need for the~~
1997 ~~establishment of an open-heart-surgery program is entitled to~~
1998 ~~immediately receive a letter of exemption for the establishment~~
1999 ~~of an adult open heart surgery program upon filing a request for~~
2000 ~~exemption and complying with the criteria enumerated in sub-~~
2001 ~~subparagraphs 2.a. h., but is not entitled to commence operation~~

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2002 ~~of its program until December 31, 2006.~~

2003 ~~2. A hospital shall be exempt from the certificate of need~~
2004 ~~review for the establishment of an open-heart surgery program~~
2005 ~~when the application for exemption submitted under this~~
2006 ~~paragraph complies with the following criteria:~~

2007 ~~a. The applicant must certify that it will meet and~~
2008 ~~continuously maintain the minimum licensure requirements adopted~~
2009 ~~by the agency governing adult open-heart programs, including the~~
2010 ~~most current guidelines of the American College of Cardiology~~
2011 ~~and American Heart Association Guidelines for Adult Open Heart~~
2012 ~~Programs.~~

2013 ~~b. The applicant must certify that it will maintain~~
2014 ~~sufficient appropriate equipment and health personnel to ensure~~
2015 ~~quality and safety.~~

2016 ~~e. The applicant must certify that it will maintain~~
2017 ~~appropriate times of operation and protocols to ensure~~
2018 ~~availability and appropriate referrals in the event of~~
2019 ~~emergencies.~~

2020 ~~d. The applicant can demonstrate that it has discharged at~~
2021 ~~least 300 inpatients with a principal diagnosis of ischemic~~
2022 ~~heart disease for the most recent 12-month period as reported to~~
2023 ~~the agency.~~

2024 ~~e. The applicant is a general acute care hospital that is~~
2025 ~~in operation for 3 years or more.~~

2026 ~~f. The applicant is performing more than 300 diagnostic~~
2027 ~~cardiac catheterization procedures per year, combined inpatient~~
2028 ~~and outpatient.~~

2029 ~~g. The applicant's payor mix at a minimum reflects the~~
2030 ~~community average for Medicaid, charity care, and self-pay~~

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2031 ~~patients or the applicant must certify that it will provide a~~
2032 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~
2033 ~~open-heart-surgery patients.~~

2034 ~~h. If the applicant fails to meet the established criteria~~
2035 ~~for open-heart programs or fails to reach 300 surgeries per year~~
2036 ~~by the end of its third year of operation, it must show cause~~
2037 ~~why its exemption should not be revoked.~~

2038 ~~3. By December 31, 2004, and annually thereafter, the~~
2039 ~~agency shall submit a report to the Legislature providing~~
2040 ~~information concerning the number of requests for exemption it~~
2041 ~~has received under this paragraph during the calendar year and~~
2042 ~~the number of exemptions it has granted or denied during the~~
2043 ~~calendar year.~~

2044 ~~(n) For the provision of percutaneous coronary intervention~~
2045 ~~for patients presenting with emergency myocardial infarctions in~~
2046 ~~a hospital without an approved adult open-heart-surgery program.~~
2047 ~~In addition to any other documentation required by the agency, a~~
2048 ~~request for an exemption submitted under this paragraph must~~
2049 ~~comply with the following:~~

2050 ~~1. The applicant must certify that it will meet and~~
2051 ~~continuously maintain the requirements adopted by the agency for~~
2052 ~~the provision of these services. These licensure requirements~~
2053 ~~shall be adopted by rule and must be consistent with the~~
2054 ~~guidelines published by the American College of Cardiology and~~
2055 ~~the American Heart Association for the provision of percutaneous~~
2056 ~~coronary interventions in hospitals without adult open-heart~~
2057 ~~services. At a minimum, the rules must require the following:~~

2058 ~~a. Cardiologists must be experienced interventionalists who~~
2059 ~~have performed a minimum of 75 interventions within the previous~~

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2060 ~~12 months.~~

2061 ~~b. The hospital must provide a minimum of 36 emergency~~
2062 ~~interventions annually in order to continue to provide the~~
2063 ~~service.~~

2064 ~~e. The hospital must offer sufficient physician, nursing,~~
2065 ~~and laboratory staff to provide the services 24 hours a day, 7~~
2066 ~~days a week.~~

2067 ~~d. Nursing and technical staff must have demonstrated~~
2068 ~~experience in handling acutely ill patients requiring~~
2069 ~~intervention based on previous experience in dedicated~~
2070 ~~interventional laboratories or surgical centers.~~

2071 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~
2072 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

2073 ~~f. Formalized written transfer agreements must be developed~~
2074 ~~with a hospital with an adult open-heart surgery program, and~~
2075 ~~written transport protocols must be in place to ensure safe and~~
2076 ~~efficient transfer of a patient within 60 minutes. Transfer and~~
2077 ~~transport agreements must be reviewed and tested, with~~
2078 ~~appropriate documentation maintained at least every 3 months.~~
2079 ~~However, a hospital located more than 100 road miles from the~~
2080 ~~closest Level II adult cardiovascular services program does not~~
2081 ~~need to meet the 60-minute transfer time protocol if the~~
2082 ~~hospital demonstrates that it has a formalized, written transfer~~
2083 ~~agreement with a hospital that has a Level II program. The~~
2084 ~~agreement must include written transport protocols that ensure~~
2085 ~~the safe and efficient transfer of a patient, taking into~~
2086 ~~consideration the patient's clinical and physical~~
2087 ~~characteristics, road and weather conditions, and viability of~~
2088 ~~ground and air ambulance service to transfer the patient.~~

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2089 ~~g. Hospitals implementing the service must first undertake~~
2090 ~~a training program of 3 to 6 months' duration, which includes~~
2091 ~~establishing standards and testing logistics, creating quality~~
2092 ~~assessment and error management practices, and formalizing~~
2093 ~~patient selection criteria.~~

2094 ~~2. The applicant must certify that it will use at all times~~
2095 ~~the patient selection criteria for the performance of primary~~
2096 ~~angioplasty at hospitals without adult open heart surgery~~
2097 ~~programs issued by the American College of Cardiology and the~~
2098 ~~American Heart Association. At a minimum, these criteria would~~
2099 ~~provide for the following:~~

2100 ~~a. Avoidance of interventions in hemodynamically stable~~
2101 ~~patients who have identified symptoms or medical histories.~~

2102 ~~b. Transfer of patients who have a history of coronary~~
2103 ~~disease and clinical presentation of hemodynamic instability.~~

2104 ~~3. The applicant must agree to submit a quarterly report to~~
2105 ~~the agency detailing patient characteristics, treatment, and~~
2106 ~~outcomes for all patients receiving emergency percutaneous~~
2107 ~~coronary interventions pursuant to this paragraph. This report~~
2108 ~~must be submitted within 15 days after the close of each~~
2109 ~~calendar quarter.~~

2110 ~~4. The exemption provided by this paragraph does not apply~~
2111 ~~unless the agency determines that the hospital has taken all~~
2112 ~~necessary steps to be in compliance with all requirements of~~
2113 ~~this paragraph, including the training program required under~~
2114 ~~sub-subparagraph 1.g.~~

2115 ~~5. Failure of the hospital to continuously comply with the~~
2116 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~
2117 ~~and 3. will result in the immediate expiration of this~~

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2118 exemption.

2119 ~~6. Failure of the hospital to meet the volume requirements~~
2120 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~
2121 ~~program begins offering the service will result in the immediate~~
2122 ~~expiration of the exemption.~~

2123
2124 ~~If the exemption for this service expires under subparagraph 5.~~
2125 ~~or subparagraph 6., the agency may not grant another exemption~~
2126 ~~for this service to the same hospital for 2 years and then only~~
2127 ~~upon a showing that the hospital will remain in compliance with~~
2128 ~~the requirements of this paragraph through a demonstration of~~
2129 ~~corrections to the deficiencies that caused expiration of the~~
2130 ~~exemption. Compliance with the requirements of this paragraph~~
2131 ~~includes compliance with the rules adopted pursuant to this~~
2132 ~~paragraph.~~

2133 ~~(m)~~ (p) For replacement of a licensed nursing home on the
2134 same site, or within 5 miles of the same site if within the same
2135 subdistrict, if the number of licensed beds does not increase
2136 except as permitted under paragraph (e) ~~(f)~~.

2137 Section 61. Paragraph (b) of subsection (3) of section
2138 408.0361, Florida Statutes, is amended to read:

2139 408.0361 Cardiovascular services and burn unit licensure.-

2140 (3) In establishing rules for adult cardiovascular
2141 services, the agency shall include provisions that allow for:

2142 (b)1. For a hospital seeking a Level I program,
2143 demonstration that, for the most recent 12-month period as
2144 reported to the agency, it has provided a minimum of 300 adult
2145 inpatient and outpatient diagnostic cardiac catheterizations or,
2146 for the most recent 12-month period, has discharged or

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2147 transferred at least 300 patients ~~inpatients~~ with the principal
2148 diagnosis of ischemic heart disease and that it has a
2149 formalized, written transfer agreement with a hospital that has
2150 a Level II program, including written transport protocols to
2151 ensure safe and efficient transfer of a patient within 60
2152 minutes.

2153 2.a. A hospital located more than 100 road miles from the
2154 closest Level II adult cardiovascular services program does not
2155 need to meet the diagnostic cardiac catheterization volume and
2156 ischemic heart disease diagnosis volume requirements in
2157 subparagraph 1., if the hospital demonstrates that it has, for
2158 the most recent 12-month period as reported to the agency,
2159 provided a minimum of 100 adult inpatient and outpatient
2160 diagnostic cardiac catheterizations or that, for the most recent
2161 12-month period, it has discharged or transferred at least 300
2162 patients with the principal diagnosis of ischemic heart disease.

2163 b. ~~However,~~ A hospital located more than 100 road miles
2164 from the closest Level II adult cardiovascular services program
2165 does not need to meet the 60-minute transfer time protocol
2166 requirement in subparagraph 1., if the hospital demonstrates
2167 that it has a formalized, written transfer agreement with a
2168 hospital that has a Level II program. The agreement must include
2169 written transport protocols to ensure the safe and efficient
2170 transfer of a patient, taking into consideration the patient's
2171 clinical and physical characteristics, road and weather
2172 conditions, and viability of ground and air ambulance service to
2173 transfer the patient.

2174 3. At a minimum, the rules for adult cardiovascular
2175 services must require nursing and technical staff to have

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2176 demonstrated experience in handling acutely ill patients
2177 requiring intervention, based on the staff member's previous
2178 experience in dedicated cardiac interventional laboratories or
2179 surgical centers. If a staff member's previous experience is in
2180 a dedicated cardiac interventional laboratory at a hospital that
2181 does not have an approved adult open-heart-surgery program, the
2182 staff member's previous experience qualifies only if, at the
2183 time the staff member acquired his or her experience, the
2184 dedicated cardiac interventional laboratory:

2185 a. Had an annual volume of 500 or more percutaneous cardiac
2186 intervention procedures;

2187 b. Achieved a demonstrated success rate of 95 percent or
2188 greater for percutaneous cardiac intervention procedures;

2189 c. Experienced a complication rate of less than 5 percent
2190 for percutaneous cardiac intervention procedures; and

2191 d. Performed diverse cardiac procedures, including, but not
2192 limited to, balloon angioplasty and stenting, rotational
2193 atherectomy, cutting balloon atheroma remodeling, and procedures
2194 relating to left ventricular support capability.

2195 Section 62. Paragraph (k) is added to subsection (3) of
2196 section 408.05, Florida Statutes, to read:

2197 408.05 Florida Center for Health Information and
2198 Transparency.—

2199 (3) HEALTH INFORMATION TRANSPARENCY.—In order to
2200 disseminate and facilitate the availability of comparable and
2201 uniform health information, the agency shall perform the
2202 following functions:

2203 (k) Contract with the Society of Thoracic Surgeons and the
2204 American College of Cardiology to obtain data reported pursuant

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2205 to s. 395.1055 for publication on the agency's website in a
2206 manner that will allow consumers to be informed of aggregate
2207 data and to compare pediatric cardiac programs.

2208 Section 63. Subsection (4) of section 408.061, Florida
2209 Statutes, is amended to read:

2210 408.061 Data collection; uniform systems of financial
2211 reporting; information relating to physician charges;
2212 confidential information; immunity.—

2213 (4) Within 120 days after the end of its fiscal year, each
2214 health care facility, excluding continuing care facilities,
2215 hospitals operated by state agencies, and nursing homes as those
2216 terms are defined in s. 408.07 ~~s. 408.07(14) and (37)~~, shall
2217 file with the agency, on forms adopted by the agency and based
2218 on the uniform system of financial reporting, its actual
2219 financial experience for that fiscal year, including
2220 expenditures, revenues, and statistical measures. Such data may
2221 be based on internal financial reports which are certified to be
2222 complete and accurate by the provider. However, hospitals'
2223 actual financial experience shall be their audited actual
2224 experience. Every nursing home shall submit to the agency, in a
2225 format designated by the agency, a statistical profile of the
2226 nursing home residents. The agency, in conjunction with the
2227 Department of Elderly Affairs and the Department of Health,
2228 shall review these statistical profiles and develop
2229 recommendations for the types of residents who might more
2230 appropriately be placed in their homes or other noninstitutional
2231 settings.

2232 Section 64. Subsection (11) of section 408.07, Florida
2233 Statutes, is amended to read:

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2234 408.07 Definitions.—As used in this chapter, with the
2235 exception of ss. 408.031-408.045, the term:

2236 ~~(11) "Clinical laboratory" means a facility licensed under~~
2237 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
2238 ~~483.041(6); any clinical laboratory operated by the state or a~~
2239 ~~political subdivision of the state; any blood or tissue bank~~
2240 ~~where the majority of revenues are received from the sale of~~
2241 ~~blood or tissue and where blood, plasma, or tissue is procured~~
2242 ~~from volunteer donors and donated, processed, stored, or~~
2243 ~~distributed on a nonprofit basis; and any clinical laboratory~~
2244 ~~which is wholly owned and operated by physicians who are~~
2245 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
2246 ~~in the same group practice, and at which no clinical laboratory~~
2247 ~~work is performed for patients referred by any health care~~
2248 ~~provider who is not a member of that same group practice.~~

2249 Section 65. Subsection (4) of section 408.20, Florida
2250 Statutes, is amended to read:

2251 408.20 Assessments; Health Care Trust Fund.—

2252 (4) Hospitals operated by a state agency ~~the Department of~~
2253 ~~Children and Families, the Department of Health, or the~~
2254 ~~Department of Corrections~~ are exempt from the assessments
2255 required under this section.

2256 Section 66. Section 408.7056, Florida Statutes, is
2257 repealed.

2258 Section 67. Subsections (10), (11), and (27) of section
2259 408.802, Florida Statutes, are amended to read:

2260 408.802 Applicability.—The provisions of this part apply to
2261 the provision of services that require licensure as defined in
2262 this part and to the following entities licensed, registered, or

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2263 certified by the agency, as described in chapters 112, 383, 390,
2264 394, 395, 400, 429, 440, 483, and 765:

2265 ~~(10) Mobile surgical facilities, as provided under part I~~
2266 ~~of chapter 395.~~

2267 ~~(11) Health care risk managers, as provided under part I of~~
2268 ~~chapter 395.~~

2269 ~~(27) Clinical laboratories, as provided under part I of~~
2270 ~~chapter 483.~~

2271 Section 68. Subsections (12) and (13) of section 408.803,
2272 Florida Statutes, are redesignated as subsections (13) and (14),
2273 respectively, and a new subsection (12) is added to that
2274 section, to read:

2275 408.803 Definitions.—As used in this part, the term:

2276 (12) "Relative" means an individual who is the father,
2277 mother, stepfather, stepmother, son, daughter, brother, sister,
2278 grandmother, grandfather, great-grandmother, great-grandfather,
2279 grandson, granddaughter, uncle, aunt, first cousin, nephew,
2280 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
2281 daughter-in-law, brother-in-law, sister-in-law, stepson,
2282 stepdaughter, stepbrother, stepsister, half-brother, or half-
2283 sister of a patient or client.

2284 Section 69. Paragraph (c) of subsection (7) of section
2285 408.806, Florida Statutes, is amended, and subsection (9) is
2286 added to that section, to read:

2287 408.806 License application process.—

2288 (7)

2289 (c) If an inspection is required by the authorizing statute
2290 for a license application other than an initial application, the
2291 inspection must be unannounced. This paragraph does not apply to

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2292 inspections required pursuant to ss. 383.324, 395.0161(4) and,
2293 ~~429.67(6), and 483.061(2)~~.

2294 (9) A licensee that holds a license for multiple providers
2295 licensed by the agency may request that all related license
2296 expiration dates be aligned. Upon such request, the agency may
2297 issue a license for an abbreviated licensure period with a
2298 prorated licensure fee.

2299 Section 70. Paragraphs (d) and (e) of subsection (1) of
2300 section 408.809, Florida Statutes, are amended to read:

2301 408.809 Background screening; prohibited offenses.—

2302 (1) Level 2 background screening pursuant to chapter 435
2303 must be conducted through the agency on each of the following
2304 persons, who are considered employees for the purposes of
2305 conducting screening under chapter 435:

2306 (d) Any person who is a controlling interest ~~if the agency~~
2307 ~~has reason to believe that such person has been convicted of any~~
2308 ~~offense prohibited by s. 435.04. For each controlling interest~~
2309 ~~who has been convicted of any such offense, the licensee shall~~
2310 ~~submit to the agency a description and explanation of the~~
2311 ~~conviction at the time of license application.~~

2312 (e) Any person, as required by authorizing statutes,
2313 seeking employment with a licensee or provider who is expected
2314 to, or whose responsibilities may require him or her to, provide
2315 personal care or services directly to clients or have access to
2316 client funds, personal property, or living areas; and any
2317 person, as required by authorizing statutes, contracting with a
2318 licensee or provider whose responsibilities require him or her
2319 to provide personal care or personal services directly to
2320 clients, or contracting with a licensee or provider to work 20

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2321 hours a week or more who will have access to client funds,
2322 personal property, or living areas. Evidence of contractor
2323 screening may be retained by the contractor's employer or the
2324 licensee.

2325 Section 71. Subsection (8) of section 408.810, Florida
2326 Statutes, is amended, and subsections (11), (12), and (13) are
2327 added to that section, to read:

2328 408.810 Minimum licensure requirements.—In addition to the
2329 licensure requirements specified in this part, authorizing
2330 statutes, and applicable rules, each applicant and licensee must
2331 comply with the requirements of this section in order to obtain
2332 and maintain a license.

2333 (8) Upon application for initial licensure or change of
2334 ownership licensure, the applicant shall furnish satisfactory
2335 proof of the applicant's financial ability to operate in
2336 accordance with the requirements of this part, authorizing
2337 statutes, and applicable rules. The agency shall establish
2338 standards for this purpose, including information concerning the
2339 applicant's controlling interests. The agency shall also
2340 establish documentation requirements, to be completed by each
2341 applicant, that show anticipated provider revenues and
2342 expenditures, the basis for financing the anticipated cash-flow
2343 requirements of the provider, and an applicant's access to
2344 contingency financing. A current certificate of authority,
2345 pursuant to chapter 651, may be provided as proof of financial
2346 ability to operate. The agency may require a licensee to provide
2347 proof of financial ability to operate at any time if there is
2348 evidence of financial instability, including, but not limited
2349 to, unpaid expenses necessary for the basic operations of the

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2350 provider. An applicant applying for change of ownership
2351 licensure is exempt from furnishing proof of financial ability
2352 to operate if the provider has been licensed for at least 5
2353 years, and:

2354 (a) The ownership change is a result of a corporate
2355 reorganization under which the controlling interest is unchanged
2356 and the applicant submits organizational charts that represent
2357 the current and proposed structure of the reorganized
2358 corporation; or

2359 (b) The ownership change is due solely to the death of a
2360 person holding a controlling interest, and the surviving
2361 controlling interests continue to hold at least 51 percent of
2362 ownership after the change of ownership.

2363 (11) The agency may adopt rules that govern the
2364 circumstances under which a controlling interest, an
2365 administrator, an employee, or a contractor, or a representative
2366 thereof, who is not a relative of the client may act as an agent
2367 of the client in authorizing consent for medical treatment,
2368 assignment of benefits, and release of information. Such rules
2369 may include requirements related to disclosure, bonding,
2370 restrictions, and client protections.

2371 (12) The licensee shall ensure that no person holds any
2372 ownership interest, either directly or indirectly, regardless of
2373 ownership structure, who:

2374 (a) Has a disqualifying offense pursuant to s. 408.809; or

2375 (b) Holds or has held any ownership interest, either
2376 directly or indirectly, regardless of ownership structure, in a
2377 provider that had a license revoked or an application denied
2378 pursuant to s. 408.815.

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2379 (13) If the licensee is a publicly traded corporation or is
2380 wholly owned, directly or indirectly, by a publicly traded
2381 corporation, subsection (12) does not apply to those persons
2382 whose sole relationship with the corporation is as a shareholder
2383 of publicly traded shares. As used in this subsection, a
2384 "publicly traded corporation" is a corporation that issues
2385 securities traded on an exchange registered with the United
2386 States Securities and Exchange Commission as a national
2387 securities exchange.

2388 Section 72. Section 408.812, Florida Statutes, is amended
2389 to read:

2390 408.812 Unlicensed activity.—

2391 (1) A person or entity may not offer or advertise services
2392 that require licensure as defined by this part, authorizing
2393 statutes, or applicable rules to the public without obtaining a
2394 valid license from the agency. A licenseholder may not advertise
2395 or hold out to the public that he or she holds a license for
2396 other than that for which he or she actually holds the license.

2397 (2) The operation or maintenance of an unlicensed provider
2398 or the performance of any services that require licensure
2399 without proper licensure is a violation of this part and
2400 authorizing statutes. Unlicensed activity constitutes harm that
2401 materially affects the health, safety, and welfare of clients,
2402 and constitutes abuse and neglect, as defined in s. 415.102. The
2403 agency or any state attorney may, in addition to other remedies
2404 provided in this part, bring an action for an injunction to
2405 restrain such violation, or to enjoin the future operation or
2406 maintenance of the unlicensed provider or the performance of any
2407 services in violation of this part and authorizing statutes,

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2408 until compliance with this part, authorizing statutes, and
2409 agency rules has been demonstrated to the satisfaction of the
2410 agency.

2411 (3) It is unlawful for any person or entity to own,
2412 operate, or maintain an unlicensed provider. If after receiving
2413 notification from the agency, such person or entity fails to
2414 cease operation ~~and apply for a license under this part and~~
2415 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
2416 to penalties as prescribed by authorizing statutes and
2417 applicable rules. Each day of ~~continued~~ operation is a separate
2418 offense.

2419 (4) Any person or entity that fails to cease operation
2420 after agency notification may be fined \$1,000 for each day of
2421 noncompliance.

2422 (5) When a controlling interest or licensee has an interest
2423 in more than one provider and fails to license a provider
2424 rendering services that require licensure, the agency may revoke
2425 all licenses, and impose actions under s. 408.814, and
2426 regardless of correction, impose a fine of \$1,000 per day,
2427 unless otherwise specified by authorizing statutes, against each
2428 licensee until such time as the appropriate license is obtained
2429 or the unlicensed activity ceases ~~for the unlicensed operation.~~

2430 (6) In addition to granting injunctive relief pursuant to
2431 subsection (2), if the agency determines that a person or entity
2432 is operating or maintaining a provider without obtaining a
2433 license and determines that a condition exists that poses a
2434 threat to the health, safety, or welfare of a client of the
2435 provider, the person or entity is subject to the same actions
2436 and fines imposed against a licensee as specified in this part,

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2437 authorizing statutes, and agency rules.

2438 (7) Any person aware of the operation of an unlicensed
2439 provider must report that provider to the agency.

2440 Section 73. Subsections (10), (11) and (26) of section
2441 408.820, Florida Statutes, are amended, and subsections (12)
2442 through (25) and (27) and (28) are redesignated as subsections
2443 (10) through (23) and (24) and (25), respectively, to read:

2444 408.820 Exemptions.—Except as prescribed in authorizing
2445 statutes, the following exemptions shall apply to specified
2446 requirements of this part:

2447 ~~(10) Mobile surgical facilities, as provided under part I~~
2448 ~~of chapter 395, are exempt from s. 408.810(7)–(10).~~

2449 ~~(11) Health care risk managers, as provided under part I of~~
2450 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)–(10),~~
2451 ~~and 408.811.~~

2452 ~~(26) Clinical laboratories, as provided under part I of~~
2453 ~~chapter 483, are exempt from s. 408.810(5)–(10).~~

2454 Section 74. Subsection (7) of section 409.905, Florida
2455 Statutes, is amended to read:

2456 409.905 Mandatory Medicaid services.—The agency may make
2457 payments for the following services, which are required of the
2458 state by Title XIX of the Social Security Act, furnished by
2459 Medicaid providers to recipients who are determined to be
2460 eligible on the dates on which the services were provided. Any
2461 service under this section shall be provided only when medically
2462 necessary and in accordance with state and federal law.

2463 Mandatory services rendered by providers in mobile units to
2464 Medicaid recipients may be restricted by the agency. Nothing in
2465 this section shall be construed to prevent or limit the agency

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2466 from adjusting fees, reimbursement rates, lengths of stay,
2467 number of visits, number of services, or any other adjustments
2468 necessary to comply with the availability of moneys and any
2469 limitations or directions provided for in the General
2470 Appropriations Act or chapter 216.

2471 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
2472 for medically necessary diagnostic laboratory procedures ordered
2473 by a licensed physician or other licensed practitioner of the
2474 healing arts which are provided for a recipient in a laboratory
2475 that meets the requirements for Medicare participation and is
2476 appropriately certified by the Centers for Medicare and Medicaid
2477 Services under the federal Clinical Laboratory Improvement
2478 Amendments and the federal rules adopted thereunder ~~licensed~~
2479 ~~under chapter 483, if required.~~

2480 Section 75. Subsection (10) of section 409.907, Florida
2481 Statutes, is amended to read:

2482 409.907 Medicaid provider agreements.—The agency may make
2483 payments for medical assistance and related services rendered to
2484 Medicaid recipients only to an individual or entity who has a
2485 provider agreement in effect with the agency, who is performing
2486 services or supplying goods in accordance with federal, state,
2487 and local law, and who agrees that no person shall, on the
2488 grounds of handicap, race, color, or national origin, or for any
2489 other reason, be subjected to discrimination under any program
2490 or activity for which the provider receives payment from the
2491 agency.

2492 (10) The agency may consider whether the provider, or any
2493 officer, director, agent, managing employee, or affiliated
2494 person, or any partner or shareholder having an ownership

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2495 interest equal to 5 percent or greater in the provider if the
2496 provider is a corporation, partnership, or other business
2497 entity, has:

2498 (a) Made a false representation or omission of any material
2499 fact in making the application, including the submission of an
2500 application that conceals the controlling or ownership interest
2501 of any officer, director, agent, managing employee, affiliated
2502 person, or partner or shareholder who may not be eligible to
2503 participate;

2504 (b) Been or is currently excluded, suspended, terminated
2505 from, or has involuntarily withdrawn from participation in,
2506 Florida's Medicaid program or any other state's Medicaid
2507 program, or from participation in any other governmental or
2508 private health care or health insurance program;

2509 ~~(c) Been convicted of a criminal offense relating to the~~
2510 ~~delivery of any goods or services under Medicaid or Medicare or~~
2511 ~~any other public or private health care or health insurance~~
2512 ~~program including the performance of management or~~
2513 ~~administrative services relating to the delivery of goods or~~
2514 ~~services under any such program;~~

2515 ~~(d) Been convicted under federal or state law of a criminal~~
2516 ~~offense related to the neglect or abuse of a patient in~~
2517 ~~connection with the delivery of any health care goods or~~
2518 ~~services;~~

2519 ~~(e) Been convicted under federal or state law of a criminal~~
2520 ~~offense relating to the unlawful manufacture, distribution,~~
2521 ~~prescription, or dispensing of a controlled substance;~~

2522 ~~(f) Been convicted of any criminal offense relating to~~
2523 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~

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2524 ~~or other financial misconduct;~~

2525 ~~(g) Been convicted under federal or state law of a crime~~
2526 ~~punishable by imprisonment of a year or more which involves~~
2527 ~~moral turpitude;~~

2528 ~~(h) Been convicted in connection with the interference or~~
2529 ~~obstruction of any investigation into any criminal offense~~
2530 ~~listed in this subsection;~~

2531 ~~(i) Been found to have violated federal or state laws,~~
2532 ~~rules, or regulations governing Florida's Medicaid program or~~
2533 ~~any other state's Medicaid program, the Medicare program, or any~~
2534 ~~other publicly funded federal or state health care or health~~
2535 ~~insurance program, and been sanctioned accordingly;~~

2536 ~~(c) (j)~~ (c) Been previously found by a licensing, certifying, or
2537 professional standards board or agency to have violated the
2538 standards or conditions relating to licensure or certification
2539 or the quality of services provided; or

2540 ~~(d) (k)~~ (d) Failed to pay any fine or overpayment properly
2541 assessed under the Medicaid program in which no appeal is
2542 pending or after resolution of the proceeding by stipulation or
2543 agreement, unless the agency has issued a specific letter of
2544 forgiveness or has approved a repayment schedule to which the
2545 provider agrees to adhere.

2546 Section 76. Subsection (6) of section 409.9116, Florida
2547 Statutes, is amended to read:

2548 409.9116 Disproportionate share/financial assistance
2549 program for rural hospitals.—In addition to the payments made
2550 under s. 409.911, the Agency for Health Care Administration
2551 shall administer a federally matched disproportionate share
2552 program and a state-funded financial assistance program for

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2553 statutory rural hospitals. The agency shall make
2554 disproportionate share payments to statutory rural hospitals
2555 that qualify for such payments and financial assistance payments
2556 to statutory rural hospitals that do not qualify for
2557 disproportionate share payments. The disproportionate share
2558 program payments shall be limited by and conform with federal
2559 requirements. Funds shall be distributed quarterly in each
2560 fiscal year for which an appropriation is made. Notwithstanding
2561 the provisions of s. 409.915, counties are exempt from
2562 contributing toward the cost of this special reimbursement for
2563 hospitals serving a disproportionate share of low-income
2564 patients.

2565 (6) This section applies only to hospitals that were
2566 defined as statutory rural hospitals, or their successor-in-
2567 interest hospital, prior to January 1, 2001. Any additional
2568 hospital that is defined as a statutory rural hospital, or its
2569 successor-in-interest hospital, on or after January 1, 2001, is
2570 not eligible for programs under this section unless additional
2571 funds are appropriated each fiscal year specifically to the
2572 rural hospital disproportionate share and financial assistance
2573 programs in an amount necessary to prevent any hospital, or its
2574 successor-in-interest hospital, eligible for the programs prior
2575 to January 1, 2001, from incurring a reduction in payments
2576 because of the eligibility of an additional hospital to
2577 participate in the programs. A hospital, or its successor-in-
2578 interest hospital, which received funds pursuant to this section
2579 before January 1, 2001, and which qualifies under s.
2580 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the
2581 programs under this section and is not required to seek

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2582 additional appropriations under this subsection.

2583 Section 77. Paragraphs (a) and (b) of subsection (1) of
2584 section 409.975, Florida Statutes, are amended to read:

2585 409.975 Managed care plan accountability.—In addition to
2586 the requirements of s. 409.967, plans and providers
2587 participating in the managed medical assistance program shall
2588 comply with the requirements of this section.

2589 (1) PROVIDER NETWORKS.—Managed care plans must develop and
2590 maintain provider networks that meet the medical needs of their
2591 enrollees in accordance with standards established pursuant to
2592 s. 409.967(2)(c). Except as provided in this section, managed
2593 care plans may limit the providers in their networks based on
2594 credentials, quality indicators, and price.

2595 (a) Plans must include all providers in the region that are
2596 classified by the agency as essential Medicaid providers, unless
2597 the agency approves, in writing, an alternative arrangement for
2598 securing the types of services offered by the essential
2599 providers. Providers are essential for serving Medicaid
2600 enrollees if they offer services that are not available from any
2601 other provider within a reasonable access standard, or if they
2602 provided a substantial share of the total units of a particular
2603 service used by Medicaid patients within the region during the
2604 last 3 years and the combined capacity of other service
2605 providers in the region is insufficient to meet the total needs
2606 of the Medicaid patients. The agency may not classify physicians
2607 and other practitioners as essential providers. The agency, at a
2608 minimum, shall determine which providers in the following
2609 categories are essential Medicaid providers:

2610 1. Federally qualified health centers.

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2611 2. Statutory teaching hospitals as defined in s. 408.07(44)
2612 ~~s. 408.07(45)~~.

2613 3. Hospitals that are trauma centers as defined in s.
2614 395.4001(14).

2615 4. Hospitals located at least 25 miles from any other
2616 hospital with similar services.

2617

2618 Managed care plans that have not contracted with all essential
2619 providers in the region as of the first date of recipient
2620 enrollment, or with whom an essential provider has terminated
2621 its contract, must negotiate in good faith with such essential
2622 providers for 1 year or until an agreement is reached, whichever
2623 is first. Payments for services rendered by a nonparticipating
2624 essential provider shall be made at the applicable Medicaid rate
2625 as of the first day of the contract between the agency and the
2626 plan. A rate schedule for all essential providers shall be
2627 attached to the contract between the agency and the plan. After
2628 1 year, managed care plans that are unable to contract with
2629 essential providers shall notify the agency and propose an
2630 alternative arrangement for securing the essential services for
2631 Medicaid enrollees. The arrangement must rely on contracts with
2632 other participating providers, regardless of whether those
2633 providers are located within the same region as the
2634 nonparticipating essential service provider. If the alternative
2635 arrangement is approved by the agency, payments to
2636 nonparticipating essential providers after the date of the
2637 agency's approval shall equal 90 percent of the applicable
2638 Medicaid rate. Except for payment for emergency services, if the
2639 alternative arrangement is not approved by the agency, payment

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2640 to nonparticipating essential providers shall equal 110 percent
2641 of the applicable Medicaid rate.

2642 (b) Certain providers are statewide resources and essential
2643 providers for all managed care plans in all regions. All managed
2644 care plans must include these essential providers in their
2645 networks. Statewide essential providers include:

2646 1. Faculty plans of Florida medical schools.

2647 2. Regional perinatal intensive care centers as defined in
2648 s. 383.16(2).

2649 3. Hospitals licensed as specialty children's hospitals as
2650 defined in s. 395.002(27) ~~s. 395.002(28)~~.

2651 4. Accredited and integrated systems serving medically
2652 complex children which comprise separately licensed, but
2653 commonly owned, health care providers delivering at least the
2654 following services: medical group home, in-home and outpatient
2655 nursing care and therapies, pharmacy services, durable medical
2656 equipment, and Prescribed Pediatric Extended Care.

2657
2658 Managed care plans that have not contracted with all statewide
2659 essential providers in all regions as of the first date of
2660 recipient enrollment must continue to negotiate in good faith.
2661 Payments to physicians on the faculty of nonparticipating
2662 Florida medical schools shall be made at the applicable Medicaid
2663 rate. Payments for services rendered by regional perinatal
2664 intensive care centers shall be made at the applicable Medicaid
2665 rate as of the first day of the contract between the agency and
2666 the plan. Except for payments for emergency services, payments
2667 to nonparticipating specialty children's hospitals shall equal
2668 the highest rate established by contract between that provider

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2669 and any other Medicaid managed care plan.

2670 Section 78. Subsections (5) and (17) of section 429.02,
2671 Florida Statutes, are amended to read:

2672 429.02 Definitions.—When used in this part, the term:

2673 (5) "Assisted living facility" means any building or
2674 buildings, section or distinct part of a building, private home,
2675 boarding home, home for the aged, or other residential facility,
2676 regardless of whether operated for profit ~~or not~~, which
2677 ~~undertakes~~ through its ownership or management provides ~~to~~
2678 ~~provide~~ housing, meals, and one or more personal services for a
2679 period exceeding 24 hours to one or more adults who are not
2680 relatives of the owner or administrator.

2681 (17) "Personal services" means direct physical assistance
2682 with or supervision of the activities of daily living, and the
2683 self-administration of medication, or ~~and~~ other similar services
2684 which the department may define by rule. The term may ~~"Personal~~
2685 ~~services"~~ shall not be construed to mean the provision of
2686 medical, nursing, dental, or mental health services.

2687 Section 79. Paragraphs (b) and (d) of subsection (2) of
2688 section 429.04, Florida Statutes, are amended, and subsection
2689 (3) is added that section, to read:

2690 429.04 Facilities to be licensed; exemptions.—

2691 (2) The following are exempt from licensure under this
2692 part:

2693 (b) Any facility or part of a facility licensed by the
2694 Agency for Persons with Disabilities under chapter 393, a mental
2695 health facility licensed under ~~or~~ chapter 394, a hospital
2696 licensed under chapter 395, a nursing home licensed under part
2697 II of chapter 400, an inpatient hospice licensed under part IV

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2698 of chapter 400, a home for special services licensed under part
2699 V of chapter 400, an intermediate care facility licensed under
2700 part VIII of chapter 400, or a transitional living facility
2701 licensed under part XI of chapter 400.

2702 (d) Any person who provides housing, meals, and one or more
2703 personal services on a 24-hour basis in the person's own home to
2704 not more than two adults who do not receive optional state
2705 supplementation. The person who provides the housing, meals, and
2706 personal services must own or rent the home and must have
2707 established the home as his or her permanent residence. For
2708 purposes of this paragraph, any person holding a homestead
2709 exemption at an address other than that at which the person
2710 asserts this exemption is presumed to not have established
2711 permanent residence ~~reside therein.~~ This exemption does not
2712 apply to a person or entity that previously held a license
2713 issued by the agency which was revoked or for which renewal was
2714 denied by final order of the agency, or when the person or
2715 entity voluntarily relinquished the license during agency
2716 enforcement proceedings.

2717 (3) Upon agency investigation of unlicensed activity, any
2718 person or entity that claims that it is exempt under this
2719 section must provide documentation substantiating entitlement to
2720 the exemption.

2721 Section 80. Paragraphs (b) and (d) of subsection (1) of
2722 section 429.08, Florida Statutes, are amended to read:

2723 429.08 Unlicensed facilities; referral of person for
2724 residency to unlicensed facility; penalties.-

2725 (1)

2726 (b) ~~Except as provided under paragraph (d),~~ Any person who

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2727 owns, rents, or otherwise maintains a building or property used
2728 as operates, or maintains an unlicensed assisted living facility
2729 commits a felony of the third degree, punishable as provided in
2730 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2731 operation is a separate offense.

2732 (d) In addition to the requirements of s. 408.812, any
2733 person who owns, operates, or maintains an unlicensed assisted
2734 living facility after receiving notice from the agency due to a
2735 change in this part or a modification in rule within 6 months
2736 after the effective date of such change and who, within 10
2737 working days after receiving notification from the agency, fails
2738 to cease operation or apply for a license under this part
2739 commits a felony of the third degree, punishable as provided in
2740 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2741 operation is a separate offense.

2742 Section 81. Section 429.176, Florida Statutes, is amended
2743 to read:

2744 429.176 Notice of change of administrator.—If, during the
2745 period for which a license is issued, the owner changes
2746 administrators, the owner must notify the agency of the change
2747 within 10 days and provide documentation within 90 days that the
2748 new administrator has completed the applicable core educational
2749 requirements under s. 429.52. A facility may not be operated for
2750 more than 120 consecutive days without an administrator who has
2751 completed the core educational requirements.

2752 Section 82. Subsection(7) of section 429.19, Florida
2753 Statutes, is amended to read:

2754 429.19 Violations; imposition of administrative fines;
2755 grounds.—

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2756 (7) In addition to any administrative fines imposed, the
2757 agency may assess a survey fee, equal to the lesser of one half
2758 of the facility's biennial license and bed fee or \$500, to cover
2759 the cost of conducting initial complaint investigations that
2760 result in the finding of a violation that was the subject of the
2761 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~
2762 to verify the correction of the violations.

2763 Section 83. Subsection (2) of section 429.24, Florida
2764 Statutes, is amended to read:

2765 429.24 Contracts.—

2766 (2) Each contract must contain express provisions
2767 specifically setting forth the services and accommodations to be
2768 provided by the facility; the rates or charges; provision for at
2769 least 30 days' written notice of a rate increase; the rights,
2770 duties, and obligations of the residents, other than those
2771 specified in s. 429.28; and other matters that the parties deem
2772 appropriate. A new service or accommodation added to, or
2773 implemented in, a resident's contract for which the resident was
2774 not previously charged does not require a 30-day written notice
2775 of a rate increase. Whenever money is deposited or advanced by a
2776 resident in a contract as security for performance of the
2777 contract agreement or as advance rent for other than the next
2778 immediate rental period:

2779 (a) Such funds shall be deposited in a banking institution
2780 in this state that is located, if possible, in the same
2781 community in which the facility is located; shall be kept
2782 separate from the funds and property of the facility; may not be
2783 represented as part of the assets of the facility on financial
2784 statements; and shall be used, or otherwise expended, only for

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2785 the account of the resident.

2786 (b) The licensee shall, within 30 days of receipt of
2787 advance rent or a security deposit, notify the resident or
2788 residents in writing of the manner in which the licensee is
2789 holding the advance rent or security deposit and state the name
2790 and address of the depository where the moneys are being held.
2791 The licensee shall notify residents of the facility's policy on
2792 advance deposits.

2793 Section 84. Paragraphs (e) and (j) of subsection (1) and
2794 paragraphs (c), (d), and (e) of subsection (3) of section
2795 429.28, Florida Statutes, are amended to read:

2796 429.28 Resident bill of rights.—

2797 (1) No resident of a facility shall be deprived of any
2798 civil or legal rights, benefits, or privileges guaranteed by
2799 law, the Constitution of the State of Florida, or the
2800 Constitution of the United States as a resident of a facility.
2801 Every resident of a facility shall have the right to:

2802 (e) Freedom to participate in and benefit from community
2803 services and activities and to pursue ~~achieve~~ the highest
2804 possible level of independence, autonomy, and interaction within
2805 the community.

2806 (j) Assistance with obtaining access to adequate and
2807 appropriate health care. For purposes of this paragraph, the
2808 term "adequate and appropriate health care" means the management
2809 of medications, assistance in making appointments for health
2810 care services, the provision of or arrangement of transportation
2811 to health care appointments, and the performance of health care
2812 services in accordance with s. 429.255 which are consistent with
2813 established and recognized standards within the community.

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(3)

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

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

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

Section 85. Subsection (1) of section 429.294, Florida Statutes, is amended to read:

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

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

Section 86. Subsection (2) of section 429.34, Florida Statutes, is amended to read:

429.34 Right of entry and inspection.—

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2843 (2) (a) In addition to the requirements of s. 408.811, the
2844 agency may inspect and investigate facilities as necessary to
2845 determine compliance with this part, part II of chapter 408, and
2846 rules adopted thereunder. ~~The agency shall inspect each licensed~~
2847 ~~assisted living facility at least once every 24 months to~~
2848 ~~determine compliance with this chapter and related rules.~~ If an
2849 assisted living facility is cited for a class I violation or
2850 three or more class II violations arising from separate surveys
2851 within a 60-day period or due to unrelated circumstances during
2852 the same survey, the agency must conduct an additional licensure
2853 inspection within 6 months.

2854 (b) During any calendar year in which a survey is not
2855 conducted, the agency may conduct monitoring visits of each
2856 facility cited in the previous year for a class I or class II
2857 violation or for more than three uncorrected class III
2858 violations.

2859 Section 87. Subsection (4) of section 429.52, Florida
2860 Statutes, is amended to read:

2861 429.52 Staff training and educational programs; core
2862 educational requirement.—

2863 (4) Effective January 1, 2004, a new facility administrator
2864 must complete the required training and education, including the
2865 competency test, within 90 days after date of employment ~~a~~
2866 ~~reasonable time after being employed~~ as an administrator, ~~as~~
2867 ~~determined by the department.~~ Failure to do so is a violation of
2868 this part and subjects the violator to an administrative fine as
2869 prescribed in s. 429.19. Administrators licensed in accordance
2870 with part II of chapter 468 are exempt from this requirement.
2871 Other licensed professionals may be exempted, as determined by

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2872 the department by rule.

2873 Section 88. Subsection (3) of section 435.04, Florida
2874 Statutes, is amended, and subsection (4) is added to that
2875 section, to read:

2876 435.04 Level 2 screening standards.—

2877 (3) The security background investigations under this
2878 section must ensure that no person subject to this section has
2879 been arrested for and is awaiting final disposition of, been
2880 found guilty of, regardless of adjudication, or entered a plea
2881 of nolo contendere or guilty to, any offense that constitutes
2882 domestic violence as defined in s. 741.28, whether such act was
2883 committed in this state or in another jurisdiction.

2884 (4) For the purpose of screening applicability to
2885 participate in the Medicaid program, the security background
2886 investigations under this section must ensure that a person
2887 subject to screening under this section has not been arrested
2888 for and is not awaiting final disposition of; has not been found
2889 guilty of, regardless of adjudication, or entered a plea of nolo
2890 contendere or guilty to; and has not been adjudicated delinquent
2891 and the record sealed or expunged for, any of the following
2892 offenses:

2893 (a) Violation of a federal law or a law in any state which
2894 creates a criminal offense relating to:

2895 1. The delivery of any goods or services under Medicaid or
2896 Medicare or any other public or private health care or health
2897 insurance program, including the performance of management or
2898 administrative services relating to the delivery of goods or
2899 services under any such program;

2900 2. Neglect or abuse of a patient in connection with the

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2901 delivery of any health care good or service;
 2902 3. Unlawful manufacture, distribution, prescription, or
 2903 dispensing of a controlled substance;
 2904 4. Fraud, theft, embezzlement, breach of fiduciary
 2905 responsibility, or other financial misconduct; or
 2906 5. Moral turpitude, if punishable by imprisonment of a year
 2907 or more.
 2908 6. Interference with or obstruction of an investigation
 2909 into any criminal offense identified in this subsection.
 2910 (b) Violation of the following state laws or laws of
 2911 another jurisdiction:
 2912 1. Section 817.569, criminal use of a public record or
 2913 information contained in a public record;
 2914 2. Section 838.016, unlawful compensation or reward for
 2915 official behavior;
 2916 3. Section 838.021, corruption by threat against a public
 2917 servant;
 2918 4. Section 838.022, official misconduct;
 2919 5. Section 838.22, bid tampering;
 2920 6. Section 839.13, falsifying records;
 2921 7. Section 839.26, misuse of confidential information; or
 2922 (c) Violation of a federal or state law, rule, or
 2923 regulation governing the Florida Medicaid program or any other
 2924 state Medicaid program, the Medicare program, or any other
 2925 publicly funded federal or state health care or health insurance
 2926 program.
 2927 Section 89. Subsection (4) of section 456.001, Florida
 2928 Statutes, is amended to read:
 2929 456.001 Definitions.—As used in this chapter, the term:

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2930 (4) "Health care practitioner" means any person licensed
2931 under chapter 457; chapter 458; chapter 459; chapter 460;
2932 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2933 chapter 466; chapter 467; part I, part II, part III, part V,
2934 part X, part XIII, or part XIV of chapter 468; chapter 478;
2935 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2936 chapter 484; chapter 486; chapter 490; or chapter 491.

2937 Section 90. Subsection (3) of section 456.054, Florida
2938 Statutes, is redesignated as subsection (4), and a new
2939 subsection (3) is added to that section, to read:

2940 456.054 Kickbacks prohibited.—

2941 (3) (a) It is unlawful for any person or any entity to pay
2942 or receive, directly or indirectly, a commission, bonus,
2943 kickback, or rebate from, or to engage in any form of a split-
2944 fee arrangement with, a dialysis facility, health care
2945 practitioner, surgeon, person, or entity for referring patients
2946 to a clinical laboratory as defined in s. 483.803.

2947 (b) It is unlawful for any clinical laboratory to:

2948 1. Provide personnel to perform any functions or duties in
2949 a health care practitioner's office or dialysis facility for any
2950 purpose, including for the collection or handling of specimens,
2951 directly or indirectly through an employee, contractor,
2952 independent staffing company, lease agreement, or otherwise,
2953 unless the laboratory and the practitioner's office, or dialysis
2954 facility, are wholly owned and operated by the same entity.

2955 2. Lease space within any part of a health care
2956 practitioner's office or dialysis facility for any purpose,
2957 including for the purpose of establishing a collection station
2958 where materials or specimens are collected or drawn from

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2959 patients.

2960 Section 91. Paragraphs (h) and (i) of subsection (2) of
2961 section 456.057, Florida Statutes, are amended to read:

2962 456.057 Ownership and control of patient records; report or
2963 copies of records to be furnished; disclosure of information.—

2964 (2) As used in this section, the terms "records owner,"
2965 "health care practitioner," and "health care practitioner's
2966 employer" do not include any of the following persons or
2967 entities; furthermore, the following persons or entities are not
2968 authorized to acquire or own medical records, but are authorized
2969 under the confidentiality and disclosure requirements of this
2970 section to maintain those documents required by the part or
2971 chapter under which they are licensed or regulated:

2972 (h) Clinical laboratory personnel licensed under part II
2973 ~~III~~ of chapter 483.

2974 (i) Medical physicists licensed under part III ~~IV~~ of
2975 chapter 483.

2976 Section 92. Paragraph (j) of subsection (1) of section
2977 456.076, Florida Statutes, is amended to read:

2978 456.076 Impaired practitioner programs.—

2979 (1) As used in this section, the term:

2980 (j) "Practitioner" means a person licensed, registered,
2981 certified, or regulated by the department under part III of
2982 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
2983 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2984 chapter 466; chapter 467; part I, part II, part III, part V,
2985 part X, part XIII, or part XIV of chapter 468; chapter 478;
2986 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2987 chapter 484; chapter 486; chapter 490; or chapter 491; or an

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2988 applicant for a license, registration, or certification under
2989 the same laws.

2990 Section 93. Subsection (2) of section 458.307, Florida
2991 Statutes, is amended to read:

2992 458.307 Board of Medicine.—

2993 (2) Twelve members of the board must be licensed physicians
2994 in good standing in this state who are residents of the state
2995 and who have been engaged in the active practice or teaching of
2996 medicine for at least 4 years immediately preceding their
2997 appointment. One of the physicians must be on the full-time
2998 faculty of a medical school in this state, and one of the
2999 physicians must be in private practice and on the full-time
3000 staff of a statutory teaching hospital in this state as defined
3001 in s. 408.07. At least one of the physicians must be a graduate
3002 of a foreign medical school. The remaining three members must be
3003 residents of the state who are not, and never have been,
3004 licensed health care practitioners. One member must be a health
3005 care risk manager ~~licensed under s. 395.10974~~. At least one
3006 member of the board must be 60 years of age or older.

3007 Section 94. Subsection (1) of section 458.345, Florida
3008 Statutes, is amended to read:

3009 458.345 Registration of resident physicians, interns, and
3010 fellows; list of hospital employees; prescribing of medicinal
3011 drugs; penalty.—

3012 (1) Any person desiring to practice as a resident
3013 physician, assistant resident physician, house physician,
3014 intern, or fellow in fellowship training which leads to
3015 subspecialty board certification in this state, or any person
3016 desiring to practice as a resident physician, assistant resident

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3017 physician, house physician, intern, or fellow in fellowship
3018 training in a teaching hospital in this state as defined in s.
3019 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a
3020 valid, active license issued under this chapter shall apply to
3021 the department to be registered and shall remit a fee not to
3022 exceed \$300 as set by the board. The department shall register
3023 any applicant the board certifies has met the following
3024 requirements:

3025 (a) Is at least 21 years of age.

3026 (b) Has not committed any act or offense within or without
3027 the state which would constitute the basis for refusal to
3028 certify an application for licensure pursuant to s. 458.331.

3029 (c) Is a graduate of a medical school or college as
3030 specified in s. 458.311(1)(f).

3031 Section 95. Subsection (1) of s. 459.021, Florida Statutes,
3032 is amended to read:

3033 459.021 Registration of resident physicians, interns, and
3034 fellows; list of hospital employees; penalty.—

3035 (1) Any person who holds a degree of Doctor of Osteopathic
3036 Medicine from a college of osteopathic medicine recognized and
3037 approved by the American Osteopathic Association who desires to
3038 practice as a resident physician, intern, or fellow in
3039 fellowship training which leads to subspecialty board
3040 certification in this state, or any person desiring to practice
3041 as a resident physician, intern, or fellow in fellowship
3042 training in a teaching hospital in this state as defined in s.
3043 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
3044 active license issued under this chapter shall apply to the
3045 department to be registered, on an application provided by the

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3046 department, before commencing such a training program and shall
3047 remit a fee not to exceed \$300 as set by the board.

3048 Section 96. Part I of chapter 483, Florida Statutes,
3049 consisting of sections 483.011, 483.021, 483.031, 483.035,
3050 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
3051 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
3052 is repealed.

3053 Section 97. Section 483.294, Florida Statutes, is amended
3054 to read:

3055 483.294 Inspection of centers.—In accordance with s.
3056 408.811, the agency shall, ~~at least once annually,~~ inspect the
3057 premises and operations of all centers subject to licensure
3058 under this part.

3059 Section 98. Subsections (3) and (5) of section 483.801,
3060 Florida Statutes, are amended, and subsection (6) is added to
3061 that section, to read:

3062 483.801 Exemptions.—This part applies to all clinical
3063 laboratories and clinical laboratory personnel within this
3064 state, except:

3065 (3) Persons engaged in testing performed by laboratories
3066 that are wholly owned and operated by one or more practitioners
3067 licensed under chapter 458, chapter 459, chapter 460, chapter
3068 461, chapter 462, chapter 463, or chapter 466 who practice in
3069 the same group practice, and in which no clinical laboratory
3070 work is performed for patients referred by any health care
3071 provider who is not a member of that group practice regulated
3072 under s. 483.035(1) or exempt from regulation under s.
3073 483.031(2).

3074 (5) Advanced registered nurse practitioners licensed under

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3075 part I of chapter 464 who perform provider-performed microscopy
3076 procedures (PPMP) in a ~~an exclusive-use~~ laboratory setting
3077 pursuant to subsection (3).

3078 (6) Persons performing laboratory testing within a
3079 physician office practice for patients referred by a health care
3080 provider who is a member of the same physician office practice,
3081 if the laboratory or entity operating the laboratory within a
3082 physician office practice is under common ownership, directly or
3083 indirectly, with an entity licensed pursuant to chapter 395.

3084 Section 99. Subsections (2), (3), and (4) of section
3085 483.803, Florida Statutes, are amended to read:

3086 483.803 Definitions.—As used in this part, the term:

3087 (2) "Clinical laboratory" means the physical location in
3088 which one or more of the following services are performed to
3089 provide information or materials for use in the diagnosis,
3090 prevention, or treatment of a disease or the identification or
3091 assessment of a medical or physical condition:

3092 (a) Clinical laboratory services, which entail the
3093 examination of fluids or other materials taken from the human
3094 body.

3095 (b) Anatomic laboratory services, which entail the
3096 examination of tissue taken from the human body.

3097 (c) Cytology laboratory services, which entail the
3098 examination of cells from individual tissues or fluid taken from
3099 the human body ~~a clinical laboratory as defined in s. 483.041.~~

3100 (3) "Clinical laboratory examination" means a procedure
3101 performed to deliver the services identified in subsection (2),
3102 including the oversight or interpretation of such services
3103 ~~clinical laboratory examination as defined in s. 483.041.~~

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3104 (4) "Clinical laboratory personnel" includes a clinical
 3105 laboratory director, supervisor, technologist, blood gas
 3106 analyst, or technician who performs or is responsible for
 3107 laboratory test procedures, but the term does not include
 3108 trainees, persons who perform screening for blood banks or
 3109 plasmapheresis centers, phlebotomists, or persons employed by a
 3110 clinical laboratory to perform manual pretesting duties or
 3111 clerical, personnel, or other administrative responsibilities,
 3112 ~~or persons engaged in testing performed by laboratories~~
 3113 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
 3114 ~~483.031(2).~~

3115 Section 100. Section 483.813, Florida Statutes, is amended
 3116 to read:

3117 483.813 Clinical laboratory personnel license.—A person may
 3118 not conduct a clinical laboratory examination or report the
 3119 results of such examination unless such person is licensed under
 3120 this part to perform such procedures. However, this provision
 3121 does not apply to any practitioner of the healing arts
 3122 authorized to practice in this state ~~or to persons engaged in~~
 3123 ~~testing performed by laboratories regulated under s. 483.035(1)~~
 3124 ~~or exempt from regulation under s. 483.031(2).~~ The department
 3125 may grant a temporary license to any candidate it deems properly
 3126 qualified, for a period not to exceed 1 year.

3127 Section 101. Subsection (2) of section 483.823, Florida
 3128 Statutes, is amended to read:

3129 483.823 Qualifications of clinical laboratory personnel.—

3130 (2) Personnel qualifications may require appropriate
 3131 education, training, or experience or the passing of an
 3132 examination in appropriate subjects or any combination of these,

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3133 but ~~a ne~~ practitioner of the healing arts licensed to practice
3134 in this state is not required to obtain any license ~~under this~~
3135 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~
3136 ~~required for clinical laboratory licensure.~~

3137 Section 102. Paragraph (c) of subsection (7), and
3138 subsections (8) and (9) of section 491.003, Florida Statutes,
3139 are amended to read:

3140 491.003 Definitions.—As used in this chapter:

3141 (7) The "practice of clinical social work" is defined as
3142 the use of scientific and applied knowledge, theories, and
3143 methods for the purpose of describing, preventing, evaluating,
3144 and treating individual, couple, marital, family, or group
3145 behavior, based on the person-in-situation perspective of
3146 psychosocial development, normal and abnormal behavior,
3147 psychopathology, unconscious motivation, interpersonal
3148 relationships, environmental stress, differential assessment,
3149 differential planning, and data gathering. The purpose of such
3150 services is the prevention and treatment of undesired behavior
3151 and enhancement of mental health. The practice of clinical
3152 social work includes methods of a psychological nature used to
3153 evaluate, assess, diagnose, treat, and prevent emotional and
3154 mental disorders and dysfunctions (whether cognitive, affective,
3155 or behavioral), sexual dysfunction, behavioral disorders,
3156 alcoholism, and substance abuse. The practice of clinical social
3157 work includes, but is not limited to, psychotherapy,
3158 hypnotherapy, and sex therapy. The practice of clinical social
3159 work also includes counseling, behavior modification,
3160 consultation, client-centered advocacy, crisis intervention, and
3161 the provision of needed information and education to clients,

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3162 when using methods of a psychological nature to evaluate,
3163 assess, diagnose, treat, and prevent emotional and mental
3164 disorders and dysfunctions (whether cognitive, affective, or
3165 behavioral), sexual dysfunction, behavioral disorders,
3166 alcoholism, or substance abuse. The practice of clinical social
3167 work may also include clinical research into more effective
3168 psychotherapeutic modalities for the treatment and prevention of
3169 such conditions.

3170 (c) The terms "diagnose" and "treat," as used in this
3171 chapter, when considered in isolation or in conjunction with ~~any~~
3172 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
3173 to permit the performance of any act which clinical social
3174 workers are not educated and trained to perform, including, but
3175 not limited to, admitting persons to hospitals for treatment of
3176 the foregoing conditions, treating persons in hospitals without
3177 medical supervision, prescribing medicinal drugs as defined in
3178 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
3179 ~~to chapter 483~~, or radiological procedures, or use of
3180 electroconvulsive therapy. In addition, this definition ~~shall~~
3181 may not be construed to permit any person licensed,
3182 provisionally licensed, registered, or certified pursuant to
3183 this chapter to describe or label any test, report, or procedure
3184 as "psychological," except to relate specifically to the
3185 definition of practice authorized in this subsection.

3186 (8) The term "practice of marriage and family therapy"
3187 means ~~is defined as~~ the use of scientific and applied marriage
3188 and family theories, methods, and procedures for the purpose of
3189 describing, evaluating, and modifying marital, family, and
3190 individual behavior, within the context of marital and family

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3191 systems, including the context of marital formation and
3192 dissolution, and is based on marriage and family systems theory,
3193 marriage and family development, human development, normal and
3194 abnormal behavior, psychopathology, human sexuality,
3195 psychotherapeutic and marriage and family therapy theories and
3196 techniques. The practice of marriage and family therapy includes
3197 methods of a psychological nature used to evaluate, assess,
3198 diagnose, treat, and prevent emotional and mental disorders or
3199 dysfunctions (whether cognitive, affective, or behavioral),
3200 sexual dysfunction, behavioral disorders, alcoholism, and
3201 substance abuse. The practice of marriage and family therapy
3202 includes, but is not limited to, marriage and family therapy,
3203 psychotherapy, including behavioral family therapy,
3204 hypnotherapy, and sex therapy. The practice of marriage and
3205 family therapy also includes counseling, behavior modification,
3206 consultation, client-centered advocacy, crisis intervention, and
3207 the provision of needed information and education to clients,
3208 when using methods of a psychological nature to evaluate,
3209 assess, diagnose, treat, and prevent emotional and mental
3210 disorders and dysfunctions (whether cognitive, affective, or
3211 behavioral), sexual dysfunction, behavioral disorders,
3212 alcoholism, or substance abuse. The practice of marriage and
3213 family therapy may also include clinical research into more
3214 effective psychotherapeutic modalities for the treatment and
3215 prevention of such conditions.

3216 (a) Marriage and family therapy may be rendered to
3217 individuals, including individuals affected by termination of
3218 marriage, to couples, whether married or unmarried, to families,
3219 or to groups.

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3220 (b) The use of specific methods, techniques, or modalities
3221 within the practice of marriage and family therapy is restricted
3222 to marriage and family therapists appropriately trained in the
3223 use of such methods, techniques, or modalities.

3224 (c) The terms "diagnose" and "treat," as used in this
3225 chapter, when considered in isolation or in conjunction with ~~any~~
3226 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
3227 to permit the performance of any act that ~~which~~ marriage and
3228 family therapists are not educated and trained to perform,
3229 including, but not limited to, admitting persons to hospitals
3230 for treatment of the foregoing conditions, treating persons in
3231 hospitals without medical supervision, prescribing medicinal
3232 drugs as defined in chapter 465, authorizing clinical laboratory
3233 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
3234 or the use of electroconvulsive therapy. In addition, this
3235 definition may ~~shall~~ not be construed to permit any person
3236 licensed, provisionally licensed, registered, or certified
3237 pursuant to this chapter to describe or label any test, report,
3238 or procedure as "psychological," except to relate specifically
3239 to the definition of practice authorized in this subsection.

3240 (d) The definition of "marriage and family therapy"
3241 contained in this subsection includes all services offered
3242 directly to the general public or through organizations, whether
3243 public or private, and applies whether payment is requested or
3244 received for services rendered.

3245 (9) The term "practice of mental health counseling" means
3246 ~~is defined as~~ the use of scientific and applied behavioral
3247 science theories, methods, and techniques for the purpose of
3248 describing, preventing, and treating undesired behavior and

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3249 enhancing mental health and human development and is based on
3250 the person-in-situation perspectives derived from research and
3251 theory in personality, family, group, and organizational
3252 dynamics and development, career planning, cultural diversity,
3253 human growth and development, human sexuality, normal and
3254 abnormal behavior, psychopathology, psychotherapy, and
3255 rehabilitation. The practice of mental health counseling
3256 includes methods of a psychological nature used to evaluate,
3257 assess, diagnose, and treat emotional and mental dysfunctions or
3258 disorders, (whether cognitive, affective, or behavioral),
3259 ~~behavioral disorders,~~ interpersonal relationships, sexual
3260 dysfunction, alcoholism, and substance abuse. The practice of
3261 mental health counseling includes, but is not limited to,
3262 psychotherapy, hypnotherapy, and sex therapy. The practice of
3263 mental health counseling also includes counseling, behavior
3264 modification, consultation, client-centered advocacy, crisis
3265 intervention, and the provision of needed information and
3266 education to clients, when using methods of a psychological
3267 nature to evaluate, assess, diagnose, treat, and prevent
3268 emotional and mental disorders and dysfunctions (whether
3269 cognitive, affective, or behavioral), behavioral disorders,
3270 sexual dysfunction, alcoholism, or substance abuse. The practice
3271 of mental health counseling may also include clinical research
3272 into more effective psychotherapeutic modalities for the
3273 treatment and prevention of such conditions.

3274 (a) Mental health counseling may be rendered to
3275 individuals, including individuals affected by the termination
3276 of marriage, and to couples, families, groups, organizations,
3277 and communities.

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3278 (b) The use of specific methods, techniques, or modalities
3279 within the practice of mental health counseling is restricted to
3280 mental health counselors appropriately trained in the use of
3281 such methods, techniques, or modalities.

3282 (c) The terms "diagnose" and "treat," as used in this
3283 chapter, when considered in isolation or in conjunction with any
3284 provision of the rules of the board, may ~~shall~~ not be construed
3285 to permit the performance of any act that ~~which~~ mental health
3286 counselors are not educated and trained to perform, including,
3287 but not limited to, admitting persons to hospitals for treatment
3288 of the foregoing conditions, treating persons in hospitals
3289 without medical supervision, prescribing medicinal drugs as
3290 defined in chapter 465, authorizing clinical laboratory
3291 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
3292 or the use of electroconvulsive therapy. In addition, this
3293 definition may ~~shall~~ not be construed to permit any person
3294 licensed, provisionally licensed, registered, or certified
3295 pursuant to this chapter to describe or label any test, report,
3296 or procedure as "psychological," except to relate specifically
3297 to the definition of practice authorized in this subsection.

3298 (d) The definition of "mental health counseling" contained
3299 in this subsection includes all services offered directly to the
3300 general public or through organizations, whether public or
3301 private, and applies whether payment is requested or received
3302 for services rendered.

3303 Section 103. Paragraph (h) of subsection (4) of section
3304 627.351, Florida Statutes, is amended to read:

3305 627.351 Insurance risk apportionment plans.—

3306 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

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3307 (h) As used in this subsection:

3308 1. "Health care provider" means hospitals licensed under
3309 chapter 395; physicians licensed under chapter 458; osteopathic
3310 physicians licensed under chapter 459; podiatric physicians
3311 licensed under chapter 461; dentists licensed under chapter 466;
3312 chiropractic physicians licensed under chapter 460; naturopaths
3313 licensed under chapter 462; nurses licensed under part I of
3314 chapter 464; midwives licensed under chapter 467; ~~clinical~~
3315 ~~laboratories registered under chapter 483~~; physician assistants
3316 licensed under chapter 458 or chapter 459; physical therapists
3317 and physical therapist assistants licensed under chapter 486;
3318 health maintenance organizations certificated under part I of
3319 chapter 641; ambulatory surgical centers licensed under chapter
3320 395; other medical facilities as defined in subparagraph 2.;
3321 blood banks, plasma centers, industrial clinics, and renal
3322 dialysis facilities; or professional associations, partnerships,
3323 corporations, joint ventures, or other associations for
3324 professional activity by health care providers.

3325 2. "Other medical facility" means a facility the primary
3326 purpose of which is to provide human medical diagnostic services
3327 or a facility providing nonsurgical human medical treatment, to
3328 which facility the patient is admitted and from which facility
3329 the patient is discharged within the same working day, and which
3330 facility is not part of a hospital. However, a facility existing
3331 for the primary purpose of performing terminations of pregnancy
3332 or an office maintained by a physician or dentist for the
3333 practice of medicine may ~~shall~~ not be construed to be an "other
3334 medical facility."

3335 3. "Health care facility" means any hospital licensed under

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3336 chapter 395, health maintenance organization certificated under
3337 part I of chapter 641, ambulatory surgical center licensed under
3338 chapter 395, or other medical facility as defined in
3339 subparagraph 2.

3340 Section 104. Paragraph (h) of subsection (1) of section
3341 627.602, Florida Statutes, is amended to read:

3342 627.602 Scope, format of policy.—

3343 (1) Each health insurance policy delivered or issued for
3344 delivery to any person in this state must comply with all
3345 applicable provisions of this code and all of the following
3346 requirements:

3347 (h) Section 641.312 and the provisions of the Employee
3348 Retirement Income Security Act of 1974, as implemented by 29
3349 C.F.R. s. 2560.503-1, relating to internal grievances. This
3350 paragraph does not apply ~~to a health insurance policy that is~~
3351 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
3352 ~~or~~ to the types of benefits or coverages provided under s.
3353 627.6513(1)-(14) issued in any market.

3354 Section 105. Subsection (1) of section 627.6406, Florida
3355 Statutes, is amended to read:

3356 627.6406 Maternity care.—

3357 (1) Any policy of health insurance which ~~that~~ provides
3358 coverage for maternity care must also cover the services of
3359 certified nurse-midwives and midwives licensed pursuant to
3360 chapter 467, and the services of birth centers licensed under
3361 ss. 383.30-383.332 ~~383.30-383.335~~.

3362 Section 106. Paragraphs (b) and (e) of subsection (1) of
3363 section 627.64194, Florida Statutes, are amended to read:

3364 627.64194 Coverage requirements for services provided by

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3365 nonparticipating providers; payment collection limitations.—

3366 (1) As used in this section, the term:

3367 (b) "Facility" means a licensed facility as defined in s.
3368 395.002(16) and an urgent care center as defined in s. 395.002
3369 ~~s. 395.002(30)~~.

3370 (e) "Nonparticipating provider" means a provider who is not
3371 a preferred provider as defined in s. 627.6471 or a provider who
3372 is not an exclusive provider as defined in s. 627.6472. For
3373 purposes of covered emergency services under this section, a
3374 facility licensed under chapter 395 or an urgent care center
3375 defined in s. 395.002 ~~s. 395.002(30)~~ is a nonparticipating
3376 provider if the facility has not contracted with an insurer to
3377 provide emergency services to its insureds at a specified rate.

3378 Section 107. Section 627.6513, Florida Statutes, is amended
3379 to read:

3380 627.6513 Scope.—Section 641.312 and the provisions of the
3381 Employee Retirement Income Security Act of 1974, as implemented
3382 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
3383 apply to all group health insurance policies issued under this
3384 part. This section does not apply to ~~a group health insurance~~
3385 ~~policy that is subject to the Subscriber Assistance Program in~~
3386 ~~s. 408.7056 or to:~~

3387 (1) Coverage only for accident insurance, or disability
3388 income insurance, or any combination thereof.

3389 (2) Coverage issued as a supplement to liability insurance.

3390 (3) Liability insurance, including general liability
3391 insurance and automobile liability insurance.

3392 (4) Workers' compensation or similar insurance.

3393 (5) Automobile medical payment insurance.

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3394 (6) Credit-only insurance.

3395 (7) Coverage for onsite medical clinics, including prepaid
3396 health clinics under part II of chapter 641.

3397 (8) Other similar insurance coverage, specified in rules
3398 adopted by the commission, under which benefits for medical care
3399 are secondary or incidental to other insurance benefits. To the
3400 extent possible, such rules must be consistent with regulations
3401 adopted by the United States Department of Health and Human
3402 Services.

3403 (9) Limited scope dental or vision benefits, if offered
3404 separately.

3405 (10) Benefits for long-term care, nursing home care, home
3406 health care, or community-based care, or any combination
3407 thereof, if offered separately.

3408 (11) Other similar, limited benefits, if offered
3409 separately, as specified in rules adopted by the commission.

3410 (12) Coverage only for a specified disease or illness, if
3411 offered as independent, noncoordinated benefits.

3412 (13) Hospital indemnity or other fixed indemnity insurance,
3413 if offered as independent, noncoordinated benefits.

3414 (14) Benefits provided through a Medicare supplemental
3415 health insurance policy, as defined under s. 1882(g)(1) of the
3416 Social Security Act, coverage supplemental to the coverage
3417 provided under 10 U.S.C. chapter 55, and similar supplemental
3418 coverage provided to coverage under a group health plan, which
3419 are offered as a separate insurance policy and as independent,
3420 noncoordinated benefits.

3421 Section 108. Subsection (1) of section 627.6574, Florida
3422 Statutes, is amended to read:

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3423 627.6574 Maternity care.—

3424 (1) Any group, blanket, or franchise policy of health
3425 insurance which ~~that~~ provides coverage for maternity care must
3426 also cover the services of certified nurse-midwives and midwives
3427 licensed pursuant to chapter 467, and the services of birth
3428 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

3429 Section 109. Paragraph (j) of subsection (1) of section
3430 641.185, Florida Statutes, is amended to read:

3431 641.185 Health maintenance organization subscriber
3432 protections.—

3433 (1) With respect to the provisions of this part and part
3434 III, the principles expressed in the following statements ~~shall~~
3435 serve as standards to be followed by the commission, the office,
3436 the department, and the Agency for Health Care Administration in
3437 exercising their powers and duties, in exercising administrative
3438 discretion, in administrative interpretations of the law, in
3439 enforcing its provisions, and in adopting rules:

3440 ~~(j) A health maintenance organization should receive timely~~
3441 ~~and, if necessary, urgent review by an independent state~~
3442 ~~external review organization for unresolved grievances and~~
3443 ~~appeals pursuant to s. 408.7056.~~

3444 Section 110. Paragraph (a) of subsection (18) of section
3445 641.31, Florida Statutes, is amended to read:

3446 641.31 Health maintenance contracts.—

3447 (18) (a) Health maintenance contracts that provide coverage,
3448 benefits, or services for maternity care must provide, as an
3449 option to the subscriber, the services of nurse-midwives and
3450 midwives licensed pursuant to chapter 467, and the services of
3451 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~

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3452 ~~383.335~~, if such services are available within the service area.

3453 Section 111. Section 641.312, Florida Statutes, is amended
3454 to read:

3455 641.312 Scope.—The Office of Insurance Regulation may adopt
3456 rules to administer ~~the provisions of~~ the National Association
3457 of Insurance Commissioners' Uniform Health Carrier External
3458 Review Model Act, issued by the National Association of
3459 Insurance Commissioners and dated April 2010. This section does
3460 not apply to a ~~health maintenance contract that is subject to~~
3461 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
3462 types of benefits or coverages provided under s. 627.6513(1)-
3463 (14) issued in any market.

3464 Section 112. Subsection (4) of section 641.3154, Florida
3465 Statutes, is amended to read:

3466 641.3154 Organization liability; provider billing
3467 prohibited.—

3468 (4) A provider or any representative of a provider,
3469 regardless of whether the provider is under contract with the
3470 health maintenance organization, may not collect or attempt to
3471 collect money from, maintain any action at law against, or
3472 report to a credit agency a subscriber of an organization for
3473 payment of services for which the organization is liable, if the
3474 provider in good faith knows or should know that the
3475 organization is liable. This prohibition applies during the
3476 pendency of any claim for payment made by the provider to the
3477 organization for payment of the services and any legal
3478 proceedings or dispute resolution process to determine whether
3479 the organization is liable for the services if the provider is
3480 informed that such proceedings are taking place. It is presumed

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3481 that a provider does not know and should not know that an
3482 organization is liable unless:

3483 (a) The provider is informed by the organization that it
3484 accepts liability;

3485 (b) A court of competent jurisdiction determines that the
3486 organization is liable; or

3487 ~~(c) The office or agency makes a final determination that~~
3488 ~~the organization is required to pay for such services subsequent~~
3489 ~~to a recommendation made by the Subscriber Assistance Panel~~
3490 ~~pursuant to s. 408.7056; or~~

3491 (c) ~~(d)~~ The agency issues a final order that the
3492 organization is required to pay for such services subsequent to
3493 a recommendation made by a resolution organization pursuant to
3494 s. 408.7057.

3495 Section 113. Paragraph (c) of subsection (5) of section
3496 641.51, Florida Statutes, is amended to read:

3497 641.51 Quality assurance program; second medical opinion
3498 requirement.—

3499 (5) (c) For second opinions provided by contract physicians
3500 the organization is prohibited from charging a fee to the
3501 subscriber in an amount in excess of the subscriber fees
3502 established by contract for referral contract physicians. The
3503 organization shall pay the amount of all charges, which are
3504 usual, reasonable, and customary in the community, for second
3505 opinion services performed by a physician not under contract
3506 with the organization, but may require the subscriber to be
3507 responsible for up to 40 percent of such amount. The
3508 organization may require that any tests deemed necessary by a
3509 noncontract physician shall be conducted by the organization.

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3510 The organization may deny reimbursement rights granted under
3511 this section in the event the subscriber seeks in excess of
3512 three such referrals per year if such subsequent referral costs
3513 are deemed by the organization to be evidence that the
3514 subscriber has unreasonably overutilized the second opinion
3515 privilege. A subscriber ~~thus~~ denied reimbursement under this
3516 section has ~~shall have~~ recourse to grievance procedures as
3517 specified in ss. ~~408.7056,~~ 641.495, and 641.511. The
3518 organization's physician's professional judgment concerning the
3519 treatment of a subscriber derived after review of a second
3520 opinion is ~~shall be~~ controlling as to the treatment obligations
3521 of the health maintenance organization. Treatment not authorized
3522 by the health maintenance organization is ~~shall be~~ at the
3523 subscriber's expense.

3524 Section 114. Subsection (1), paragraph (e) of subsection
3525 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of
3526 subsection (6), and subsections (7) through (12) of section
3527 641.511, Florida Statutes, are amended to read:

3528 641.511 Subscriber grievance reporting and resolution
3529 requirements.—

3530 (1) Every organization must have a grievance procedure
3531 available to its subscribers for the purpose of addressing
3532 complaints and grievances. Every organization must notify its
3533 subscribers that a subscriber must submit a grievance within 1
3534 year after the date of occurrence of the action that initiated
3535 the grievance, ~~and may submit the grievance for review to the~~
3536 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
3537 ~~after receiving a final disposition of the grievance through the~~
3538 ~~organization's grievance process.~~ An organization shall maintain

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3539 records of all grievances and shall report annually to the
3540 agency the total number of grievances handled, a categorization
3541 of the cases underlying the grievances, and the final
3542 disposition of the grievances.

3543 (3) Each organization's grievance procedure, as required
3544 under subsection (1), must include, at a minimum:

3545 (e) A notice that a subscriber may voluntarily pursue
3546 binding arbitration in accordance with the terms of the contract
3547 if offered by the organization, after completing the
3548 organization's grievance procedure ~~and as an alternative to the~~
3549 ~~Subscriber Assistance Program~~. Such notice shall include an
3550 explanation that the subscriber may incur some costs if the
3551 subscriber pursues binding arbitration, depending upon the terms
3552 of the subscriber's contract.

3553 (4)

3554 ~~(d) In any case when the review process does not resolve a~~
3555 ~~difference of opinion between the organization and the~~
3556 ~~subscriber or the provider acting on behalf of the subscriber,~~
3557 ~~the subscriber or the provider acting on behalf of the~~
3558 ~~subscriber may submit a written grievance to the Subscriber~~
3559 ~~Assistance Program.~~

3560 (6)

3561 ~~(g) In any case when the expedited review process does not~~
3562 ~~resolve a difference of opinion between the organization and the~~
3563 ~~subscriber or the provider acting on behalf of the subscriber,~~
3564 ~~the subscriber or the provider acting on behalf of the~~
3565 ~~subscriber may submit a written grievance to the Subscriber~~
3566 ~~Assistance Program.~~

3567 (g) ~~(h)~~ An organization shall not provide an expedited

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3568 retrospective review of an adverse determination.

3569 ~~(7) Each organization shall send to the agency a copy of~~
3570 ~~its quarterly grievance reports submitted to the office pursuant~~
3571 ~~to s. 408.7056(12).~~

3572 ~~(7)(8)~~ The agency shall investigate all reports of
3573 unresolved quality of care grievances received from:

3574 ~~(a) annual and quarterly grievance reports submitted by the~~
3575 ~~organization to the office.~~

3576 ~~(b) Review requests of subscribers whose grievances remain~~
3577 ~~unresolved after the subscriber has followed the full grievance~~
3578 ~~procedure of the organization.~~

3579 ~~(9)(a) The agency shall advise subscribers with grievances~~
3580 ~~to follow their organization's formal grievance process for~~
3581 ~~resolution prior to review by the Subscriber Assistance Program.~~
3582 ~~The subscriber may, however, submit a copy of the grievance to~~
3583 ~~the agency at any time during the process.~~

3584 ~~(b) Requiring completion of the organization's grievance~~
3585 ~~process before the Subscriber Assistance Program panel's review~~
3586 ~~does not preclude the agency from investigating any complaint or~~
3587 ~~grievance before the organization makes its final determination.~~

3588 ~~(10) Each organization must notify the subscriber in a~~
3589 ~~final decision letter that the subscriber may request review of~~
3590 ~~the organization's decision concerning the grievance by the~~
3591 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
3592 ~~the grievance is not resolved to the satisfaction of the~~
3593 ~~subscriber. The final decision letter must inform the subscriber~~
3594 ~~that the request for review must be made within 365 days after~~
3595 ~~receipt of the final decision letter, must explain how to~~
3596 ~~initiate such a review, and must include the addresses and toll-~~

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3597 ~~free telephone numbers of the agency and the Subscriber~~
3598 ~~Assistance Program.~~

3599 (8)~~(11)~~ Each organization, as part of its contract with any
3600 provider, must require the provider to post a consumer
3601 assistance notice prominently displayed in the reception area of
3602 the provider and clearly noticeable by all patients. The
3603 consumer assistance notice must state the addresses and toll-
3604 free telephone numbers of the Agency for Health Care
3605 Administration,~~the Subscriber Assistance Program,~~ and the
3606 Department of Financial Services. The consumer assistance notice
3607 must also clearly state that the address and toll-free telephone
3608 number of the organization's grievance department shall be
3609 provided upon request. The agency may adopt rules to implement
3610 this section.

3611 (9)~~(12)~~ The agency may impose administrative sanction, in
3612 accordance with s. 641.52, against an organization for
3613 noncompliance with this section.

3614 Section 115. Subsection (1) of section 641.515, Florida
3615 Statutes, is amended to read:

3616 641.515 Investigation by the agency.—

3617 (1) The agency shall investigate further any quality of
3618 care issue contained in recommendations and reports submitted
3619 pursuant to s. ss. 408.7056~~and~~ 641.511. The agency shall also
3620 investigate further any information that indicates that the
3621 organization does not meet accreditation standards or the
3622 standards of the review organization performing the external
3623 quality assurance assessment pursuant to reports submitted under
3624 s. 641.512. Every organization shall submit its books and
3625 records and take other appropriate action as may be necessary to

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3626 facilitate an examination. The agency shall have access to the
3627 organization's medical records of individuals and records of
3628 employed and contracted physicians, with the consent of the
3629 subscriber or by court order, as necessary to administer ~~carry~~
3630 ~~out the provisions of~~ this part.

3631 Section 116. Subsection (2) of section 641.55, Florida
3632 Statutes, is amended to read:

3633 641.55 Internal risk management program.—

3634 (2) The risk management program shall be the responsibility
3635 of the governing authority or board of the organization. Every
3636 organization which has an annual premium volume of \$10 million
3637 or more and which directly provides health care in a building
3638 owned or leased by the organization shall hire a risk manager,
3639 ~~certified under ss. 395.10971-395.10975, who is~~ shall be
3640 responsible for implementation of the organization's risk
3641 management program required by this section. A part-time risk
3642 manager may ~~shall~~ not be responsible for risk management
3643 programs in more than four organizations or facilities. Every
3644 organization that ~~which~~ does not directly provide health care in
3645 a building owned or leased by the organization and every
3646 organization with an annual premium volume of less than \$10
3647 million shall designate an officer or employee of the
3648 organization to serve as the risk manager.

3649
3650 The gross data compiled under this section or s. 395.0197 shall
3651 be furnished by the agency upon request to organizations to be
3652 utilized for risk management purposes. The agency shall adopt
3653 rules necessary to administer ~~carry out the provisions of~~ this
3654 section.

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3655 Section 117. Section 641.60, Florida Statutes, is repealed.

3656 Section 118. Section 641.65, Florida Statutes, is repealed.

3657 Section 119. Section 641.67, Florida Statutes, is repealed.

3658 Section 120. Section 641.68, Florida Statutes, is repealed.

3659 Section 121. Section 641.70, Florida Statutes, is repealed.

3660 Section 122. Section 641.75, Florida Statutes, is repealed.

3661 Section 123. Paragraph (b) of subsection (6) of section
3662 766.118, Florida Statutes, is amended to read:

3663 766.118 Determination of noneconomic damages.—

3664 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
3665 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
3666 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
3667 respect to a cause of action for personal injury or wrongful
3668 death arising from medical negligence of a practitioner
3669 committed in the course of providing medical services and
3670 medical care to a Medicaid recipient, regardless of the number
3671 of such practitioner defendants providing the services and care,
3672 noneconomic damages may not exceed \$300,000 per claimant, unless
3673 the claimant pleads and proves, by clear and convincing
3674 evidence, that the practitioner acted in a wrongful manner. A
3675 practitioner providing medical services and medical care to a
3676 Medicaid recipient is not liable for more than \$200,000 in
3677 noneconomic damages, regardless of the number of claimants,
3678 unless the claimant pleads and proves, by clear and convincing
3679 evidence, that the practitioner acted in a wrongful manner. The
3680 fact that a claimant proves that a practitioner acted in a
3681 wrongful manner does not preclude the application of the
3682 limitation on noneconomic damages prescribed elsewhere in this
3683 section. For purposes of this subsection:

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3684 (b) The term "practitioner," in addition to the meaning
3685 prescribed in subsection (1), includes any hospital or
3686 ambulatory surgical center, ~~or mobile surgical facility~~ as
3687 defined and licensed under chapter 395.

3688 Section 124. Subsection (4) of section 766.202, Florida
3689 Statutes, is amended to read:

3690 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
3691 766.201-766.212, the term:

3692 (4) "Health care provider" means any hospital or
3693 ambulatory surgical center, ~~or mobile surgical facility~~ as
3694 defined and licensed under chapter 395; a birth center licensed
3695 under chapter 383; any person licensed under chapter 458,
3696 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
3697 part I of chapter 464, chapter 466, chapter 467, part XIV of
3698 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
3699 ~~chapter 483~~; a health maintenance organization certificated
3700 under part I of chapter 641; a blood bank; a plasma center; an
3701 industrial clinic; a renal dialysis facility; or a professional
3702 association partnership, corporation, joint venture, or other
3703 association for professional activity by health care providers.

3704 Section 125. Section 945.36, Florida Statutes, is amended
3705 to read:

3706 945.36 ~~Exemption from health testing regulations for~~ Law
3707 enforcement personnel authorized to conduct ~~conducting~~ drug
3708 tests on inmates and releasees.—

3709 (1) Any law enforcement officer, state or county probation
3710 officer, employee of the Department of Corrections, or employee
3711 of a contracted community correctional center who is certified
3712 by the Department of Corrections pursuant to subsection (2) may

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3713 ~~administer, is exempt from part I of chapter 483, for the~~
 3714 ~~limited purpose of administering~~ a urine screen drug test to:

- 3715 (a) Persons during incarceration;
 3716 (b) Persons released as a condition of probation for either
 3717 a felony or misdemeanor;
 3718 (c) Persons released as a condition of community control;
 3719 (d) Persons released as a condition of conditional release;
 3720 (e) Persons released as a condition of parole;
 3721 (f) Persons released as a condition of provisional release;
 3722 (g) Persons released as a condition of pretrial release; or
 3723 (h) Persons released as a condition of control release.

3724 (2) The Department of Corrections shall develop a procedure
 3725 for certification of any law enforcement officer, state or
 3726 county probation officer, employee of the Department of
 3727 Corrections, or employee of a contracted community correctional
 3728 center to perform a urine screen drug test on the persons
 3729 specified in subsection (1).

3730 Section 126. Paragraph (b) of subsection (2) of section
 3731 1009.65, Florida Statutes, is amended to read:

3732 1009.65 Medical Education Reimbursement and Loan Repayment
 3733 Program.—

3734 (2) From the funds available, the Department of Health
 3735 shall make payments to selected medical professionals as
 3736 follows:

3737 (b) All payments are ~~shall be~~ contingent on continued proof
 3738 of primary care practice in an area defined in s. 395.602(2)(b)
 3739 ~~s. 395.602(2)(e)~~, or an underserved area designated by the
 3740 Department of Health, provided the practitioner accepts Medicaid
 3741 reimbursement if eligible for such reimbursement. Correctional

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3742 facilities, state hospitals, and other state institutions that
3743 employ medical personnel shall be designated by the Department
3744 of Health as underserved locations. Locations with high
3745 incidences of infant mortality, high morbidity, or low Medicaid
3746 participation by health care professionals may be designated as
3747 underserved.

3748 Section 127. Subsection (2) of section 1011.52, Florida
3749 Statutes, is amended to read:

3750 1011.52 Appropriation to first accredited medical school.-

3751 (2) In order for a medical school to qualify under ~~the~~
3752 ~~provisions of~~ this section and to be entitled to the benefits
3753 herein, such medical school:

3754 (a) Must be primarily operated and established to offer,
3755 afford, and render a medical education to residents of the state
3756 qualifying for admission to such institution;

3757 (b) Must be operated by a municipality or county of this
3758 state, or by a nonprofit organization heretofore or hereafter
3759 established exclusively for educational purposes;

3760 (c) Must, upon the formation and establishment of an
3761 accredited medical school, transmit and file with the Department
3762 of Education documentary proof evidencing the facts that such
3763 institution has been certified and approved by the council on
3764 medical education and hospitals of the American Medical
3765 Association and has adequately met the requirements of that
3766 council in regard to its administrative facilities,
3767 administrative plant, clinical facilities, curriculum, and all
3768 other such requirements as may be necessary to qualify with the
3769 council as a recognized, approved, and accredited medical
3770 school;

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3771 (d) Must certify to the Department of Education the name,
3772 address, and educational history of each student approved and
3773 accepted for enrollment in such institution for the ensuing
3774 school year; and

3775 (e) Must have in place an operating agreement with a
3776 government-owned hospital that is located in the same county as
3777 the medical school and that is a statutory teaching hospital as
3778 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
3779 must ~~shall~~ provide for the medical school to maintain the same
3780 level of affiliation with the hospital, including the level of
3781 services to indigent and charity care patients served by the
3782 hospital, which was in place in the prior fiscal year. Each
3783 year, documentation demonstrating that an operating agreement is
3784 in effect shall be submitted jointly to the Department of
3785 Education by the hospital and the medical school prior to the
3786 payment of moneys from the annual appropriation.

3787 Section 128. This act shall take effect July 1, 2018.