

By the Committees on Rules; and 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. 381.915, F.S.; increasing the number of  
13      years that a cancer center may participate in Tier 3  
14      of the Florida Consortium of National Cancer Institute  
15      Centers Program; increasing the number of years after  
16      qualification that a certain Tier 3 cancer center may  
17      pursue specified NCI designations; amending s.  
18      383.313, F.S.; requiring a birth center to be  
19      federally certified and meet specified requirements to  
20      perform certain laboratory tests; repealing s.  
21      383.335, F.S., relating to partial exemptions from  
22      licensure requirements for certain facilities that  
23      provide obstetrical and gynecological surgical  
24      services; amending s. 395.002, F.S.; revising and  
25      deleting definitions to remove the term "mobile  
26      surgical facility"; conforming a cross-reference;  
27      creating s. 395.0091, F.S.; requiring the Agency for  
28      Health Care Administration, in consultation with the  
29      Board of Clinical Laboratory Personnel, to adopt rules

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30 establishing criteria for alternate-site laboratory  
31 testing; requiring specifications to be included in  
32 the criteria; defining the term "alternate-site  
33 testing"; amending ss. 395.0161 and 395.0163, F.S.;  
34 deleting licensure and inspection requirements for  
35 mobile surgical facilities to conform to changes made  
36 by the act; amending s. 395.0197, F.S.; requiring the  
37 manager of a hospital or ambulatory surgical center  
38 internal risk management program to demonstrate  
39 competence in specified administrative and health care  
40 service areas; conforming provisions to changes made  
41 by the act; repealing s. 395.1046, F.S., relating to  
42 hospital complaint investigation procedures; amending  
43 s. 395.1055, F.S.; requiring hospitals that provide  
44 specified services to meet agency licensure  
45 requirements; providing standards to be included in  
46 licensure requirements; conforming a provision to  
47 changes made by the act; requiring a level 2  
48 background screening for personnel of distinct part  
49 nursing units; requiring the agency to adopt rules  
50 establishing standards for pediatric cardiac  
51 catheterization and pediatric cardiovascular surgery  
52 programs located in licensed hospitals; providing  
53 requirements for such programs; establishing minimum  
54 standards for rules for such pediatric cardiac  
55 programs; requiring hospitals with pediatric cardiac  
56 programs to participate in the clinical outcome  
57 reporting systems; revising duties and membership of  
58 the pediatric cardiac technical advisory panel;

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59        repealing ss. 395.10971 and 395.10972, F.S., relating  
60        to the purpose and the establishment of the Health  
61        Care Risk Manager Advisory Council, respectively;  
62        amending s. 395.10973, F.S.; removing requirements  
63        relating to agency standards for health care risk  
64        managers to conform provisions to changes made by the  
65        act; repealing s. 395.10974, F.S., relating to  
66        licensure of health care risk managers,  
67        qualifications, licensure, and fees; repealing s.  
68        395.10975, F.S., relating to grounds for denial,  
69        suspension, or revocation of a health care risk  
70        manager's license and an administrative fine; amending  
71        s. 395.602, F.S.; deleting definitions for the terms  
72        "emergency care hospital," "essential access community  
73        hospital," "inactive rural hospital bed," and "rural  
74        primary care hospital"; amending s. 395.603, F.S.;  
75        deleting provisions relating to deactivation of  
76        general hospital beds by certain rural and emergency  
77        care hospitals; repealing s. 395.604, F.S., relating  
78        to other rural hospital programs; repealing s.  
79        395.605, F.S., relating to emergency care hospitals;  
80        amending s. 395.701, F.S.; revising the definition of  
81        the term "hospital" to exclude hospitals operated by a  
82        state agency; amending s. 400.191, F.S.; removing the  
83        30-month reporting timeframe for the Nursing Home  
84        Guide; amending s. 400.464, F.S.; requiring that a  
85        license issued to a home health agency on or after a  
86        specified date specify the services the organization  
87        is authorized to perform and whether the services

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

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

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146 years; amending s. 408.036, F.S.; conforming  
147 provisions to changes made by the act; deleting  
148 obsolete provisions relating to certificate of need  
149 requirements for specified services; amending s.  
150 408.0361, F.S.; providing an exception for a hospital  
151 to become a Level I Adult Cardiovascular provider if  
152 certain requirements are met; amending s. 408.05,  
153 F.S.; requiring the agency to contract with the  
154 Society of Thoracic Surgeons and the American College  
155 of Cardiology for the collection of certain data for  
156 publication on the agency's website for certain  
157 purposes; amending s. 408.061, F.S.; excluding  
158 hospitals operated by state agencies from certain  
159 financial reporting requirements; conforming a cross-  
160 reference; amending s. 408.07, F.S.; deleting the  
161 definition for the term "clinical laboratory";  
162 amending s. 408.20, F.S.; exempting hospitals operated  
163 by any state agency from assessments against the  
164 Health Care Trust Fund to fund certain agency  
165 activities; repealing s. 408.7056, F.S., relating to  
166 the Subscriber Assistance Program; amending s.  
167 408.803, F.S.; defining the term "relative" for  
168 purposes of the Health Care Licensing Procedures Act;  
169 amending s. 408.806, F.S.; authorizing licensees who  
170 hold licenses for multiple providers to request that  
171 the agency align related license expiration dates;  
172 authorizing the agency to issue licenses for an  
173 abbreviated licensure period and to charge a prorated  
174 licensure fee; amending s. 408.809, F.S.; expanding

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175 the scope of persons subject to a level 2 background  
176 screening to include any employee of a licensee who is  
177 a controlling interest and certain part-time  
178 contractors; amending s. 408.810, F.S.; providing that  
179 an applicant for change of ownership licensure is  
180 exempt from furnishing proof of financial ability to  
181 operate if certain conditions are met; authorizing the  
182 agency to adopt rules governing circumstances under  
183 which a controlling interest may act in certain legal  
184 capacities on behalf of a patient or client; requiring  
185 a licensee to ensure that certain persons do not hold  
186 an ownership interest if the licensee is not organized  
187 as or owned by a publicly traded corporation; defining  
188 the term "publicly traded corporation"; amending s.  
189 408.812, F.S.; providing that certain unlicensed  
190 activity by a provider constitutes abuse and neglect;  
191 clarifying that the agency may impose a fine or  
192 penalty, as prescribed in an authorizing statute, if  
193 an unlicensed provider who has received notification  
194 fails to cease operation; authorizing the agency to  
195 revoke all licenses and impose a fine or penalties  
196 upon a controlling interest or licensee who has an  
197 interest in more than one provider and who fails to  
198 license a provider rendering services that require  
199 licensure in certain circumstances; amending s.  
200 408.820, F.S.; deleting certain exemptions from part  
201 II of ch. 408, F.S., for specified providers to  
202 conform provisions to changes made by the act;  
203 amending s. 409.907, F.S.; removing the agency's

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204 authority to consider certain factors in determining  
205 whether to enter into, and in maintaining, a Medicaid  
206 provider agreement; amending s. 429.02, F.S.; revising  
207 definitions of the terms "assisted living facility"  
208 and "personal services"; amending s. 429.04, F.S.;  
209 providing additional exemptions from licensure as an  
210 assisted living facility; requiring a person or entity  
211 asserting the exemption to provide documentation that  
212 substantiates the claim upon agency investigation of  
213 unlicensed activity; amending s. 429.08, F.S.;  
214 providing criminal penalties and fines for a person  
215 who rents or otherwise maintains a building or  
216 property used as an unlicensed assisted living  
217 facility; providing criminal penalties and fines for a  
218 person who owns, operates, or maintains an unlicensed  
219 assisted living facility after receiving notice from  
220 the agency; amending s. 429.176, F.S.; prohibiting an  
221 assisted living facility from operating for more than  
222 a specified time without an administrator who has  
223 completed certain educational requirements; amending  
224 s. 429.24, F.S.; providing that 30-day written notice  
225 of rate increase for residency in an assisted living  
226 facility is not required in certain situations;  
227 amending s. 429.28, F.S.; revising the assisted living  
228 facility resident bill of rights to include assistance  
229 with obtaining access to adequate and appropriate  
230 health care; defining the term "adequate and  
231 appropriate health care"; deleting a requirement that  
232 the agency conduct at least one monitoring visit under

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233 certain circumstances; deleting provisions authorizing  
234 the agency to conduct periodic followup inspections  
235 and complaint investigations under certain  
236 circumstances; amending s. 429.294, F.S.; deleting the  
237 specified timeframe within which an assisted living  
238 facility must provide complete copies of a resident's  
239 records in an investigation of resident's rights;  
240 amending s. 429.34, F.S.; authorizing the agency to  
241 inspect and investigate assisted living facilities as  
242 necessary to determine compliance with certain laws;  
243 removing a provision requiring the agency to inspect  
244 each licensed assisted living facility at least  
245 biennially; authorizing the agency to conduct  
246 monitoring visits of each facility cited for prior  
247 violations under certain circumstances; amending s.  
248 429.52, F.S.; requiring an assisted living facility  
249 administrator to complete required training and  
250 education within a specified timeframe; amending s.  
251 435.04, F.S.; providing that security background  
252 investigations must ensure that a person has not been  
253 arrested for, and is not awaiting final disposition  
254 of, certain offenses; requiring that security  
255 background investigations for purposes of  
256 participation in the Medicaid program screen for  
257 violations of federal or state law, rule, or  
258 regulation governing any state Medicaid program, the  
259 Medicare program, or any other publicly funded federal  
260 or state health care or health insurance program;  
261 specifying offenses under federal law or any state law

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262 that the security background investigations must  
263 screen for; amending s. 456.054, F.S.; prohibiting any  
264 person or entity from paying or receiving a kickback  
265 for referring patients to a clinical laboratory;  
266 prohibiting a clinical laboratory from providing  
267 personnel to perform certain functions or duties in a  
268 health care practitioner's office or dialysis  
269 facility; providing an exception; prohibiting a  
270 clinical laboratory from leasing space in any part of  
271 a health care practitioner's office or dialysis  
272 facility; repealing part I of ch. 483, F.S., relating  
273 to clinical laboratories; amending s. 483.294, F.S.;  
274 removing a requirement that the agency inspect  
275 multiphasic health testing centers at least once  
276 annually; amending s. 483.801, F.S.; providing an  
277 exemption from regulation for certain persons employed  
278 by certain laboratories; amending s. 483.803, F.S.;  
279 revising definitions of the terms "clinical  
280 laboratory" and "clinical laboratory examination";  
281 removing a cross-reference; amending s. 641.511, F.S.;  
282 revising health maintenance organization subscriber  
283 grievance reporting requirements; repealing s. 641.60,  
284 F.S., relating to the Statewide Managed Care Ombudsman  
285 Committee; repealing s. 641.65, F.S., relating to  
286 district managed care ombudsman committees; repealing  
287 s. 641.67, F.S., relating to a district managed care  
288 ombudsman committee, exemption from public records  
289 requirements, and exceptions; repealing s. 641.68,  
290 F.S., relating to a district managed care ombudsman

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291 committee and exemption from public meeting  
292 requirements; repealing s. 641.70, F.S., relating to  
293 agency duties relating to the Statewide Managed Care  
294 Ombudsman Committee and the district managed care  
295 ombudsman committees; repealing s. 641.75, F.S.,  
296 relating to immunity from liability and limitation on  
297 testimony; amending s. 945.36, F.S.; authorizing law  
298 enforcement personnel to conduct drug tests on certain  
299 inmates and releasees; amending ss. 20.43, 220.1845,  
300 376.30781, 376.86, 381.0034, 381.0405, 383.14, 383.30,  
301 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,  
302 394.4787, 395.001, 395.003, 395.7015, 400.9905,  
303 408.033, 408.802, 409.9116, 409.975, 429.19, 456.001,  
304 456.057, 456.076, 458.307, 458.345, 459.021, 483.813,  
305 483.823, 491.003, 627.351, 627.602, 627.6406,  
306 627.64194, 627.6513, 627.6574, 641.185, 641.31,  
307 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,  
308 766.202, 1009.65, and 1011.52, F.S.; conforming  
309 provisions to changes made by the act; providing an  
310 effective date.

311

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

313

314 Section 1. Paragraph (g) of subsection (3) of section  
315 20.43, Florida Statutes, is amended to read:

316 20.43 Department of Health.—There is created a Department  
317 of Health.

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

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320 (g) Division of Medical Quality Assurance, which is  
321 responsible for the following boards and professions established  
322 within the division:

- 323 1. The Board of Acupuncture, created under chapter 457.
- 324 2. The Board of Medicine, created under chapter 458.
- 325 3. The Board of Osteopathic Medicine, created under chapter  
326 459.
- 327 4. The Board of Chiropractic Medicine, created under  
328 chapter 460.
- 329 5. The Board of Podiatric Medicine, created under chapter  
330 461.
- 331 6. Naturopathy, as provided under chapter 462.
- 332 7. The Board of Optometry, created under chapter 463.
- 333 8. The Board of Nursing, created under part I of chapter  
334 464.
- 335 9. Nursing assistants, as provided under part II of chapter  
336 464.
- 337 10. The Board of Pharmacy, created under chapter 465.
- 338 11. The Board of Dentistry, created under chapter 466.
- 339 12. Midwifery, as provided under chapter 467.
- 340 13. The Board of Speech-Language Pathology and Audiology,  
341 created under part I of chapter 468.
- 342 14. The Board of Nursing Home Administrators, created under  
343 part II of chapter 468.
- 344 15. The Board of Occupational Therapy, created under part  
345 III of chapter 468.
- 346 16. Respiratory therapy, as provided under part V of  
347 chapter 468.
- 348 17. Dietetics and nutrition practice, as provided under

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349 part X of chapter 468.

350 18. The Board of Athletic Training, created under part XIII  
351 of chapter 468.

352 19. The Board of Orthotists and Prosthetists, created under  
353 part XIV of chapter 468.

354 20. Electrolysis, as provided under chapter 478.

355 21. The Board of Massage Therapy, created under chapter  
356 480.

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

359 23. Medical physicists, as provided under part IV of  
360 chapter 483.

361 24. The Board of Opticianry, created under part I of  
362 chapter 484.

363 25. The Board of Hearing Aid Specialists, created under  
364 part II of chapter 484.

365 26. The Board of Physical Therapy Practice, created under  
366 chapter 486.

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

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

369 29. The Board of Clinical Social Work, Marriage and Family  
370 Therapy, and Mental Health Counseling, created under chapter  
371 491.

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

374 Section 2. Section 154.13, Florida Statutes, is created to  
375 read:

376 154.13 Designated facilities; jurisdiction.—Any designated  
377 facility owned or operated by a public health trust and located

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378 within the boundaries of a municipality is under the exclusive  
379 jurisdiction of the county creating the public health trust and  
380 is not within the jurisdiction of the municipality.

381 Section 3. Paragraph (k) of subsection (2) of section  
382 220.1845, Florida Statutes, is amended to read:

383 220.1845 Contaminated site rehabilitation tax credit.—

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

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

398 Section 4. Paragraph (f) of subsection (3) of section  
399 376.30781, Florida Statutes, is amended to read:

400 376.30781 Tax credits for rehabilitation of drycleaning-  
401 solvent-contaminated sites and brownfield sites in designated  
402 brownfield areas; application process; rulemaking authority;  
403 revocation authority.—

404 (3)

405 (f) In order to encourage the construction and operation of  
406 a new health care facility or a health care provider, as defined

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407 in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a brownfield  
408 site, an applicant for a tax credit may claim an additional 25  
409 percent of the total site rehabilitation costs, not to exceed  
410 \$500,000, if the applicant meets the requirements of this  
411 paragraph. In order to receive this additional tax credit, the  
412 applicant must provide documentation indicating that the  
413 construction of the health care facility or health care provider  
414 by the applicant on the brownfield site has received a  
415 certificate of occupancy or a license or certificate has been  
416 issued for the operation of the health care facility or health  
417 care provider.

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

420 376.86 Brownfield Areas Loan Guarantee Program.—

421 (1) The Brownfield Areas Loan Guarantee Council is created  
422 to review and approve or deny, by a majority vote of its  
423 membership, the situations and circumstances for participation  
424 in partnerships by agreements with local governments, financial  
425 institutions, and others associated with the redevelopment of  
426 brownfield areas pursuant to the Brownfields Redevelopment Act  
427 for a limited state guaranty of up to 5 years of loan guarantees  
428 or loan loss reserves issued pursuant to law. The limited state  
429 loan guaranty applies only to 50 percent of the primary lenders  
430 loans for redevelopment projects in brownfield areas. If the  
431 redevelopment project is for affordable housing, as defined in  
432 s. 420.0004, in a brownfield area, the limited state loan  
433 guaranty applies to 75 percent of the primary lender's loan. If  
434 the redevelopment project includes the construction and  
435 operation of a new health care facility or a health care

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436 provider, as defined in s. 408.032 or, s. 408.07, ~~or s.~~  
437 ~~408.7056~~, on a brownfield site and the applicant has obtained  
438 documentation in accordance with s. 376.30781 indicating that  
439 the construction of the health care facility or health care  
440 provider by the applicant on the brownfield site has received a  
441 certificate of occupancy or a license or certificate has been  
442 issued for the operation of the health care facility or health  
443 care provider, the limited state loan guaranty applies to 75  
444 percent of the primary lender's loan. A limited state guaranty  
445 of private loans or a loan loss reserve is authorized for  
446 lenders licensed to operate in the state upon a determination by  
447 the council that such an arrangement would be in the public  
448 interest and the likelihood of the success of the loan is great.

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

451 381.0031 Epidemiological research; report of diseases of  
452 public health significance to department.-

453 (2) Any practitioner licensed in this state to practice  
454 medicine, osteopathic medicine, chiropractic medicine,  
455 naturopathy, or veterinary medicine; any hospital licensed under  
456 part I of chapter 395; or any laboratory appropriately certified  
457 by the Centers for Medicare and Medicaid Services under the  
458 federal Clinical Laboratory Improvement Amendments and the  
459 federal rules adopted thereunder which ~~licensed under chapter~~  
460 ~~483 that~~ diagnoses or suspects the existence of a disease of  
461 public health significance shall immediately report the fact to  
462 the Department of Health.

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

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465 381.0034 Requirement for instruction on HIV and AIDS.—

466 (3) The department shall require, as a condition of  
467 granting a license under chapter 467 or part II ~~III~~ of chapter  
468 483, that an applicant making initial application for licensure  
469 complete an educational course acceptable to the department on  
470 human immunodeficiency virus and acquired immune deficiency  
471 syndrome. Upon submission of an affidavit showing good cause, an  
472 applicant who has not taken a course at the time of licensure  
473 shall be allowed 6 months to complete this requirement.

474 Section 8. Paragraph (c) of subsection (4) of section  
475 381.004, Florida Statutes, is amended to read:

476 381.004 HIV testing.—

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

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

491 Section 9. Paragraph (f) of subsection (4) of section  
492 381.0405, Florida Statutes, is amended to read:

493 381.0405 Office of Rural Health.—

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494 (4) COORDINATION.—The office shall:

495 (f) Assume responsibility for state coordination of the  
496 Rural Hospital Transition Grant Program, ~~the Essential Access~~  
497 ~~Community Hospital Program~~, and other federal rural health care  
498 programs.

499 Section 10. Paragraph (c) of subsection (4) of section  
500 381.915, Florida Statutes, is amended to read:

501 381.915 Florida Consortium of National Cancer Institute  
502 Centers Program.—

503 (4) Tier designations and corresponding weights within the  
504 Florida Consortium of National Cancer Institute Centers Program  
505 are as follows:

506 (c) Tier 3: Florida-based cancer centers seeking  
507 designation as either a NCI-designated cancer center or NCI-  
508 designated comprehensive cancer center, which shall be weighted  
509 at 1.0.

510 1. A cancer center shall meet the following minimum  
511 criteria to be considered eligible for Tier 3 designation in any  
512 given fiscal year:

513 a. Conducting cancer-related basic scientific research and  
514 cancer-related population scientific research;

515 b. Offering and providing the full range of diagnostic and  
516 treatment services on site, as determined by the Commission on  
517 Cancer of the American College of Surgeons;

518 c. Hosting or conducting cancer-related interventional  
519 clinical trials that are registered with the NCI's Clinical  
520 Trials Reporting Program;

521 d. Offering degree-granting programs or affiliating with  
522 universities through degree-granting programs accredited or

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523 approved by a nationally recognized agency and offered through  
524 the center or through the center in conjunction with another  
525 institution accredited by the Commission on Colleges of the  
526 Southern Association of Colleges and Schools;

527 e. Providing training to clinical trainees, medical  
528 trainees accredited by the Accreditation Council for Graduate  
529 Medical Education or the American Osteopathic Association, and  
530 postdoctoral fellows recently awarded a doctorate degree; and

531 f. Having more than \$5 million in annual direct costs  
532 associated with their total NCI peer-reviewed grant funding.

533 2. The General Appropriations Act or accompanying  
534 legislation may limit the number of cancer centers which shall  
535 receive Tier 3 designations or provide additional criteria for  
536 such designation.

537 3. A cancer center's participation in Tier 3 shall be  
538 limited to 6 ~~5~~ years.

539 4. A cancer center that qualifies as a designated Tier 3  
540 center under the criteria provided in subparagraph 1. by July 1,  
541 2014, is authorized to pursue NCI designation as a cancer center  
542 or a comprehensive cancer center for 6 ~~5~~ years after  
543 qualification.

544 Section 11. Paragraph (a) of subsection (2) of section  
545 383.14, Florida Statutes, is amended to read:

546 383.14 Screening for metabolic disorders, other hereditary  
547 and congenital disorders, and environmental risk factors.—

548 (2) RULES.—

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

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

554 2. Be tested for any condition included on the federal  
555 Recommended Uniform Screening Panel which the council advises  
556 the department should be included under the state's screening  
557 program. After the council recommends that a condition be  
558 included, the department shall submit a legislative budget  
559 request to seek an appropriation to add testing of the condition  
560 to the newborn screening program. The department shall expand  
561 statewide screening of newborns to include screening for such  
562 conditions within 18 months after the council renders such  
563 advice, if a test approved by the United States Food and Drug  
564 Administration or a test offered by an alternative vendor ~~which~~  
565 ~~is compatible with the clinical standards established under part~~  
566 ~~I of chapter 483~~ is available. If such a test is not available  
567 within 18 months after the council makes its recommendation, the  
568 department shall implement such screening as soon as a test  
569 offered by the United States Food and Drug Administration or by  
570 an alternative vendor is available; and

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

574 Section 12. Section 383.30, Florida Statutes, is amended to  
575 read:

576 383.30 Birth Center Licensure Act; short title.—Sections  
577 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as  
578 the "Birth Center Licensure Act."

579 Section 13. Section 383.301, Florida Statutes, is amended  
580 to read:

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581           383.301 Licensure and regulation of birth centers;  
582 legislative intent.—It is the intent of the Legislature to  
583 provide for the protection of public health and safety in the  
584 establishment, maintenance, and operation of birth centers by  
585 providing for licensure of birth centers and for the  
586 development, establishment, and enforcement of minimum standards  
587 with respect to birth centers. The requirements of part II of  
588 chapter 408 shall apply to the provision of services that  
589 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~  
590 and part II of chapter 408 and to entities licensed by or  
591 applying for such licensure from the Agency for Health Care  
592 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A  
593 license issued by the agency is required in order to operate a  
594 birth center in this state.

595           Section 14. Section 383.302, Florida Statutes, is amended  
596 to read:

597           383.302 Definitions of terms used in ss. 383.30-383.332  
598 ~~383.30-383.335~~.—As used in ss. 383.30-383.332 ~~383.30-383.335~~,  
599 the term:

600           (1) "Agency" means the Agency for Health Care  
601 Administration.

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

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

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

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

615 (b) Has hospital obstetrical privileges.

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

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

622 (7) "Licensed facility" means a facility licensed in  
623 accordance with s. 383.305.

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

628 (9) "Person" means any individual, firm, partnership,  
629 corporation, company, association, institution, or joint stock  
630 association and means any legal successor of any of the  
631 foregoing.

632 (10) "Premises" means those buildings, beds, and facilities  
633 located at the main address of the licensee and all other  
634 buildings, beds, and facilities for the provision of maternity  
635 care located in such reasonable proximity to the main address of  
636 the licensee as to appear to the public to be under the dominion  
637 and control of the licensee.

638 Section 15. Subsection (1) of section 383.305, Florida

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639 Statutes, is amended to read:

640 383.305 Licensure; fees.—

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

645 Section 16. Subsection (1) of section 383.309, Florida  
646 Statutes, is amended to read:

647 383.309 Minimum standards for birth centers; rules and  
648 enforcement.—

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

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

656 (b) Infection control, housekeeping, sanitary conditions,  
657 disaster plan, and medical record procedures that will  
658 adequately protect patient care and provide safety are  
659 established and implemented.

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

662 Section 17. Subsection (1) of section 383.313, Florida  
663 Statutes, is amended to read:

664 383.313 Performance of laboratory and surgical services;  
665 use of anesthetic and chemical agents.—

666 (1) LABORATORY SERVICES.—A birth center may collect  
667 specimens for those tests that are requested under protocol. A

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668 birth center must obtain and continuously maintain certification  
669 by the Centers for Medicare and Medicaid Services under the  
670 federal Clinical Laboratory Improvement Amendments and the  
671 federal rules adopted thereunder in order to ~~may perform simple~~  
672 laboratory tests specified, ~~as defined~~ by rule of the agency,  
673 and which are appropriate to meet the needs of the patient ~~is~~  
674 ~~exempt from the requirements of chapter 483, provided no more~~  
675 ~~than five physicians are employed by the birth center and~~  
676 ~~testing is conducted exclusively in connection with the~~  
677 ~~diagnosis and treatment of clients of the birth center.~~

678 Section 18. Subsection (1) and paragraph (a) of subsection  
679 (2) of section 383.33, Florida Statutes, are amended to read:

680 383.33 Administrative penalties; moratorium on admissions.—

681 (1) In addition to the requirements of part II of chapter  
682 408, the agency may impose an administrative fine not to exceed  
683 \$500 per violation per day for the violation of any provision of  
684 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or  
685 applicable rules.

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

689 (a) The severity of the violation, including the  
690 probability that death or serious harm to the health or safety  
691 of any person will result or has resulted; the severity of the  
692 actual or potential harm; and the extent to which ~~the provisions~~  
693 ~~of~~ ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or  
694 applicable rules were violated.

695 Section 19. Section 383.335, Florida Statutes, is repealed.

696 Section 20. Section 384.31, Florida Statutes, is amended to

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697 read:

698 384.31 Testing of pregnant women; duty of the attendant.—  
699 Every person, including every physician licensed under chapter  
700 458 or chapter 459 or midwife licensed under part I of chapter  
701 464 or chapter 467, attending a pregnant woman for conditions  
702 relating to pregnancy during the period of gestation and  
703 delivery shall cause the woman to be tested for sexually  
704 transmissible diseases, including HIV, as specified by  
705 department rule. Testing shall be performed by a laboratory  
706 appropriately certified by the Centers for Medicare and Medicaid  
707 Services under the federal Clinical Laboratory Improvement  
708 Amendments and the federal rules adopted thereunder ~~approved~~ for  
709 such purposes ~~under part I of chapter 483~~. The woman shall be  
710 informed of the tests that will be conducted and of her right to  
711 refuse testing. If a woman objects to testing, a written  
712 statement of objection, signed by the woman, shall be placed in  
713 the woman's medical record and no testing shall occur.

714 Section 21. Subsection (2) of section 385.211, Florida  
715 Statutes, is amended to read:

716 385.211 Refractory and intractable epilepsy treatment and  
717 research at recognized medical centers.—

718 (2) Notwithstanding chapter 893, medical centers recognized  
719 pursuant to s. 381.925, or an academic medical research  
720 institution legally affiliated with a licensed children's  
721 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~  
722 that contracts with the Department of Health, may conduct  
723 research on cannabidiol and low-THC cannabis. This research may  
724 include, but is not limited to, the agricultural development,  
725 production, clinical research, and use of liquid medical

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726 derivatives of cannabidiol and low-THC cannabis for the  
727 treatment for refractory or intractable epilepsy. The authority  
728 for recognized medical centers to conduct this research is  
729 derived from 21 C.F.R. parts 312 and 316. Current state or  
730 privately obtained research funds may be used to support the  
731 activities described in this section.

732 Section 22. Subsection (7) of section 394.4787, Florida  
733 Statutes, is amended to read:

734 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and  
735 394.4789.—As used in this section and ss. 394.4786, 394.4788,  
736 and 394.4789:

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

740 Section 23. Section 395.001, Florida Statutes, is amended  
741 to read:

742 395.001 Legislative intent.—It is the intent of the  
743 Legislature to provide for the protection of public health and  
744 safety in the establishment, construction, maintenance, and  
745 operation of hospitals and, ~~ambulatory surgical centers, and~~  
746 ~~mobile surgical facilities~~ by providing for licensure of same  
747 and for the development, establishment, and enforcement of  
748 minimum standards with respect thereto.

749 Section 24. Present subsections (22) through (33) of  
750 section 395.002, Florida Statutes, are redesignated as  
751 subsections (21) through (32), respectively, and subsections (3)  
752 and (16) of that section and present subsections (21) and (23)  
753 of that section are amended, to read:

754 395.002 Definitions.—As used in this chapter:

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755 (3) "Ambulatory surgical center" ~~or "mobile surgical~~  
756 ~~facility"~~ means a facility the primary purpose of which is to  
757 provide elective surgical care, in which the patient is admitted  
758 to and discharged from such facility within the same working day  
759 and is not permitted to stay overnight, and which is not part of  
760 a hospital. However, a facility existing for the primary purpose  
761 of performing terminations of pregnancy, an office maintained by  
762 a physician for the practice of medicine, or an office  
763 maintained for the practice of dentistry may ~~shall~~ not be  
764 construed to be an ambulatory surgical center, provided that any  
765 facility or office which is certified or seeks certification as  
766 a Medicare ambulatory surgical center shall be licensed as an  
767 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~  
768 ~~or vehicle in which a physician maintains an office and~~  
769 ~~practices surgery, and which can appear to the public to be a~~  
770 ~~mobile office because the structure or vehicle operates at more~~  
771 ~~than one address, shall be construed to be a mobile surgical~~  
772 ~~facility.~~

773 (16) "Licensed facility" means a hospital or, ambulatory  
774 surgical center, ~~or mobile surgical facility~~ licensed in  
775 accordance with this chapter.

776 ~~(21) "Mobile surgical facility" is a mobile facility in~~  
777 ~~which licensed health care professionals provide elective~~  
778 ~~surgical care under contract with the Department of Corrections~~  
779 ~~or a private correctional facility operating pursuant to chapter~~  
780 ~~957 and in which inmate patients are admitted to and discharged~~  
781 ~~from said facility within the same working day and are not~~  
782 ~~permitted to stay overnight. However, mobile surgical facilities~~  
783 ~~may only provide health care services to the inmate patients of~~

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784 ~~the Department of Corrections, or inmate patients of a private~~  
785 ~~correctional facility operating pursuant to chapter 957, and not~~  
786 ~~to the general public.~~

787 (22)~~(23)~~ "Premises" means those buildings, beds, and  
788 equipment located at the address of the licensed facility and  
789 all other buildings, beds, and equipment for the provision of  
790 hospital or, ambulatory surgical,~~or mobile surgical~~ care  
791 located in such reasonable proximity to the address of the  
792 licensed facility as to appear to the public to be under the  
793 dominion and control of the licensee. For any licensee that is a  
794 teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,  
795 reasonable proximity includes any buildings, beds, services,  
796 programs, and equipment under the dominion and control of the  
797 licensee that are located at a site with a main address that is  
798 within 1 mile of the main address of the licensed facility; and  
799 all such buildings, beds, and equipment may, at the request of a  
800 licensee or applicant, be included on the facility license as a  
801 single premises.

802 Section 25. Paragraphs (a) and (b) of subsection (1) and  
803 paragraph (b) of subsection (2) of section 395.003, Florida  
804 Statutes, are amended to read:

805 395.003 Licensure; denial, suspension, and revocation.—

806 (1) (a) The requirements of part II of chapter 408 apply to  
807 the provision of services that require licensure pursuant to ss.  
808 395.001-395.1065 and part II of chapter 408 and to entities  
809 licensed by or applying for such licensure from the Agency for  
810 Health Care Administration pursuant to ss. 395.001-395.1065. A  
811 license issued by the agency is required in order to operate a  
812 hospital or, ambulatory surgical center,~~or mobile surgical~~

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813 ~~facility~~ in this state.

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

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

824 (2)

825 (b) The agency shall, at the request of a licensee that is  
826 a teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~, issue  
827 a single license to a licensee for facilities that have been  
828 previously licensed as separate premises, provided such  
829 separately licensed facilities, taken together, constitute the  
830 same premises as defined in s. 395.002 ~~s. 395.002(23)~~. Such  
831 license for the single premises shall include all of the beds,  
832 services, and programs that were previously included on the  
833 licenses for the separate premises. The granting of a single  
834 license under this paragraph may ~~shall~~ not in any manner reduce  
835 the number of beds, services, or programs operated by the  
836 licensee.

837 Section 26. Subsection (1) of section 395.009, Florida  
838 Statutes, is amended to read:

839 395.009 Minimum standards for clinical laboratory test  
840 results and diagnostic X-ray results; prerequisite for issuance  
841 or renewal of license.-

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842 (1) As a requirement for issuance or renewal of its  
843 license, each licensed facility shall require that all clinical  
844 laboratory tests performed by or for the licensed facility be  
845 performed by a clinical laboratory appropriately certified by  
846 the Centers for Medicare and Medicaid Services under the federal  
847 Clinical Laboratory Improvement Amendments and the federal rules  
848 adopted thereunder licensed under the provisions of chapter 483.

849 Section 27. Section 395.0091, Florida Statutes, is created  
850 to read:

851 395.0091 Alternate-site testing.—The agency, in  
852 consultation with the Board of Clinical Laboratory Personnel,  
853 shall adopt by rule the criteria for alternate-site testing to  
854 be performed under the supervision of a clinical laboratory  
855 director. At a minimum, the criteria must address hospital  
856 internal needs assessment; a protocol for implementation,  
857 including the identification of tests to be performed and who  
858 will perform them; selection of the method of testing to be used  
859 for alternate-site testing; minimum training and education  
860 requirements for those who will perform alternate-site testing,  
861 such as documented training, licensure, certification, or other  
862 medical professional background not limited to laboratory  
863 professionals; documented inservice training and initial and  
864 ongoing competency validation; an appropriate internal and  
865 external quality control protocol; an internal mechanism for the  
866 central laboratory to identify and track alternate-site testing;  
867 and recordkeeping requirements. Alternate-site testing locations  
868 must register when the hospital applies to renew its license.  
869 For purposes of this section, the term "alternate-site testing"  
870 includes any laboratory testing done under the administrative

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871 control of a hospital, but performed out of the physical or  
872 administrative confines of the central laboratory.

873 Section 28. Paragraph (f) of subsection (1) of section  
874 395.0161, Florida Statutes, is amended to read:

875 395.0161 Licensure inspection.—

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

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

884 Section 29. Subsection (3) of section 395.0163, Florida  
885 Statutes, is amended to read:

886 395.0163 Construction inspections; plan submission and  
887 approval; fees.—

888 ~~(3) In addition to the requirements of s. 408.811, the~~  
889 ~~agency shall inspect a mobile surgical facility at initial~~  
890 ~~licensure and at each time the facility establishes a new~~  
891 ~~location, prior to admission of patients. However, such~~  
892 ~~inspections shall not be required when a mobile surgical~~  
893 ~~facility is moved temporarily to a location where medical~~  
894 ~~treatment will not be provided.~~

895 Section 30. Subsection (2), paragraph (c) of subsection  
896 (6), and subsections (16) and (17) of section 395.0197, Florida  
897 Statutes, are amended to read:

898 395.0197 Internal risk management program.—

899 (2) The internal risk management program is the

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900 responsibility of the governing board of the health care  
901 facility. Each licensed facility shall hire a risk manager,  
902 ~~licensed under s. 395.10974,~~ who is responsible for  
903 implementation and oversight of the such facility's internal  
904 risk management program and who demonstrates competence, through  
905 education or experience, in all of the following areas:

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

907 (b) Applicable federal, state, and local health and safety  
908 laws and rules.

909 (c) General risk management administration.

910 (d) Patient care.

911 (e) Medical care.

912 (f) Personal and social care.

913 (g) Accident prevention.

914 (h) Departmental organization and management.

915 (i) Community interrelationships.

916 (j) Medical terminology as required by this section. ~~A risk~~  
917 ~~manager must not be made responsible for more than four internal~~  
918 ~~risk management programs in separate licensed facilities, unless~~  
919 ~~the facilities are under one corporate ownership or the risk~~  
920 ~~management programs are in rural hospitals.~~

921 (6)

922 (c) The report submitted to the agency must ~~shall~~ also  
923 contain the name ~~and license number~~ of the risk manager of the  
924 licensed facility, a copy of its policy and procedures which  
925 govern the measures taken by the facility and its risk manager  
926 to reduce the risk of injuries and adverse incidents, and the  
927 results of such measures. The annual report is confidential and  
928 is not available to the public pursuant to s. 119.07(1) or any

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929 other law providing access to public records. The annual report  
930 is not discoverable or admissible in any civil or administrative  
931 action, except in disciplinary proceedings by the agency or the  
932 appropriate regulatory board. The annual report is not available  
933 to the public as part of the record of investigation for and  
934 prosecution in disciplinary proceedings made available to the  
935 public by the agency or the appropriate regulatory board.  
936 However, the agency or the appropriate regulatory board shall  
937 make available, upon written request by a health care  
938 professional against whom probable cause has been found, any  
939 such records which form the basis of the determination of  
940 probable cause.

941 (16) There shall be no monetary liability on the part of,  
942 and no cause of action for damages shall arise against, any risk  
943 manager, ~~licensed under s. 395.10974,~~ for the implementation and  
944 oversight of the internal risk management program in a facility  
945 licensed under this chapter or chapter 390 as required by this  
946 section, for any act or proceeding undertaken or performed  
947 within the scope of the functions of such internal risk  
948 management program if the risk manager acts without intentional  
949 fraud.

950 (17) A privilege against civil liability is hereby granted  
951 to any ~~licensed~~ risk manager or licensed facility with regard to  
952 information furnished pursuant to this chapter, unless the  
953 ~~licensed~~ risk manager or facility acted in bad faith or with  
954 malice in providing such information.

955 Section 31. Section 395.1046, Florida Statutes, is  
956 repealed.

957 Section 32. Present subsection (10) of section 395.1055,

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958 Florida Statutes, is redesignated as subsection (12),  
959 subsections (2), (3), and (9) of that section are amended,  
960 paragraph (i) is added to subsection (1) of that section, and a  
961 new subsection (10) and subsection (11) are added to that  
962 section, to read:

963 395.1055 Rules and enforcement.—

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

967 (i) All hospitals providing organ transplantation, neonatal  
968 intensive care services, inpatient psychiatric services,  
969 inpatient substance abuse services, or comprehensive medical  
970 rehabilitation meet the minimum licensure requirements adopted  
971 by the agency. Such licensure requirements must include quality  
972 of care, nurse staffing, physician staffing, physical plant,  
973 equipment, emergency transportation, and data reporting  
974 standards.

975 (2) Separate standards may be provided for general and  
976 specialty hospitals, ambulatory surgical centers, ~~mobile~~  
977 ~~surgical facilities,~~ and statutory rural hospitals as defined in  
978 s. 395.602.

979 (3) The agency shall adopt rules with respect to the care  
980 and treatment of patients residing in distinct part nursing  
981 units of hospitals which are certified for participation in  
982 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social  
983 Security Act skilled nursing facility program. Such rules shall  
984 take into account the types of patients treated in hospital  
985 skilled nursing units, including typical patient acuity levels  
986 and the average length of stay in such units, and shall be

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987 limited to the appropriate portions of the Omnibus Budget  
988 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
989 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
990 Programs), Subtitle C (Nursing Home Reform), as amended. The  
991 agency shall require level 2 background screening as specified  
992 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for  
993 personnel of distinct part nursing units.

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

998 (a) Members of the panel must have technical expertise in  
999 pediatric cardiac medicine, shall serve without compensation,  
1000 and may not be reimbursed for per diem and travel expenses. ~~be~~  
1001 ~~composed~~

1002 (b) Voting members of the panel shall include: 3 at-large  
1003 members, including 1 cardiologist who is board certified in  
1004 caring for adults with congenital heart disease and 2 board-  
1005 certified pediatric cardiologists, neither of whom may be  
1006 employed by any of the hospitals specified in subparagraphs 1.-  
1007 10. or their affiliates, each of whom is appointed by the  
1008 Secretary of Health Care Administration, and 10 members, and an  
1009 alternate for each member, each of whom is a pediatric  
1010 cardiologist or a pediatric cardiovascular surgeon, each  
1011 appointed by the chief executive officer of ~~one of~~ the following  
1012 hospitals:

- 1013 1. Johns Hopkins All Children's Hospital in St. Petersburg.
- 1014 2. Arnold Palmer Hospital for Children in Orlando.
- 1015 3. Joe DiMaggio Children's Hospital in Hollywood.

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- 1016 4. Nicklaus Children's Hospital in Miami.
- 1017 5. St. Joseph's Children's Hospital in Tampa.
- 1018 6. University of Florida Health Shands Hospital in
- 1019 Gainesville.
- 1020 7. University of Miami Holtz Children's Hospital in Miami.
- 1021 8. Wolfson Children's Hospital in Jacksonville.
- 1022 9. Florida Hospital for Children in Orlando.
- 1023 10. Nemours Children's Hospital in Orlando.
- 1024

1025 Appointments made under subparagraphs 1.-10. are contingent upon

1026 the hospital's maintenance of pediatric certificates of need and

1027 the hospital's compliance with this section and rules adopted

1028 thereunder, as determined by the Secretary of Health Care

1029 Administration. A member appointed under subparagraphs 1.-10.

1030 whose hospital fails to maintain such certificates or comply

1031 with standards may serve only as a nonvoting member until the

1032 hospital restores such certificates or complies with such

1033 standards.

1034 (c) The Secretary of Health Care Administration may appoint

1035 nonvoting members to the panel. Nonvoting members may include:

- 1036 1. The Secretary of Health Care Administration.
- 1037 2. The Surgeon General.
- 1038 3. The Deputy Secretary of Children's Medical Services.
- 1039 4. Any current or past Division Director of Children's
- 1040 Medical Services.
- 1041 5. A parent of a child with congenital heart disease.
- 1042 6. An adult with congenital heart disease.
- 1043 7. A representative from each of the following
- 1044 organizations: the Florida Chapter of the American Academy of

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1045 Pediatrics, the Florida Chapter of the American College of  
1046 Cardiology, the Greater Southeast Affiliate of the American  
1047 Heart Association, the Adult Congenital Heart Association, the  
1048 March of Dimes, the Florida Association of Children's Hospitals,  
1049 and the Florida Society of Thoracic and Cardiovascular Surgeons.

1050 (d) The panel shall meet biannually, or more frequently  
1051 upon the call of the Secretary of Health Care Administration.  
1052 Such meetings may be conducted telephonically, or by other  
1053 electronic means.

1054 (e) The duties of the panel include recommending to the  
1055 agency standards for quality of care, personnel, physical plant,  
1056 equipment, emergency transportation, and data reporting for  
1057 hospitals that provide pediatric cardiac services.

1058 (f) Beginning on January 1, 2020, and annually thereafter,  
1059 the panel shall submit a report to the Governor, the President  
1060 of the Senate, the Speaker of the House of Representatives, the  
1061 Secretary of Health Care Administration, and the State Surgeon  
1062 General. The report must summarize the panel's activities during  
1063 the preceding fiscal year and include data and performance  
1064 measures on surgical morbidity and mortality for all pediatric  
1065 cardiac programs.

1066 ~~(b) Based on the recommendations of the panel, the agency~~  
1067 ~~shall develop and adopt rules for pediatric cardiac~~  
1068 ~~catheterization programs and pediatric open-heart surgery~~  
1069 ~~programs which include at least the following:~~

1070 ~~1. A risk adjustment procedure that accounts for the~~  
1071 ~~variations in severity and case mix found in hospitals in this~~  
1072 ~~state;~~

1073 ~~2. Outcome standards specifying expected levels of~~

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1074 ~~performance in pediatric cardiac programs. Such standards may~~  
1075 ~~include, but are not limited to, in-hospital mortality,~~  
1076 ~~infection rates, nonfatal myocardial infarctions, length of~~  
1077 ~~postoperative bleeds, and returns to surgery; and~~

1078 ~~3. Specific steps to be taken by the agency and licensed~~  
1079 ~~facilities that do not meet the outcome standards within a~~  
1080 ~~specified time, including time required for detailed case~~  
1081 ~~reviews and development and implementation of corrective action~~  
1082 ~~plans.~~

1083 ~~(c) This subsection is repealed on July 1, 2022.~~

1084 (10) Based on the recommendations of the advisory panel in  
1085 subsection (9), the agency shall adopt rules for pediatric  
1086 cardiac programs which, at a minimum, include:

1087 (a) Standards for pediatric cardiac catheterization  
1088 services and pediatric cardiovascular surgery including quality  
1089 of care, personnel, physical plant, equipment, emergency  
1090 transportation, data reporting, and appropriate operating hours  
1091 and timeframes for mobilization for emergency procedures.

1092 (b) Outcome standards consistent with nationally  
1093 established levels of performance in pediatric cardiac programs.

1094 (c) Specific steps to be taken by the agency and licensed  
1095 facilities when the facilities do not meet the outcome standards  
1096 within a specified time, including time required for detailed  
1097 case reviews and the development and implementation of  
1098 corrective action plans.

1099 (11) A pediatric cardiac program shall:

1100 (a) Be located in a hospital licensed under this chapter  
1101 and include the following colocated components: a pediatric  
1102 cardiology clinic, a pediatric cardiac catheterization

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laboratory, and a pediatric cardiovascular surgery program.

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

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

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

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

Section 33. Section 395.10971, Florida Statutes, is repealed.

Section 34. Section 395.10972, Florida Statutes, is repealed.

Section 35. Section 395.10973, Florida Statutes, is amended to read:

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

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

~~(2) Develop, impose, and enforce specific standards within the scope of the general qualifications established by this part which must be met by individuals in order to receive licenses as health care risk managers. These standards shall be designed to ensure that health care risk managers are individuals of good character and otherwise suitable and, by training or experience~~

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1132 ~~in the field of health care risk management, qualified in~~  
1133 ~~accordance with the provisions of this part to serve as health~~  
1134 ~~care risk managers, within statutory requirements.~~

1135 ~~(3) Develop a method for determining whether an individual~~  
1136 ~~meets the standards set forth in s. 395.10974.~~

1137 ~~(4) Issue licenses to qualified individuals meeting the~~  
1138 ~~standards set forth in s. 395.10974.~~

1139 ~~(5) Receive, investigate, and take appropriate action with~~  
1140 ~~respect to any charge or complaint filed with the agency to the~~  
1141 ~~effect that a certified health care risk manager has failed to~~  
1142 ~~comply with the requirements or standards adopted by rule by the~~  
1143 ~~agency or to comply with the provisions of this part.~~

1144 ~~(6) Establish procedures for providing periodic reports on~~  
1145 ~~persons certified or disciplined by the agency under this part.~~

1146 (2)~~(7)~~ Develop a model risk management program for health  
1147 care facilities which will satisfy the requirements of s.  
1148 395.0197.

1149 (3)~~(8)~~ Enforce the special-occupancy provisions of the  
1150 Florida Building Code which apply to hospitals, intermediate  
1151 residential treatment facilities, and ambulatory surgical  
1152 centers in conducting any inspection authorized by this chapter  
1153 and part II of chapter 408.

1154 Section 36. Section 395.10974, Florida Statutes, is  
1155 repealed.

1156 Section 37. Section 395.10975, Florida Statutes, is  
1157 repealed.

1158 Section 38. Subsection (2) of section 395.602, Florida  
1159 Statutes, is amended to read:

1160 395.602 Rural hospitals.—

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- 1161 (2) DEFINITIONS.—As used in this part, the term:
- 1162 ~~(a) "Emergency care hospital" means a medical facility~~
- 1163 ~~which provides:~~
- 1164 ~~1. Emergency medical treatment; and~~
- 1165 ~~2. Inpatient care to ill or injured persons prior to their~~
- 1166 ~~transportation to another hospital or provides inpatient medical~~
- 1167 ~~care to persons needing care for a period of up to 96 hours. The~~
- 1168 ~~96-hour limitation on inpatient care does not apply to respite,~~
- 1169 ~~skilled nursing, hospice, or other nonacute care patients.~~
- 1170 ~~(b) "Essential access community hospital" means any~~
- 1171 ~~facility which:~~
- 1172 ~~1. Has at least 100 beds;~~
- 1173 ~~2. Is located more than 35 miles from any other essential~~
- 1174 ~~access community hospital, rural referral center, or urban~~
- 1175 ~~hospital meeting criteria for classification as a regional~~
- 1176 ~~referral center;~~
- 1177 ~~3. Is part of a network that includes rural primary care~~
- 1178 ~~hospitals;~~
- 1179 ~~4. Provides emergency and medical backup services to rural~~
- 1180 ~~primary care hospitals in its rural health network;~~
- 1181 ~~5. Extends staff privileges to rural primary care hospital~~
- 1182 ~~physicians in its network; and~~
- 1183 ~~6. Accepts patients transferred from rural primary care~~
- 1184 ~~hospitals in its network.~~
- 1185 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
- 1186 ~~care hospital bed, as defined in s. 395.002(13), that is~~
- 1187 ~~inactive in that it cannot be occupied by acute care inpatients.~~
- 1188 (a) ~~(d)~~ "Rural area health education center" means an area
- 1189 health education center (AHEC), as authorized by Pub. L. No. 94-

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1190 484, which provides services in a county with a population  
1191 density of up to ~~no greater than~~ 100 persons per square mile.

1192 (b)~~(e)~~ "Rural hospital" means an acute care hospital  
1193 licensed under this chapter, having 100 or fewer licensed beds  
1194 and an emergency room, which is:

1195 1. The sole provider within a county with a population  
1196 density of up to 100 persons per square mile;

1197 2. An acute care hospital, in a county with a population  
1198 density of up to 100 persons per square mile, which is at least  
1199 30 minutes of travel time, on normally traveled roads under  
1200 normal traffic conditions, from any other acute care hospital  
1201 within the same county;

1202 3. A hospital supported by a tax district or subdistrict  
1203 whose boundaries encompass a population of up to 100 persons per  
1204 square mile;

1205 4. A hospital classified as a sole community hospital under  
1206 42 C.F.R. s. 412.92, regardless of the number of licensed beds;

1207 5. A hospital with a service area that has a population of  
1208 up to 100 persons per square mile. As used in this subparagraph,  
1209 the term "service area" means the fewest number of zip codes  
1210 that account for 75 percent of the hospital's discharges for the  
1211 most recent 5-year period, based on information available from  
1212 the hospital inpatient discharge database in the Florida Center  
1213 for Health Information and Transparency at the agency; or

1214 6. A hospital designated as a critical access hospital, as  
1215 defined in s. 408.07.

1216

1217 Population densities used in this paragraph must be based upon  
1218 the most recently completed United States census. A hospital

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1219 that received funds under s. 409.9116 for a quarter beginning no  
 1220 later than July 1, 2002, is deemed to have been and shall  
 1221 continue to be a rural hospital from that date through June 30,  
 1222 2021, if the hospital continues to have up to 100 licensed beds  
 1223 and an emergency room. An acute care hospital that has not  
 1224 previously been designated as a rural hospital and that meets  
 1225 the criteria of this paragraph shall be granted such designation  
 1226 upon application, including supporting documentation, to the  
 1227 agency. A hospital that was licensed as a rural hospital during  
 1228 the 2010-2011 or 2011-2012 fiscal year shall continue to be a  
 1229 rural hospital from the date of designation through June 30,  
 1230 2021, if the hospital continues to have up to 100 licensed beds  
 1231 and an emergency room.

1232 ~~(f) "Rural primary care hospital" means any facility~~  
 1233 ~~meeting the criteria in paragraph (e) or s. 395.605 which~~  
 1234 ~~provides:~~

- 1235 ~~1. Twenty-four-hour emergency medical care;~~
- 1236 ~~2. Temporary inpatient care for periods of 72 hours or less~~  
 1237 ~~to patients requiring stabilization before discharge or transfer~~  
 1238 ~~to another hospital. The 72-hour limitation does not apply to~~  
 1239 ~~respite, skilled nursing, hospice, or other nonacute care~~  
 1240 ~~patients; and~~
- 1241 ~~3. Has no more than six licensed acute care inpatient beds.~~

1242 (c)(g) "Swing-bed" means a bed which can be used  
 1243 interchangeably as either a hospital, skilled nursing facility  
 1244 (SNF), or intermediate care facility (ICF) bed pursuant to 42  
 1245 C.F.R. parts 405, 435, 440, 442, and 447.

1246 Section 39. Section 395.603, Florida Statutes, is amended  
 1247 to read:

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1248           395.603 ~~Deactivation of general hospital beds;~~ Rural  
1249 hospital impact statement.-

1250           ~~(1) The agency shall establish, by rule, a process by which~~  
1251 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~  
1252 ~~as a rural primary care hospital or as an emergency care~~  
1253 ~~hospital, or becomes a certified rural health clinic as defined~~  
1254 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~  
1255 ~~a county health department, community health center, or other~~  
1256 ~~similar outpatient program that provides preventive and curative~~  
1257 ~~services, may deactivate general hospital beds. Rural primary~~  
1258 ~~care hospitals and emergency care hospitals shall maintain the~~  
1259 ~~number of actively licensed general hospital beds necessary for~~  
1260 ~~the facility to be certified for Medicare reimbursement.~~  
1261 ~~Hospitals that discontinue inpatient care to become rural health~~  
1262 ~~care clinics or primary care programs shall deactivate all~~  
1263 ~~licensed general hospital beds. All hospitals, clinics, and~~  
1264 ~~programs with inactive beds shall provide 24-hour emergency~~  
1265 ~~medical care by staffing an emergency room. Providers with~~  
1266 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~  
1267 ~~The agency shall specify in rule requirements for making 24-hour~~  
1268 ~~emergency care available. Inactive general hospital beds shall~~  
1269 ~~be included in the acute care bed inventory, maintained by the~~  
1270 ~~agency for certificate of need purposes, for 10 years from the~~  
1271 ~~date of deactivation of the beds. After 10 years have elapsed,~~  
1272 ~~inactive beds shall be excluded from the inventory. The agency~~  
1273 ~~shall, at the request of the licensee, reactivate the inactive~~  
1274 ~~general beds upon a showing by the licensee that licensure~~  
1275 ~~requirements for the inactive general beds are met.~~

1276           ~~(2) In formulating and implementing policies and rules that~~

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1277 may have significant impact on the ability of rural hospitals to  
1278 continue to provide health care services in rural communities,  
1279 the agency, the department, or the respective regulatory board  
1280 adopting policies or rules regarding the licensure or  
1281 certification of health care professionals shall provide a rural  
1282 hospital impact statement. The rural hospital impact statement  
1283 shall assess the proposed action in light of the following  
1284 questions:

1285       (1)~~(a)~~ Do the health personnel affected by the proposed  
1286 action currently practice in rural hospitals or are they likely  
1287 to in the near future?

1288       (2)~~(b)~~ What are the current numbers of the affected health  
1289 personnel in this state, their geographic distribution, and the  
1290 number practicing in rural hospitals?

1291       (3)~~(c)~~ What are the functions presently performed by the  
1292 affected health personnel, and are such functions presently  
1293 performed in rural hospitals?

1294       (4)~~(d)~~ What impact will the proposed action have on the  
1295 ability of rural hospitals to recruit the affected personnel to  
1296 practice in their facilities?

1297       (5)~~(e)~~ What impact will the proposed action have on the  
1298 limited financial resources of rural hospitals through increased  
1299 salaries and benefits necessary to recruit or retain such health  
1300 personnel?

1301       (6)~~(f)~~ Is there a less stringent requirement which could  
1302 apply to practice in rural hospitals?

1303       (7)~~(g)~~ Will this action create staffing shortages, which  
1304 could result in a loss to the public of health care services in  
1305 rural hospitals or result in closure of any rural hospitals?

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1306 Section 40. Section 395.604, Florida Statutes, is repealed.

1307 Section 41. Section 395.605, Florida Statutes, is repealed.

1308 Section 42. Paragraph (c) of subsection (1) of section  
1309 395.701, Florida Statutes, is amended to read:

1310 395.701 Annual assessments on net operating revenues for  
1311 inpatient and outpatient services to fund public medical  
1312 assistance; administrative fines for failure to pay assessments  
1313 when due; exemption.—

1314 (1) For the purposes of this section, the term:

1315 (c) "Hospital" means a health care institution as defined  
1316 in s. 395.002(12), but does not include any hospital operated by  
1317 a state ~~the agency or the Department of Corrections.~~

1318 Section 43. Paragraph (b) of subsection (2) of section  
1319 395.7015, Florida Statutes, is amended to read:

1320 395.7015 Annual assessment on health care entities.—

1321 (2) There is imposed an annual assessment against certain  
1322 health care entities as described in this section:

1323 (b) For the purpose of this section, "health care entities"  
1324 include the following:

1325 1. Ambulatory surgical centers ~~and mobile surgical~~  
1326 ~~facilities licensed under s. 395.003. This subsection shall only~~  
1327 ~~apply to mobile surgical facilities operating under contracts~~  
1328 ~~entered into on or after July 1, 1998.~~

1329 2. ~~Clinical laboratories licensed under s. 483.091,~~  
1330 ~~excluding any hospital laboratory defined under s. 483.041(6),~~  
1331 ~~any clinical laboratory operated by the state or a political~~  
1332 ~~subdivision of the state, any clinical laboratory which~~  
1333 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~  
1334 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~

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1335 ~~percent or more of its gross revenues from services to charity~~  
1336 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~  
1337 ~~bank procuring, storing, or distributing blood, plasma, or~~  
1338 ~~tissue either for future manufacture or research or distributed~~  
1339 ~~on a nonprofit basis, and further excluding any clinical~~  
1340 ~~laboratory which is wholly owned and operated by 6 or fewer~~  
1341 ~~physicians who are licensed pursuant to chapter 458 or chapter~~  
1342 ~~459 and who practice in the same group practice, and at which no~~  
1343 ~~clinical laboratory work is performed for patients referred by~~  
1344 ~~any health care provider who is not a member of the same group.~~

1345 2.3. Diagnostic-imaging centers that are freestanding  
1346 outpatient facilities that provide specialized services for the  
1347 identification or determination of a disease through examination  
1348 and also provide sophisticated radiological services, and in  
1349 which services are rendered by a physician licensed by the Board  
1350 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by  
1351 an osteopathic physician licensed by the Board of Osteopathic  
1352 Medicine under s. 459.0055 or s. 459.0075. For purposes of this  
1353 paragraph, "sophisticated radiological services" means the  
1354 following: magnetic resonance imaging; nuclear medicine;  
1355 angiography; arteriography; computed tomography; positron  
1356 emission tomography; digital vascular imaging; bronchography;  
1357 lymphangiography; splenography; ultrasound, excluding ultrasound  
1358 providers that are part of a private physician's office practice  
1359 or when ultrasound is provided by two or more physicians  
1360 licensed under chapter 458 or chapter 459 who are members of the  
1361 same professional association and who practice in the same  
1362 medical specialties; and such other sophisticated radiological  
1363 services, excluding mammography, as adopted in rule by the

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1364 board.

1365 Section 44. Subsection (1) of section 400.0625, Florida  
1366 Statutes, is amended to read:

1367 400.0625 Minimum standards for clinical laboratory test  
1368 results and diagnostic X-ray results.-

1369 (1) Each nursing home, as a requirement for issuance or  
1370 renewal of its license, shall require that all clinical  
1371 laboratory tests performed for the nursing home be performed by  
1372 a ~~clinical~~ laboratory appropriately certified by the Centers for  
1373 Medicare and Medicaid Services under the federal Clinical  
1374 Laboratory Improvement Amendments and the federal rules adopted  
1375 thereunder ~~licensed under the provisions of chapter 483~~, except  
1376 for such self-testing procedures as are approved by the agency  
1377 by rule. ~~Results of clinical laboratory tests performed prior to~~  
1378 ~~admission which meet the minimum standards provided in s.~~  
1379 ~~483.181(3) shall be accepted in lieu of routine examinations~~  
1380 ~~required upon admission and clinical laboratory tests which may~~  
1381 ~~be ordered by a physician for residents of the nursing home.~~

1382 Section 45. Paragraph (a) of subsection (2) of section  
1383 400.191, Florida Statutes, is amended to read:

1384 400.191 Availability, distribution, and posting of reports  
1385 and records.-

1386 (2) The agency shall publish the Nursing Home Guide  
1387 quarterly in electronic form to assist consumers and their  
1388 families in comparing and evaluating nursing home facilities.

1389 (a) The agency shall provide an Internet site which shall  
1390 include at least the following information either directly or  
1391 indirectly through a link to another established site or sites  
1392 of the agency's choosing:

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1393           1. A section entitled "Have you considered programs that  
1394 provide alternatives to nursing home care?" which shall be the  
1395 first section of the Nursing Home Guide and which shall  
1396 prominently display information about available alternatives to  
1397 nursing homes and how to obtain additional information regarding  
1398 these alternatives. The Nursing Home Guide shall explain that  
1399 this state offers alternative programs that permit qualified  
1400 elderly persons to stay in their homes instead of being placed  
1401 in nursing homes and shall encourage interested persons to call  
1402 the Comprehensive Assessment Review and Evaluation for Long-Term  
1403 Care Services (CARES) Program to inquire if they qualify. The  
1404 Nursing Home Guide shall list available home and community-based  
1405 programs which shall clearly state the services that are  
1406 provided and indicate whether nursing home services are included  
1407 if needed.

1408           2. A list by name and address of all nursing home  
1409 facilities in this state, including any prior name by which a  
1410 facility was known during the previous 24-month period.

1411           3. Whether such nursing home facilities are proprietary or  
1412 nonproprietary.

1413           4. The current owner of the facility's license and the year  
1414 that that entity became the owner of the license.

1415           5. The name of the owner or owners of each facility and  
1416 whether the facility is affiliated with a company or other  
1417 organization owning or managing more than one nursing facility  
1418 in this state.

1419           6. The total number of beds in each facility and the most  
1420 recently available occupancy levels.

1421           7. The number of private and semiprivate rooms in each

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1422 facility.

1423 8. The religious affiliation, if any, of each facility.

1424 9. The languages spoken by the administrator and staff of  
1425 each facility.

1426 10. Whether or not each facility accepts Medicare or  
1427 Medicaid recipients or insurance, health maintenance  
1428 organization, Veterans Administration, CHAMPUS program, or  
1429 workers' compensation coverage.

1430 11. Recreational and other programs available at each  
1431 facility.

1432 12. Special care units or programs offered at each  
1433 facility.

1434 13. Whether the facility is a part of a retirement  
1435 community that offers other services pursuant to part III of  
1436 this chapter or part I or part III of chapter 429.

1437 14. Survey and deficiency information, including all  
1438 federal and state recertification, licensure, revisit, and  
1439 complaint survey information, for each facility ~~for the past 30~~  
1440 ~~months~~. For noncertified nursing homes, state survey and  
1441 deficiency information, including licensure, revisit, and  
1442 complaint survey information ~~for the past 30 months~~ shall be  
1443 provided.

1444 Section 46. Subsection (1) and paragraphs (b), (e), and (f)  
1445 of subsection (4) of section 400.464, Florida Statutes, are  
1446 amended, and subsection (6) is added to that section, to read:

1447 400.464 Home health agencies to be licensed; expiration of  
1448 license; exemptions; unlawful acts; penalties.—

1449 (1) The requirements of part II of chapter 408 apply to the  
1450 provision of services that require licensure pursuant to this

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1451 part and part II of chapter 408 and entities licensed or  
1452 registered by or applying for such licensure or registration  
1453 from the Agency for Health Care Administration pursuant to this  
1454 part. A license issued by the agency is required in order to  
1455 operate a home health agency in this state. A license issued on  
1456 or after July 1, 2018, must specify the home health services the  
1457 organization is authorized to perform and indicate whether such  
1458 specified services are considered skilled care. The provision or  
1459 advertising of services that require licensure pursuant to this  
1460 part without such services being specified on the face of the  
1461 license issued on or after July 1, 2018, constitutes unlicensed  
1462 activity as prohibited under s. 408.812.

1463 (4)

1464 (b) The operation or maintenance of an unlicensed home  
1465 health agency or the performance of any home health services in  
1466 violation of this part is declared a nuisance, inimical to the  
1467 public health, welfare, and safety. The agency or any state  
1468 attorney may, in addition to other remedies provided in this  
1469 part, bring an action for an injunction to restrain such  
1470 violation, or to enjoin the future operation or maintenance of  
1471 the home health agency or the provision of home health services  
1472 in violation of this part or part II of chapter 408, until  
1473 compliance with this part or the rules adopted under this part  
1474 has been demonstrated to the satisfaction of the agency.

1475 (e) Any person who owns, operates, or maintains an  
1476 unlicensed home health agency and who, ~~within 10 working days~~  
1477 after receiving notification from the agency, fails to cease  
1478 operation and apply for a license under this part commits a  
1479 misdemeanor of the second degree, punishable as provided in s.

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1480 775.082 or s. 775.083. Each day of continued operation is a  
1481 separate offense.

1482 (f) Any home health agency that fails to cease operation  
1483 after agency notification may be fined in accordance with s.  
1484 408.812 ~~\$500 for each day of noncompliance.~~

1485 (6) Any person, entity, or organization providing home  
1486 health services which is exempt from licensure under subsection  
1487 (5) may voluntarily apply for a certificate of exemption from  
1488 licensure under its exempt status with the agency on a form that  
1489 specifies its name or names and addresses, a statement of the  
1490 reasons why it is exempt from licensure as a home health agency,  
1491 and other information deemed necessary by the agency. A  
1492 certificate of exemption is valid for a period of not more than  
1493 2 years and is not transferable. The agency may charge an  
1494 applicant \$100 for a certificate of exemption or charge the  
1495 actual cost of processing the certificate.

1496 Section 47. Subsections (6) through (9) of section 400.471,  
1497 Florida Statutes, are redesignated as subsections (5) through  
1498 (8), respectively, and present subsections (2), (6), and (9) of  
1499 that section are amended, to read:

1500 400.471 Application for license; fee.—

1501 (2) In addition to the requirements of part II of chapter  
1502 408, the initial applicant, the applicant for a change of  
1503 ownership, and the applicant for the addition of skilled care  
1504 services must file with the application satisfactory proof that  
1505 the home health agency is in compliance with this part and  
1506 applicable rules, including:

1507 (a) A listing of services to be provided, either directly  
1508 by the applicant or through contractual arrangements with

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1509 existing providers.

1510 (b) The number and discipline of professional staff to be  
1511 employed.

1512 ~~(c) Completion of questions concerning volume data on the  
1513 renewal application as determined by rule.~~

1514 (c)~~(d)~~ A business plan, signed by the applicant, which  
1515 details the home health agency's methods to obtain patients and  
1516 its plan to recruit and maintain staff.

1517 (d)~~(e)~~ Evidence of contingency funding as required under s.  
1518 408.8065 equal to 1 month's average operating expenses during  
1519 the first year of operation.

1520 (e)~~(f)~~ A balance sheet, income and expense statement, and  
1521 statement of cash flows for the first 2 years of operation which  
1522 provide evidence of having sufficient assets, credit, and  
1523 projected revenues to cover liabilities and expenses. The  
1524 applicant has demonstrated financial ability to operate if the  
1525 applicant's assets, credit, and projected revenues meet or  
1526 exceed projected liabilities and expenses. An applicant may not  
1527 project an operating margin of 15 percent or greater for any  
1528 month in the first year of operation. All documents required  
1529 under this paragraph must be prepared in accordance with  
1530 generally accepted accounting principles and compiled and signed  
1531 by a certified public accountant.

1532 (f)~~(g)~~ All other ownership interests in health care  
1533 entities for each controlling interest, as defined in part II of  
1534 chapter 408.

1535 (g)~~(h)~~ In the case of an application for initial licensure,  
1536 an application for a change of ownership, or an application for  
1537 the addition of skilled care services, documentation of

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1538 accreditation, or an application for accreditation, from an  
1539 accrediting organization that is recognized by the agency as  
1540 having standards comparable to those required by this part and  
1541 part II of chapter 408. A home health agency that ~~is not~~  
1542 ~~Medicare or Medicaid certified and~~ does not provide skilled care  
1543 is exempt from this paragraph. Notwithstanding s. 408.806, an  
1544 initial applicant ~~that has applied for accreditation~~ must  
1545 provide proof of accreditation that is not conditional or  
1546 provisional and a survey demonstrating compliance with the  
1547 requirements of this part, part II of chapter 408, and  
1548 applicable rules from an accrediting organization that is  
1549 recognized by the agency as having standards comparable to those  
1550 required by this part and part II of chapter 408 within 120 days  
1551 after the date of the agency's receipt of the application for  
1552 licensure ~~or the application shall be withdrawn from further~~  
1553 ~~consideration~~. Such accreditation must be continuously  
1554 maintained by the home health agency to maintain licensure. The  
1555 agency shall accept, in lieu of its own periodic licensure  
1556 survey, the submission of the survey of an accrediting  
1557 organization that is recognized by the agency if the  
1558 accreditation of the licensed home health agency is not  
1559 provisional and if the licensed home health agency authorizes  
1560 releases of, and the agency receives the report of, the  
1561 accrediting organization.

1562 ~~(6) The agency may not issue a license designated as~~  
1563 ~~certified to a home health agency that fails to satisfy the~~  
1564 ~~requirements of a Medicare certification survey from the agency.~~

1565 (8) ~~(9)~~ The agency may not issue a renewal license for a  
1566 home health agency in any county having at least one licensed

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1567 home health agency and that has more than one home health agency  
1568 per 5,000 persons, as indicated by the most recent population  
1569 estimates published by the Legislature's Office of Economic and  
1570 Demographic Research, if the applicant or any controlling  
1571 interest has been administratively sanctioned by the agency  
1572 during the 2 years prior to the submission of the licensure  
1573 renewal application for one or more of the following acts:

1574 (a) An intentional or negligent act that materially affects  
1575 the health or safety of a client of the provider;

1576 (b) Knowingly providing home health services in an  
1577 unlicensed assisted living facility or unlicensed adult family-  
1578 care home, unless the home health agency or employee reports the  
1579 unlicensed facility or home to the agency within 72 hours after  
1580 providing the services;

1581 (c) Preparing or maintaining fraudulent patient records,  
1582 such as, but not limited to, charting ahead, recording vital  
1583 signs or symptoms which were not personally obtained or observed  
1584 by the home health agency's staff at the time indicated,  
1585 borrowing patients or patient records from other home health  
1586 agencies to pass a survey or inspection, or falsifying  
1587 signatures;

1588 (d) Failing to provide at least one service directly to a  
1589 patient for a period of 60 days;

1590 (e) Demonstrating a pattern of falsifying documents  
1591 relating to the training of home health aides or certified  
1592 nursing assistants or demonstrating a pattern of falsifying  
1593 health statements for staff who provide direct care to patients.  
1594 A pattern may be demonstrated by a showing of at least three  
1595 fraudulent entries or documents;

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1596 (f) Demonstrating a pattern of billing any payor for  
1597 services not provided. A pattern may be demonstrated by a  
1598 showing of at least three billings for services not provided  
1599 within a 12-month period;

1600 (g) Demonstrating a pattern of failing to provide a service  
1601 specified in the home health agency's written agreement with a  
1602 patient or the patient's legal representative, or the plan of  
1603 care for that patient, except ~~unless a reduction in service is~~  
1604 ~~mandated by Medicare, Medicaid, or a state program or as~~  
1605 provided in s. 400.492(3). A pattern may be demonstrated by a  
1606 showing of at least three incidents, regardless of the patient  
1607 or service, in which the home health agency did not provide a  
1608 service specified in a written agreement or plan of care during  
1609 a 3-month period;

1610 (h) Giving remuneration to a case manager, discharge  
1611 planner, facility-based staff member, or third-party vendor who  
1612 is involved in the discharge planning process of a facility  
1613 licensed under chapter 395, chapter 429, or this chapter from  
1614 whom the home health agency receives referrals or gives  
1615 remuneration as prohibited in s. 400.474(6)(a);

1616 (i) Giving cash, or its equivalent, to a Medicare or  
1617 Medicaid beneficiary;

1618 (j) Demonstrating a pattern of billing the Medicaid program  
1619 for services to Medicaid recipients which are medically  
1620 unnecessary as determined by a final order. A pattern may be  
1621 demonstrated by a showing of at least two such medically  
1622 unnecessary services within one Medicaid program integrity audit  
1623 period;

1624 (k) Providing services to residents in an assisted living

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1625 facility for which the home health agency does not receive fair  
1626 market value remuneration; or

1627 (1) Providing staffing to an assisted living facility for  
1628 which the home health agency does not receive fair market value  
1629 remuneration.

1630 Section 48. Subsection (5) of section 400.474, Florida  
1631 Statutes, is amended to read:

1632 400.474 Administrative penalties.—

1633 (5) The agency shall impose a fine of \$5,000 against a home  
1634 health agency that demonstrates a pattern of failing to provide  
1635 a service specified in the home health agency's written  
1636 agreement with a patient or the patient's legal representative,  
1637 or the plan of care for that patient, except ~~unless a reduction~~  
1638 ~~in service is mandated by Medicare, Medicaid, or a state program~~  
1639 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated  
1640 by a showing of at least three incidences, regardless of the  
1641 patient or service, where the home health agency did not provide  
1642 a service specified in a written agreement or plan of care  
1643 during a 3-month period. The agency shall impose the fine for  
1644 each occurrence. The agency may also impose additional  
1645 administrative fines under s. 400.484 for the direct or indirect  
1646 harm to a patient, or deny, revoke, or suspend the license of  
1647 the home health agency for a pattern of failing to provide a  
1648 service specified in the home health agency's written agreement  
1649 with a patient or the plan of care for that patient.

1650 Section 49. Paragraph (c) of subsection (2) of section  
1651 400.476, Florida Statutes, is amended to read:

1652 400.476 Staffing requirements; notifications; limitations  
1653 on staffing services.—

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1654 (2) DIRECTOR OF NURSING.—

1655 (c) A home health agency that provides skilled nursing care  
1656 must ~~is not Medicare or Medicaid certified and does not provide~~  
1657 ~~skilled care or provides only physical, occupational, or speech~~  
1658 ~~therapy is not required to have a director of nursing and is~~  
1659 ~~exempt from paragraph (b).~~

1660 Section 50. Section 400.484, Florida Statutes, is amended  
1661 to read:

1662 400.484 Right of inspection; violations ~~deficiencies~~;  
1663 fines.—

1664 (1) In addition to the requirements of s. 408.811, the  
1665 agency may make such inspections and investigations as are  
1666 necessary in order to determine the state of compliance with  
1667 this part, part II of chapter 408, and applicable rules.

1668 (2) The agency shall impose fines for various classes of  
1669 violations ~~deficiencies~~ in accordance with the following  
1670 schedule:

1671 (a) Class I violations are as provided in s. 408.813 ~~A~~  
1672 ~~class I deficiency is any act, omission, or practice that~~  
1673 ~~results in a patient's death, disablement, or permanent injury,~~  
1674 ~~or places a patient at imminent risk of death, disablement, or~~  
1675 ~~permanent injury.~~ Upon finding a class I violation ~~deficiency~~,  
1676 the agency shall impose an administrative fine in the amount of  
1677 \$15,000 for each occurrence and each day that the violation  
1678 ~~deficiency~~ exists.

1679 (b) Class II violations are as provided in s. 408.813 ~~A~~  
1680 ~~class II deficiency is any act, omission, or practice that has a~~  
1681 ~~direct adverse effect on the health, safety, or security of a~~  
1682 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the

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1683 agency shall impose an administrative fine in the amount of  
1684 \$5,000 for each occurrence and each day that the violation  
1685 ~~deficiency~~ exists.

1686 (c) Class III violations are as provided in s. 408.813 A  
1687 ~~class III deficiency is any act, omission, or practice that has~~  
1688 ~~an indirect, adverse effect on the health, safety, or security~~  
1689 ~~of a patient.~~ Upon finding an uncorrected or repeated class III  
1690 violation ~~deficiency~~, the agency shall impose an administrative  
1691 fine not to exceed \$1,000 for each occurrence and each day that  
1692 the uncorrected or repeated violation ~~deficiency~~ exists.

1693 (d) Class IV violations are as provided in s. 408.813 A  
1694 ~~class IV deficiency is any act, omission, or practice related to~~  
1695 ~~required reports, forms, or documents which does not have the~~  
1696 ~~potential of negatively affecting patients.~~ These violations are  
1697 of a type that the agency determines do not threaten the health,  
1698 safety, or security of patients. Upon finding an uncorrected or  
1699 repeated class IV violation ~~deficiency~~, the agency shall impose  
1700 an administrative fine not to exceed \$500 for each occurrence  
1701 and each day that the uncorrected or repeated violation  
1702 ~~deficiency~~ exists.

1703 (3) In addition to any other penalties imposed pursuant to  
1704 this section or part, the agency may assess costs related to an  
1705 investigation that results in a successful prosecution,  
1706 excluding costs associated with an attorney's time.

1707 Section 51. Subsection (4) of section 400.497, Florida  
1708 Statutes, is amended to read:

1709 400.497 Rules establishing minimum standards.—The agency  
1710 shall adopt, publish, and enforce rules to implement part II of  
1711 chapter 408 and this part, including, as applicable, ss. 400.506

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1712 and 400.509, which must provide reasonable and fair minimum  
1713 standards relating to:

1714 (4) Licensure application and renewal and certificates of  
1715 exemption.

1716 Section 52. Subsection (5), paragraphs (d) and (e) of  
1717 subsection (6), paragraph (a) of subsection (15), and subsection  
1718 (19) of section 400.506, Florida Statutes, are amended to read:

1719 400.506 Licensure of nurse registries; requirements;  
1720 penalties.—

1721 (5) (a) In addition to the requirements of s. 408.812, any  
1722 person who owns, operates, or maintains an unlicensed nurse  
1723 registry and who, ~~within 10 working days~~ after receiving  
1724 notification from the agency, fails to cease operation and apply  
1725 for a license under this part commits a misdemeanor of the  
1726 second degree, punishable as provided in s. 775.082 or s.  
1727 775.083. Each day of continued operation is a separate offense.

1728 (b) If a nurse registry fails to cease operation after  
1729 agency notification, the agency may impose a fine pursuant to s.  
1730 408.812 ~~of \$500 for each day of noncompliance~~.

1731 (6)

1732 (d) A registered nurse, licensed practical nurse, certified  
1733 nursing assistant, companion or homemaker, or home health aide  
1734 referred for contract under this chapter by a nurse registry is  
1735 deemed an independent contractor and not an employee of the  
1736 nurse registry under any chapter regardless of the obligations  
1737 imposed on a nurse registry under this chapter or chapter 408.

1738 (e) Upon referral of a registered nurse, licensed practical  
1739 nurse, certified nursing assistant, companion or homemaker, or  
1740 home health aide for contract in a private residence or

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1741 facility, the nurse registry shall advise the patient, the  
1742 patient's family, or any other person acting on behalf of the  
1743 patient, at the time of the contract for services, that the  
1744 caregiver referred by the nurse registry is an independent  
1745 contractor and that the ~~it is not the obligation of a nurse~~  
1746 registry may not ~~to~~ monitor, supervise, manage, or train a  
1747 caregiver referred for contract under this chapter.

1748 (15) (a) The agency may deny, suspend, or revoke the license  
1749 of a nurse registry and shall impose a fine of \$5,000 against a  
1750 nurse registry that:

1751 1. Provides services to residents in an assisted living  
1752 facility for which the nurse registry does not receive fair  
1753 market value remuneration.

1754 2. Provides staffing to an assisted living facility for  
1755 which the nurse registry does not receive fair market value  
1756 remuneration.

1757 3. Fails to provide the agency, upon request, with copies  
1758 of all contracts with assisted living facilities which were  
1759 executed within the last 5 years.

1760 ~~4. Gives remuneration to a case manager, discharge planner,~~  
1761 ~~facility based staff member, or third party vendor who is~~  
1762 ~~involved in the discharge planning process of a facility~~  
1763 ~~licensed under chapter 395 or this chapter and from whom the~~  
1764 ~~nurse registry receives referrals. A nurse registry is exempt~~  
1765 ~~from this subparagraph if it does not bill the Florida Medicaid~~  
1766 ~~program or the Medicare program or share a controlling interest~~  
1767 ~~with any entity licensed, registered, or certified under part II~~  
1768 ~~of chapter 408 that bills the Florida Medicaid program or the~~  
1769 ~~Medicare program.~~

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1770 ~~5. Gives remuneration to a physician, a member of the~~  
1771 ~~physician's office staff, or an immediate family member of the~~  
1772 ~~physician, and the nurse registry received a patient referral in~~  
1773 ~~the last 12 months from that physician or the physician's office~~  
1774 ~~staff. A nurse registry is exempt from this subparagraph if it~~  
1775 ~~does not bill the Florida Medicaid program or the Medicare~~  
1776 ~~program or share a controlling interest with any entity~~  
1777 ~~licensed, registered, or certified under part II of chapter 408~~  
1778 ~~that bills the Florida Medicaid program or the Medicare program.~~

1779 (19) ~~It is not the obligation of~~ A nurse registry may not  
1780 ~~to~~ monitor, supervise, manage, or train a registered nurse,  
1781 licensed practical nurse, certified nursing assistant, companion  
1782 or homemaker, or home health aide referred for contract under  
1783 this chapter. In the event of a violation of this chapter or a  
1784 violation of any other law of this state by a referred  
1785 registered nurse, licensed practical nurse, certified nursing  
1786 assistant, companion or homemaker, or home health aide, or a  
1787 deficiency in credentials which comes to the attention of the  
1788 nurse registry, the nurse registry shall advise the patient to  
1789 terminate the referred person's contract, providing the reason  
1790 for the suggested termination; cease referring the person to  
1791 other patients or facilities; and, if practice violations are  
1792 involved, notify the licensing board. This section does not  
1793 affect or negate any other obligations imposed on a nurse  
1794 registry under chapter 408.

1795 Section 53. Subsection (1) of section 400.606, Florida  
1796 Statutes, is amended to read:

1797 400.606 License; application; renewal; conditional license  
1798 or permit; certificate of need.-

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1799 (1) In addition to the requirements of part II of chapter  
1800 408, the initial application and change of ownership application  
1801 must be accompanied by a plan for the delivery of home,  
1802 residential, and homelike inpatient hospice services to  
1803 terminally ill persons and their families. Such plan must  
1804 contain, but need not be limited to:

1805 (a) The estimated average number of terminally ill persons  
1806 to be served monthly.

1807 (b) The geographic area in which hospice services will be  
1808 available.

1809 (c) A listing of services which are or will be provided,  
1810 either directly by the applicant or through contractual  
1811 arrangements with existing providers.

1812 (d) Provisions for the implementation of hospice home care  
1813 within 3 months after licensure.

1814 (e) Provisions for the implementation of hospice homelike  
1815 inpatient care within 12 months after licensure.

1816 (f) The number and disciplines of professional staff to be  
1817 employed.

1818 (g) The name and qualifications of any existing or  
1819 potential contractee.

1820 (h) A plan for attracting and training volunteers.  
1821

1822 ~~If the applicant is an existing licensed health care provider,~~  
1823 ~~the application must be accompanied by a copy of the most recent~~  
1824 ~~profit-loss statement and, if applicable, the most recent~~  
1825 ~~licensure inspection report.~~

1826 Section 54. Subsection (6) of section 400.925, Florida  
1827 Statutes, is amended to read:

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1828 400.925 Definitions.—As used in this part, the term:

1829 (6) "Home medical equipment" includes any product as

1830 defined by the Food and Drug Administration's Federal Food,

1831 Drug, and Cosmetic Act, any products reimbursed under the

1832 Medicare Part B Durable Medical Equipment benefits, or any

1833 products reimbursed under the Florida Medicaid durable medical

1834 equipment program. Home medical equipment includes:

1835 (a) Oxygen and related respiratory equipment; ~~manual,~~

1836 ~~motorized, or customized wheelchairs and related seating and~~

1837 ~~positioning, but does not include prosthetics or orthotics or~~

1838 ~~any splints, braces, or aids custom fabricated by a licensed~~

1839 ~~health care practitioner;~~

1840 (b) Motorized scooters;

1841 (c) Personal transfer systems; and

1842 (d) Specialty beds, for use by a person with a medical

1843 need; and

1844 (e) Manual, motorized, or customized wheelchairs and

1845 related seating and positioning, but does not include

1846 prosthetics or orthotics or any splints, braces, or aids custom

1847 fabricated by a licensed health care practitioner.

1848 Section 55. Subsection (4) of section 400.931, Florida

1849 Statutes, is amended to read:

1850 400.931 Application for license; fee.—

1851 (4) When a change of the general manager of a home medical

1852 equipment provider occurs, the licensee must notify the agency

1853 of the change within the timeframes established in part II of

1854 chapter 408 and applicable rules ~~45 days.~~

1855 Section 56. Subsection (2) of section 400.933, Florida

1856 Statutes, is amended to read:

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1857 400.933 Licensure inspections and investigations.—

1858 (2) The agency shall accept, in lieu of its own periodic  
1859 inspections for licensure, submission of the following:

1860 (a) The survey or inspection of an accrediting  
1861 organization, provided the accreditation of the licensed home  
1862 medical equipment provider is not provisional and provided the  
1863 licensed home medical equipment provider authorizes release of,  
1864 and the agency receives the report of, the accrediting  
1865 organization; or

1866 (b) A copy of a valid medical oxygen retail establishment  
1867 permit issued by the Department of Business and Professional  
1868 Regulation Health, pursuant to chapter 499.

1869 Section 57. Subsection (2) of section 400.980, Florida  
1870 Statutes, is amended to read:

1871 400.980 Health care services pools.—

1872 (2) The requirements of part II of chapter 408 apply to the  
1873 provision of services that require licensure or registration  
1874 pursuant to this part and part II of chapter 408 and to entities  
1875 registered by or applying for such registration from the agency  
1876 pursuant to this part. Registration or a license issued by the  
1877 agency is required for the operation of a health care services  
1878 pool in this state. In accordance with s. 408.805, an applicant  
1879 or licensee shall pay a fee for each license application  
1880 submitted using this part, part II of chapter 408, and  
1881 applicable rules. The agency shall adopt rules and provide forms  
1882 required for such registration and shall impose a registration  
1883 fee in an amount sufficient to cover the cost of administering  
1884 this part and part II of chapter 408. In addition to the  
1885 requirements in part II of chapter 408, the registrant must

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1886 provide the agency with any change of information contained on  
1887 the original registration application within the timeframes  
1888 established in this part, part II of chapter 408, and applicable  
1889 rules 14 days prior to the change.

1890 Section 58. Paragraphs (a) through (d) of subsection (4) of  
1891 section 400.9905, Florida Statutes, are amended to read:

1892 400.9905 Definitions.—

1893 (4) "Clinic" means an entity where health care services are  
1894 provided to individuals and which tenders charges for  
1895 reimbursement for such services, including a mobile clinic and a  
1896 portable equipment provider. As used in this part, the term does  
1897 not include and the licensure requirements of this part do not  
1898 apply to:

1899 (a) Entities licensed or registered by the state under  
1900 chapter 395; entities licensed or registered by the state and  
1901 providing only health care services within the scope of services  
1902 authorized under their respective licenses under ss. 383.30-  
1903 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,  
1904 this chapter except part X, chapter 429, chapter 463, chapter  
1905 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter  
1906 484, or chapter 651; end-stage renal disease providers  
1907 authorized under 42 C.F.R. part 405, subpart U; providers  
1908 certified under 42 C.F.R. part 485, subpart B or subpart H; or  
1909 any entity that provides neonatal or pediatric hospital-based  
1910 health care services or other health care services by licensed  
1911 practitioners solely within a hospital licensed under chapter  
1912 395.

1913 (b) Entities that own, directly or indirectly, entities  
1914 licensed or registered by the state pursuant to chapter 395;

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1915 entities that own, directly or indirectly, entities licensed or  
1916 registered by the state and providing only health care services  
1917 within the scope of services authorized pursuant to their  
1918 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,  
1919 chapter 390, chapter 394, chapter 397, this chapter except part  
1920 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
1921 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-  
1922 stage renal disease providers authorized under 42 C.F.R. part  
1923 405, subpart U; providers certified under 42 C.F.R. part 485,  
1924 subpart B or subpart H; or any entity that provides neonatal or  
1925 pediatric hospital-based health care services by licensed  
1926 practitioners solely within a hospital licensed under chapter  
1927 395.

1928 (c) Entities that are owned, directly or indirectly, by an  
1929 entity licensed or registered by the state pursuant to chapter  
1930 395; entities that are owned, directly or indirectly, by an  
1931 entity licensed or registered by the state and providing only  
1932 health care services within the scope of services authorized  
1933 pursuant to their respective licenses under ss. 383.30-383.332  
1934 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this  
1935 chapter except part X, chapter 429, chapter 463, chapter 465,  
1936 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or  
1937 chapter 651; end-stage renal disease providers authorized under  
1938 42 C.F.R. part 405, subpart U; providers certified under 42  
1939 C.F.R. part 485, subpart B or subpart H; or any entity that  
1940 provides neonatal or pediatric hospital-based health care  
1941 services by licensed practitioners solely within a hospital  
1942 under chapter 395.

1943 (d) Entities that are under common ownership, directly or

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1944 indirectly, with an entity licensed or registered by the state  
1945 pursuant to chapter 395; entities that are under common  
1946 ownership, directly or indirectly, with an entity licensed or  
1947 registered by the state and providing only health care services  
1948 within the scope of services authorized pursuant to their  
1949 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,  
1950 chapter 390, chapter 394, chapter 397, this chapter except part  
1951 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
1952 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-  
1953 stage renal disease providers authorized under 42 C.F.R. part  
1954 405, subpart U; providers certified under 42 C.F.R. part 485,  
1955 subpart B or subpart H; or any entity that provides neonatal or  
1956 pediatric hospital-based health care services by licensed  
1957 practitioners solely within a hospital licensed under chapter  
1958 395.

1959  
1960 Notwithstanding this subsection, an entity shall be deemed a  
1961 clinic and must be licensed under this part in order to receive  
1962 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
1963 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1964 Section 59. Subsection (6) of section 400.9935, Florida  
1965 Statutes, is amended to read:

1966 400.9935 Clinic responsibilities.—

1967 (6) Any person or entity providing health care services  
1968 which is not a clinic, as defined under s. 400.9905, may  
1969 voluntarily apply for a certificate of exemption from licensure  
1970 under its exempt status with the agency on a form that sets  
1971 forth its name or names and addresses, a statement of the  
1972 reasons why it cannot be defined as a clinic, and other

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1973 information deemed necessary by the agency. An exemption may be  
1974 valid for up to 2 years and is not transferable. The agency may  
1975 charge an applicant for a certificate of exemption in an amount  
1976 equal to \$100 or the actual cost of processing the certificate,  
1977 whichever is less. An entity seeking a certificate of exemption  
1978 must publish and maintain a schedule of charges for the medical  
1979 services offered to patients. The schedule must include the  
1980 prices charged to an uninsured person paying for such services  
1981 by cash, check, credit card, or debit card. The schedule must be  
1982 posted in a conspicuous place in the reception area of the  
1983 entity and must include, but is not limited to, the 50 services  
1984 most frequently provided by the entity. The schedule may group  
1985 services by three price levels, listing services in each price  
1986 level. The posting must be at least 15 square feet in size. As a  
1987 condition precedent to receiving a certificate of exemption, an  
1988 applicant must provide to the agency documentation of compliance  
1989 with these requirements.

1990 Section 60. Paragraph (a) of subsection (2) of section  
1991 408.033, Florida Statutes, is amended to read:

1992 408.033 Local and state health planning.—

1993 (2) FUNDING.—

1994 (a) The Legislature intends that the cost of local health  
1995 councils be borne by assessments on selected health care  
1996 facilities subject to facility licensure by the Agency for  
1997 Health Care Administration, including abortion clinics, assisted  
1998 living facilities, ambulatory surgical centers, birth birthing  
1999 centers, ~~clinical laboratories except community nonprofit blood~~  
2000 ~~banks and clinical laboratories operated by practitioners for~~  
2001 ~~exclusive use regulated under s. 483.035,~~ home health agencies,

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2002 hospices, hospitals, intermediate care facilities for the  
2003 developmentally disabled, nursing homes, health care clinics,  
2004 and multiphasic testing centers and by assessments on  
2005 organizations subject to certification by the agency pursuant to  
2006 chapter 641, part III, including health maintenance  
2007 organizations and prepaid health clinics. Fees assessed may be  
2008 collected prospectively at the time of licensure renewal and  
2009 prorated for the licensure period.

2010 Section 61. Present paragraphs (f) through (l) of  
2011 subsection (3) of section 408.036, Florida Statutes, are  
2012 redesignated as paragraphs (e) through (k), respectively,  
2013 present paragraphs (o) through (t) of that subsection are  
2014 redesignated as paragraphs (l) through (q), respectively, and  
2015 present paragraphs (e), (m), (n), and (p) of that subsection are  
2016 amended, to read:

2017 408.036 Projects subject to review; exemptions.-

2018 (3) EXEMPTIONS.—Upon request, the following projects are  
2019 subject to exemption from the provisions of subsection (1):

2020 ~~(c) For mobile surgical facilities and related health care~~  
2021 ~~services provided under contract with the Department of~~  
2022 ~~Corrections or a private correctional facility operating~~  
2023 ~~pursuant to chapter 957.~~

2024 ~~(m)1. For the provision of adult open-heart services in a~~  
2025 ~~hospital located within the boundaries of a health service~~  
2026 ~~planning district, as defined in s. 408.032(5), which has~~  
2027 ~~experienced an annual net out-migration of at least 600 open-~~  
2028 ~~heart surgery cases for 3 consecutive years according to the~~  
2029 ~~most recent data reported to the agency, and the district's~~  
2030 ~~population per licensed and operational open-heart programs~~

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2031 ~~exceeds the state average of population per licensed and~~  
2032 ~~operational open heart programs by at least 25 percent. All~~  
2033 ~~hospitals within a health service planning district which meet~~  
2034 ~~the criteria reference in sub-subparagraphs 2.a.-h. shall be~~  
2035 ~~eligible for this exemption on July 1, 2004, and shall receive~~  
2036 ~~the exemption upon filing for it and subject to the following:~~

2037 ~~a. A hospital that has received a notice of intent to grant~~  
2038 ~~a certificate of need or a final order of the agency granting a~~  
2039 ~~certificate of need for the establishment of an open heart-~~  
2040 ~~surgery program is entitled to receive a letter of exemption for~~  
2041 ~~the establishment of an adult open heart surgery program upon~~  
2042 ~~filing a request for exemption and complying with the criteria~~  
2043 ~~enumerated in sub-subparagraphs 2.a.-h., and is entitled to~~  
2044 ~~immediately commence operation of the program.~~

2045 ~~b. An otherwise eligible hospital that has not received a~~  
2046 ~~notice of intent to grant a certificate of need or a final order~~  
2047 ~~of the agency granting a certificate of need for the~~  
2048 ~~establishment of an open heart surgery program is entitled to~~  
2049 ~~immediately receive a letter of exemption for the establishment~~  
2050 ~~of an adult open heart surgery program upon filing a request for~~  
2051 ~~exemption and complying with the criteria enumerated in sub-~~  
2052 ~~subparagraphs 2.a.-h., but is not entitled to commence operation~~  
2053 ~~of its program until December 31, 2006.~~

2054 ~~2. A hospital shall be exempt from the certificate of need~~  
2055 ~~review for the establishment of an open heart surgery program~~  
2056 ~~when the application for exemption submitted under this~~  
2057 ~~paragraph complies with the following criteria:~~

2058 ~~a. The applicant must certify that it will meet and~~  
2059 ~~continuously maintain the minimum licensure requirements adopted~~

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2060 ~~by the agency governing adult open heart programs, including the~~  
2061 ~~most current guidelines of the American College of Cardiology~~  
2062 ~~and American Heart Association Guidelines for Adult Open Heart~~  
2063 ~~Programs.~~

2064 ~~b. The applicant must certify that it will maintain~~  
2065 ~~sufficient appropriate equipment and health personnel to ensure~~  
2066 ~~quality and safety.~~

2067 ~~e. The applicant must certify that it will maintain~~  
2068 ~~appropriate times of operation and protocols to ensure~~  
2069 ~~availability and appropriate referrals in the event of~~  
2070 ~~emergencies.~~

2071 ~~d. The applicant can demonstrate that it has discharged at~~  
2072 ~~least 300 inpatients with a principal diagnosis of ischemic~~  
2073 ~~heart disease for the most recent 12-month period as reported to~~  
2074 ~~the agency.~~

2075 ~~e. The applicant is a general acute care hospital that is~~  
2076 ~~in operation for 3 years or more.~~

2077 ~~f. The applicant is performing more than 300 diagnostic~~  
2078 ~~cardiac catheterization procedures per year, combined inpatient~~  
2079 ~~and outpatient.~~

2080 ~~g. The applicant's payor mix at a minimum reflects the~~  
2081 ~~community average for Medicaid, charity care, and self-pay~~  
2082 ~~patients or the applicant must certify that it will provide a~~  
2083 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~  
2084 ~~open-heart-surgery patients.~~

2085 ~~h. If the applicant fails to meet the established criteria~~  
2086 ~~for open heart programs or fails to reach 300 surgeries per year~~  
2087 ~~by the end of its third year of operation, it must show cause~~  
2088 ~~why its exemption should not be revoked.~~

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2089 ~~3. By December 31, 2004, and annually thereafter, the~~  
2090 ~~agency shall submit a report to the Legislature providing~~  
2091 ~~information concerning the number of requests for exemption it~~  
2092 ~~has received under this paragraph during the calendar year and~~  
2093 ~~the number of exemptions it has granted or denied during the~~  
2094 ~~calendar year.~~

2095 ~~(n) For the provision of percutaneous coronary intervention~~  
2096 ~~for patients presenting with emergency myocardial infarctions in~~  
2097 ~~a hospital without an approved adult open heart surgery program.~~  
2098 ~~In addition to any other documentation required by the agency, a~~  
2099 ~~request for an exemption submitted under this paragraph must~~  
2100 ~~comply with the following:~~

2101 ~~1. The applicant must certify that it will meet and~~  
2102 ~~continuously maintain the requirements adopted by the agency for~~  
2103 ~~the provision of these services. These licensure requirements~~  
2104 ~~shall be adopted by rule and must be consistent with the~~  
2105 ~~guidelines published by the American College of Cardiology and~~  
2106 ~~the American Heart Association for the provision of percutaneous~~  
2107 ~~coronary interventions in hospitals without adult open heart~~  
2108 ~~services. At a minimum, the rules must require the following:~~

2109 ~~a. Cardiologists must be experienced interventionalists who~~  
2110 ~~have performed a minimum of 75 interventions within the previous~~  
2111 ~~12 months.~~

2112 ~~b. The hospital must provide a minimum of 36 emergency~~  
2113 ~~interventions annually in order to continue to provide the~~  
2114 ~~service.~~

2115 ~~e. The hospital must offer sufficient physician, nursing,~~  
2116 ~~and laboratory staff to provide the services 24 hours a day, 7~~  
2117 ~~days a week.~~

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2118 ~~d. Nursing and technical staff must have demonstrated~~  
2119 ~~experience in handling acutely ill patients requiring~~  
2120 ~~intervention based on previous experience in dedicated~~  
2121 ~~interventional laboratories or surgical centers.~~

2122 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~  
2123 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

2124 ~~f. Formalized written transfer agreements must be developed~~  
2125 ~~with a hospital with an adult open-heart surgery program, and~~  
2126 ~~written transport protocols must be in place to ensure safe and~~  
2127 ~~efficient transfer of a patient within 60 minutes. Transfer and~~  
2128 ~~transport agreements must be reviewed and tested, with~~  
2129 ~~appropriate documentation maintained at least every 3 months.~~  
2130 ~~However, a hospital located more than 100 road miles from the~~  
2131 ~~closest Level II adult cardiovascular services program does not~~  
2132 ~~need to meet the 60-minute transfer time protocol if the~~  
2133 ~~hospital demonstrates that it has a formalized, written transfer~~  
2134 ~~agreement with a hospital that has a Level II program. The~~  
2135 ~~agreement must include written transport protocols that ensure~~  
2136 ~~the safe and efficient transfer of a patient, taking into~~  
2137 ~~consideration the patient's clinical and physical~~  
2138 ~~characteristics, road and weather conditions, and viability of~~  
2139 ~~ground and air ambulance service to transfer the patient.~~

2140 ~~g. Hospitals implementing the service must first undertake~~  
2141 ~~a training program of 3 to 6 months' duration, which includes~~  
2142 ~~establishing standards and testing logistics, creating quality~~  
2143 ~~assessment and error management practices, and formalizing~~  
2144 ~~patient-selection criteria.~~

2145 ~~2. The applicant must certify that it will use at all times~~  
2146 ~~the patient-selection criteria for the performance of primary~~

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2147 ~~angioplasty at hospitals without adult open-heart surgery~~  
2148 ~~programs issued by the American College of Cardiology and the~~  
2149 ~~American Heart Association. At a minimum, these criteria would~~  
2150 ~~provide for the following:~~

2151 ~~a. Avoidance of interventions in hemodynamically stable~~  
2152 ~~patients who have identified symptoms or medical histories.~~

2153 ~~b. Transfer of patients who have a history of coronary~~  
2154 ~~disease and clinical presentation of hemodynamic instability.~~

2155 ~~3. The applicant must agree to submit a quarterly report to~~  
2156 ~~the agency detailing patient characteristics, treatment, and~~  
2157 ~~outcomes for all patients receiving emergency percutaneous~~  
2158 ~~coronary interventions pursuant to this paragraph. This report~~  
2159 ~~must be submitted within 15 days after the close of each~~  
2160 ~~calendar quarter.~~

2161 ~~4. The exemption provided by this paragraph does not apply~~  
2162 ~~unless the agency determines that the hospital has taken all~~  
2163 ~~necessary steps to be in compliance with all requirements of~~  
2164 ~~this paragraph, including the training program required under~~  
2165 ~~sub-subparagraph 1.g.~~

2166 ~~5. Failure of the hospital to continuously comply with the~~  
2167 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~  
2168 ~~and 3. will result in the immediate expiration of this~~  
2169 ~~exemption.~~

2170 ~~6. Failure of the hospital to meet the volume requirements~~  
2171 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~  
2172 ~~program begins offering the service will result in the immediate~~  
2173 ~~expiration of the exemption.~~

2174  
2175 ~~If the exemption for this service expires under subparagraph 5.~~

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2176 ~~or subparagraph 6., the agency may not grant another exemption~~  
2177 ~~for this service to the same hospital for 2 years and then only~~  
2178 ~~upon a showing that the hospital will remain in compliance with~~  
2179 ~~the requirements of this paragraph through a demonstration of~~  
2180 ~~corrections to the deficiencies that caused expiration of the~~  
2181 ~~exemption. Compliance with the requirements of this paragraph~~  
2182 ~~includes compliance with the rules adopted pursuant to this~~  
2183 ~~paragraph.~~

2184 (m) ~~(p)~~ For replacement of a licensed nursing home on the  
2185 same site, or within 5 miles of the same site if within the same  
2186 subdistrict, if the number of licensed beds does not increase  
2187 except as permitted under paragraph (e) ~~(f)~~.

2188 Section 62. Paragraph (b) of subsection (3) of section  
2189 408.0361, Florida Statutes, is amended to read:

2190 408.0361 Cardiovascular services and burn unit licensure.-

2191 (3) In establishing rules for adult cardiovascular  
2192 services, the agency shall include provisions that allow for:

2193 (b)1. For a hospital seeking a Level I program,  
2194 demonstration that, for the most recent 12-month period as  
2195 reported to the agency, it has provided a minimum of 300 adult  
2196 inpatient and outpatient diagnostic cardiac catheterizations or,  
2197 for the most recent 12-month period, has discharged or  
2198 transferred at least 300 patients ~~inpatients~~ with the principal  
2199 diagnosis of ischemic heart disease and that it has a  
2200 formalized, written transfer agreement with a hospital that has  
2201 a Level II program, including written transport protocols to  
2202 ensure safe and efficient transfer of a patient within 60  
2203 minutes.

2204 2.a. A hospital located more than 100 road miles from the

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2205 closest Level II adult cardiovascular services program does not  
2206 need to meet the diagnostic cardiac catheterization volume and  
2207 ischemic heart disease diagnosis volume requirements in  
2208 subparagraph 1., if the hospital demonstrates that it has, for  
2209 the most recent 12-month period as reported to the agency,  
2210 provided a minimum of 100 adult inpatient and outpatient  
2211 diagnostic cardiac catheterizations or that, for the most recent  
2212 12-month period, it has discharged or transferred at least 300  
2213 patients with the principal diagnosis of ischemic heart disease.

2214 b. ~~However,~~ A hospital located more than 100 road miles  
2215 from the closest Level II adult cardiovascular services program  
2216 does not need to meet the 60-minute transfer time protocol  
2217 requirement in subparagraph 1., if the hospital demonstrates  
2218 that it has a formalized, written transfer agreement with a  
2219 hospital that has a Level II program. The agreement must include  
2220 written transport protocols to ensure the safe and efficient  
2221 transfer of a patient, taking into consideration the patient's  
2222 clinical and physical characteristics, road and weather  
2223 conditions, and viability of ground and air ambulance service to  
2224 transfer the patient.

2225 3. At a minimum, the rules for adult cardiovascular  
2226 services must require nursing and technical staff to have  
2227 demonstrated experience in handling acutely ill patients  
2228 requiring intervention, based on the staff member's previous  
2229 experience in dedicated cardiac interventional laboratories or  
2230 surgical centers. If a staff member's previous experience is in  
2231 a dedicated cardiac interventional laboratory at a hospital that  
2232 does not have an approved adult open-heart-surgery program, the  
2233 staff member's previous experience qualifies only if, at the

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2234 time the staff member acquired his or her experience, the  
2235 dedicated cardiac interventional laboratory:

2236 a. Had an annual volume of 500 or more percutaneous cardiac  
2237 intervention procedures;

2238 b. Achieved a demonstrated success rate of 95 percent or  
2239 greater for percutaneous cardiac intervention procedures;

2240 c. Experienced a complication rate of less than 5 percent  
2241 for percutaneous cardiac intervention procedures; and

2242 d. Performed diverse cardiac procedures, including, but not  
2243 limited to, balloon angioplasty and stenting, rotational  
2244 atherectomy, cutting balloon atheroma remodeling, and procedures  
2245 relating to left ventricular support capability.

2246 Section 63. Paragraph (k) is added to subsection (3) of  
2247 section 408.05, Florida Statutes, to read:

2248 408.05 Florida Center for Health Information and  
2249 Transparency.—

2250 (3) HEALTH INFORMATION TRANSPARENCY.—In order to  
2251 disseminate and facilitate the availability of comparable and  
2252 uniform health information, the agency shall perform the  
2253 following functions:

2254 (k) Contract with the Society of Thoracic Surgeons and the  
2255 American College of Cardiology to obtain data reported pursuant  
2256 to s. 395.1055 for publication on the agency's website in a  
2257 manner that will allow consumers to be informed of aggregate  
2258 data and to compare pediatric cardiac programs.

2259 Section 64. Subsection (4) of section 408.061, Florida  
2260 Statutes, is amended to read:

2261 408.061 Data collection; uniform systems of financial  
2262 reporting; information relating to physician charges;

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2263 confidential information; immunity.—

2264 (4) Within 120 days after the end of its fiscal year, each  
2265 health care facility, excluding continuing care facilities,  
2266 hospitals operated by state agencies, and nursing homes as those  
2267 terms are defined in s. 408.07 ~~s. 408.07(14) and (37)~~, shall  
2268 file with the agency, on forms adopted by the agency and based  
2269 on the uniform system of financial reporting, its actual  
2270 financial experience for that fiscal year, including  
2271 expenditures, revenues, and statistical measures. Such data may  
2272 be based on internal financial reports which are certified to be  
2273 complete and accurate by the provider. However, hospitals'  
2274 actual financial experience shall be their audited actual  
2275 experience. Every nursing home shall submit to the agency, in a  
2276 format designated by the agency, a statistical profile of the  
2277 nursing home residents. The agency, in conjunction with the  
2278 Department of Elderly Affairs and the Department of Health,  
2279 shall review these statistical profiles and develop  
2280 recommendations for the types of residents who might more  
2281 appropriately be placed in their homes or other noninstitutional  
2282 settings.

2283 Section 65. Subsection (11) of section 408.07, Florida  
2284 Statutes, is amended to read:

2285 408.07 Definitions.—As used in this chapter, with the  
2286 exception of ss. 408.031-408.045, the term:

2287 ~~(11) "Clinical laboratory" means a facility licensed under~~  
2288 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~  
2289 ~~483.041(6); any clinical laboratory operated by the state or a~~  
2290 ~~political subdivision of the state; any blood or tissue bank~~  
2291 ~~where the majority of revenues are received from the sale of~~

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2292 ~~blood or tissue and where blood, plasma, or tissue is procured~~  
2293 ~~from volunteer donors and donated, processed, stored, or~~  
2294 ~~distributed on a nonprofit basis; and any clinical laboratory~~  
2295 ~~which is wholly owned and operated by physicians who are~~  
2296 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~  
2297 ~~in the same group practice, and at which no clinical laboratory~~  
2298 ~~work is performed for patients referred by any health care~~  
2299 ~~provider who is not a member of that same group practice.~~

2300 Section 66. Subsection (4) of section 408.20, Florida  
2301 Statutes, is amended to read:

2302 408.20 Assessments; Health Care Trust Fund.—

2303 (4) Hospitals operated by a state agency ~~the Department of~~  
2304 ~~Children and Families, the Department of Health, or the~~  
2305 ~~Department of Corrections~~ are exempt from the assessments  
2306 required under this section.

2307 Section 67. Section 408.7056, Florida Statutes, is  
2308 repealed.

2309 Section 68. Subsections (10), (11), and (27) of section  
2310 408.802, Florida Statutes, are amended to read:

2311 408.802 Applicability.—The provisions of this part apply to  
2312 the provision of services that require licensure as defined in  
2313 this part and to the following entities licensed, registered, or  
2314 certified by the agency, as described in chapters 112, 383, 390,  
2315 394, 395, 400, 429, 440, 483, and 765:

2316 ~~(10) Mobile surgical facilities, as provided under part I~~  
2317 ~~of chapter 395.~~

2318 ~~(11) Health care risk managers, as provided under part I of~~  
2319 ~~chapter 395.~~

2320 ~~(27) Clinical laboratories, as provided under part I of~~

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2321 ~~chapter 483.~~

2322 Section 69. Subsections (12) and (13) of section 408.803,  
 2323 Florida Statutes, are redesignated as subsections (13) and (14),  
 2324 respectively, and a new subsection (12) is added to that  
 2325 section, to read:

2326 408.803 Definitions.—As used in this part, the term:

2327 (12) "Relative" means an individual who is the father,  
 2328 mother, stepfather, stepmother, son, daughter, brother, sister,  
 2329 grandmother, grandfather, great-grandmother, great-grandfather,  
 2330 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
 2331 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
 2332 daughter-in-law, brother-in-law, sister-in-law, stepson,  
 2333 stepdaughter, stepbrother, stepsister, half-brother, or half-  
 2334 sister of a patient or client.

2335 Section 70. Paragraph (c) of subsection (7) of section  
 2336 408.806, Florida Statutes, is amended, and subsection (9) is  
 2337 added to that section, to read:

2338 408.806 License application process.—

2339 (7)

2340 (c) If an inspection is required by the authorizing statute  
 2341 for a license application other than an initial application, the  
 2342 inspection must be unannounced. This paragraph does not apply to  
 2343 inspections required pursuant to ss. 383.324, 395.0161(4) ~~and~~  
 2344 ~~429.67(6), and 483.061(2).~~

2345 (9) A licensee that holds a license for multiple providers  
 2346 licensed by the agency may request that all related license  
 2347 expiration dates be aligned. Upon such request, the agency may  
 2348 issue a license for an abbreviated licensure period with a  
 2349 prorated licensure fee.

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2350 Section 71. Paragraphs (d) and (e) of subsection (1) of  
2351 section 408.809, Florida Statutes, are amended to read:

2352 408.809 Background screening; prohibited offenses.—

2353 (1) Level 2 background screening pursuant to chapter 435  
2354 must be conducted through the agency on each of the following  
2355 persons, who are considered employees for the purposes of  
2356 conducting screening under chapter 435:

2357 (d) Any person who is a controlling interest ~~if the agency~~  
2358 ~~has reason to believe that such person has been convicted of any~~  
2359 ~~offense prohibited by s. 435.04. For each controlling interest~~  
2360 ~~who has been convicted of any such offense, the licensee shall~~  
2361 ~~submit to the agency a description and explanation of the~~  
2362 ~~conviction at the time of license application.~~

2363 (e) Any person, as required by authorizing statutes,  
2364 seeking employment with a licensee or provider who is expected  
2365 to, or whose responsibilities may require him or her to, provide  
2366 personal care or services directly to clients or have access to  
2367 client funds, personal property, or living areas; and any  
2368 person, as required by authorizing statutes, contracting with a  
2369 licensee or provider whose responsibilities require him or her  
2370 to provide personal care or personal services directly to  
2371 clients, or contracting with a licensee or provider to work 20  
2372 hours a week or more who will have access to client funds,  
2373 personal property, or living areas. Evidence of contractor  
2374 screening may be retained by the contractor's employer or the  
2375 licensee.

2376 Section 72. Subsection (8) of section 408.810, Florida  
2377 Statutes, is amended, and subsections (11), (12), and (13) are  
2378 added to that section, to read:

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2379           408.810 Minimum licensure requirements.—In addition to the  
2380 licensure requirements specified in this part, authorizing  
2381 statutes, and applicable rules, each applicant and licensee must  
2382 comply with the requirements of this section in order to obtain  
2383 and maintain a license.

2384           (8) Upon application for initial licensure or change of  
2385 ownership licensure, the applicant shall furnish satisfactory  
2386 proof of the applicant's financial ability to operate in  
2387 accordance with the requirements of this part, authorizing  
2388 statutes, and applicable rules. The agency shall establish  
2389 standards for this purpose, including information concerning the  
2390 applicant's controlling interests. The agency shall also  
2391 establish documentation requirements, to be completed by each  
2392 applicant, that show anticipated provider revenues and  
2393 expenditures, the basis for financing the anticipated cash-flow  
2394 requirements of the provider, and an applicant's access to  
2395 contingency financing. A current certificate of authority,  
2396 pursuant to chapter 651, may be provided as proof of financial  
2397 ability to operate. The agency may require a licensee to provide  
2398 proof of financial ability to operate at any time if there is  
2399 evidence of financial instability, including, but not limited  
2400 to, unpaid expenses necessary for the basic operations of the  
2401 provider. An applicant applying for change of ownership  
2402 licensure is exempt from furnishing proof of financial ability  
2403 to operate if the provider has been licensed for at least 5  
2404 years, and:

2405           (a) The ownership change is a result of a corporate  
2406 reorganization under which the controlling interest is unchanged  
2407 and the applicant submits organizational charts that represent

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2408 the current and proposed structure of the reorganized  
2409 corporation; or

2410 (b) The ownership change is due solely to the death of a  
2411 person holding a controlling interest, and the surviving  
2412 controlling interests continue to hold at least 51 percent of  
2413 ownership after the change of ownership.

2414 (11) The agency may adopt rules that govern the  
2415 circumstances under which a controlling interest, an  
2416 administrator, an employee, or a contractor, or a representative  
2417 thereof, who is not a relative of the client may act as an agent  
2418 of the client in authorizing consent for medical treatment,  
2419 assignment of benefits, and release of information. Such rules  
2420 may include requirements related to disclosure, bonding,  
2421 restrictions, and client protections.

2422 (12) The licensee shall ensure that no person holds any  
2423 ownership interest, either directly or indirectly, regardless of  
2424 ownership structure, who:

2425 (a) Has a disqualifying offense pursuant to s. 408.809; or

2426 (b) Holds or has held any ownership interest, either  
2427 directly or indirectly, regardless of ownership structure, in a  
2428 provider that had a license revoked or an application denied  
2429 pursuant to s. 408.815.

2430 (13) If the licensee is a publicly traded corporation or is  
2431 wholly owned, directly or indirectly, by a publicly traded  
2432 corporation, subsection (12) does not apply to those persons  
2433 whose sole relationship with the corporation is as a shareholder  
2434 of publicly traded shares. As used in this subsection, a  
2435 "publicly traded corporation" is a corporation that issues  
2436 securities traded on an exchange registered with the United

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2437 States Securities and Exchange Commission as a national  
2438 securities exchange.

2439 Section 73. Section 408.812, Florida Statutes, is amended  
2440 to read:

2441 408.812 Unlicensed activity.—

2442 (1) A person or entity may not offer or advertise services  
2443 that require licensure as defined by this part, authorizing  
2444 statutes, or applicable rules to the public without obtaining a  
2445 valid license from the agency. A licenseholder may not advertise  
2446 or hold out to the public that he or she holds a license for  
2447 other than that for which he or she actually holds the license.

2448 (2) The operation or maintenance of an unlicensed provider  
2449 or the performance of any services that require licensure  
2450 without proper licensure is a violation of this part and  
2451 authorizing statutes. Unlicensed activity constitutes harm that  
2452 materially affects the health, safety, and welfare of clients,  
2453 and constitutes abuse and neglect, as defined in s. 415.102. The  
2454 agency or any state attorney may, in addition to other remedies  
2455 provided in this part, bring an action for an injunction to  
2456 restrain such violation, or to enjoin the future operation or  
2457 maintenance of the unlicensed provider or the performance of any  
2458 services in violation of this part and authorizing statutes,  
2459 until compliance with this part, authorizing statutes, and  
2460 agency rules has been demonstrated to the satisfaction of the  
2461 agency.

2462 (3) It is unlawful for any person or entity to own,  
2463 operate, or maintain an unlicensed provider. If after receiving  
2464 notification from the agency, such person or entity fails to  
2465 cease operation ~~and apply for a license under this part and~~

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2466 ~~authorizing statutes~~, the person or entity is ~~shall be~~ subject  
2467 to penalties as prescribed by authorizing statutes and  
2468 applicable rules. Each day of ~~continued~~ operation is a separate  
2469 offense.

2470 (4) Any person or entity that fails to cease operation  
2471 after agency notification may be fined \$1,000 for each day of  
2472 noncompliance.

2473 (5) When a controlling interest or licensee has an interest  
2474 in more than one provider and fails to license a provider  
2475 rendering services that require licensure, the agency may revoke  
2476 all licenses, ~~and~~ impose actions under s. 408.814, and  
2477 regardless of correction, impose a fine of \$1,000 per day,  
2478 unless otherwise specified by authorizing statutes, against each  
2479 licensee until such time as the appropriate license is obtained  
2480 or the unlicensed activity ceases ~~for the unlicensed operation.~~

2481 (6) In addition to granting injunctive relief pursuant to  
2482 subsection (2), if the agency determines that a person or entity  
2483 is operating or maintaining a provider without obtaining a  
2484 license and determines that a condition exists that poses a  
2485 threat to the health, safety, or welfare of a client of the  
2486 provider, the person or entity is subject to the same actions  
2487 and fines imposed against a licensee as specified in this part,  
2488 authorizing statutes, and agency rules.

2489 (7) Any person aware of the operation of an unlicensed  
2490 provider must report that provider to the agency.

2491 Section 74. Subsections (10), (11) and (26) of section  
2492 408.820, Florida Statutes, are amended, and subsections (12)  
2493 through (25) and (27) and (28) are redesignated as subsections  
2494 (10) through (23) and (24) and (25), respectively, to read:

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2495           408.820 Exemptions.—Except as prescribed in authorizing  
2496 statutes, the following exemptions shall apply to specified  
2497 requirements of this part:

2498           ~~(10) Mobile surgical facilities, as provided under part I~~  
2499 ~~of chapter 395, are exempt from s. 408.810(7)–(10).~~

2500           ~~(11) Health care risk managers, as provided under part I of~~  
2501 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)–(10),~~  
2502 ~~and 408.811.~~

2503           ~~(26) Clinical laboratories, as provided under part I of~~  
2504 ~~chapter 483, are exempt from s. 408.810(5)–(10).~~

2505           Section 75. Subsection (7) of section 409.905, Florida  
2506 Statutes, is amended to read:

2507           409.905 Mandatory Medicaid services.—The agency may make  
2508 payments for the following services, which are required of the  
2509 state by Title XIX of the Social Security Act, furnished by  
2510 Medicaid providers to recipients who are determined to be  
2511 eligible on the dates on which the services were provided. Any  
2512 service under this section shall be provided only when medically  
2513 necessary and in accordance with state and federal law.

2514 Mandatory services rendered by providers in mobile units to  
2515 Medicaid recipients may be restricted by the agency. Nothing in  
2516 this section shall be construed to prevent or limit the agency  
2517 from adjusting fees, reimbursement rates, lengths of stay,  
2518 number of visits, number of services, or any other adjustments  
2519 necessary to comply with the availability of moneys and any  
2520 limitations or directions provided for in the General  
2521 Appropriations Act or chapter 216.

2522           (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay  
2523 for medically necessary diagnostic laboratory procedures ordered

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2524 by a licensed physician or other licensed practitioner of the  
2525 healing arts which are provided for a recipient in a laboratory  
2526 that meets the requirements for Medicare participation and is  
2527 appropriately certified by the Centers for Medicare and Medicaid  
2528 Services under the federal Clinical Laboratory Improvement  
2529 Amendments and the federal rules adopted thereunder ~~licensed~~  
2530 ~~under chapter 483, if required.~~

2531 Section 76. Subsection (10) of section 409.907, Florida  
2532 Statutes, is amended to read:

2533 409.907 Medicaid provider agreements.—The agency may make  
2534 payments for medical assistance and related services rendered to  
2535 Medicaid recipients only to an individual or entity who has a  
2536 provider agreement in effect with the agency, who is performing  
2537 services or supplying goods in accordance with federal, state,  
2538 and local law, and who agrees that no person shall, on the  
2539 grounds of handicap, race, color, or national origin, or for any  
2540 other reason, be subjected to discrimination under any program  
2541 or activity for which the provider receives payment from the  
2542 agency.

2543 (10) The agency may consider whether the provider, or any  
2544 officer, director, agent, managing employee, or affiliated  
2545 person, or any partner or shareholder having an ownership  
2546 interest equal to 5 percent or greater in the provider if the  
2547 provider is a corporation, partnership, or other business  
2548 entity, has:

2549 (a) Made a false representation or omission of any material  
2550 fact in making the application, including the submission of an  
2551 application that conceals the controlling or ownership interest  
2552 of any officer, director, agent, managing employee, affiliated

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2553 person, or partner or shareholder who may not be eligible to  
2554 participate;

2555 (b) Been or is currently excluded, suspended, terminated  
2556 from, or has involuntarily withdrawn from participation in,  
2557 Florida's Medicaid program or any other state's Medicaid  
2558 program, or from participation in any other governmental or  
2559 private health care or health insurance program;

2560 ~~(c) Been convicted of a criminal offense relating to the~~  
2561 ~~delivery of any goods or services under Medicaid or Medicare or~~  
2562 ~~any other public or private health care or health insurance~~  
2563 ~~program including the performance of management or~~  
2564 ~~administrative services relating to the delivery of goods or~~  
2565 ~~services under any such program;~~

2566 ~~(d) Been convicted under federal or state law of a criminal~~  
2567 ~~offense related to the neglect or abuse of a patient in~~  
2568 ~~connection with the delivery of any health care goods or~~  
2569 ~~services;~~

2570 ~~(e) Been convicted under federal or state law of a criminal~~  
2571 ~~offense relating to the unlawful manufacture, distribution,~~  
2572 ~~prescription, or dispensing of a controlled substance;~~

2573 ~~(f) Been convicted of any criminal offense relating to~~  
2574 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~  
2575 ~~or other financial misconduct;~~

2576 ~~(g) Been convicted under federal or state law of a crime~~  
2577 ~~punishable by imprisonment of a year or more which involves~~  
2578 ~~moral turpitude;~~

2579 ~~(h) Been convicted in connection with the interference or~~  
2580 ~~obstruction of any investigation into any criminal offense~~  
2581 ~~listed in this subsection;~~

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2582 ~~(i) Been found to have violated federal or state laws,~~  
2583 ~~rules, or regulations governing Florida's Medicaid program or~~  
2584 ~~any other state's Medicaid program, the Medicare program, or any~~  
2585 ~~other publicly funded federal or state health care or health~~  
2586 ~~insurance program, and been sanctioned accordingly;~~

2587 ~~(c)~~(j) Been previously found by a licensing, certifying, or  
2588 professional standards board or agency to have violated the  
2589 standards or conditions relating to licensure or certification  
2590 or the quality of services provided; or

2591 ~~(d)~~(k) Failed to pay any fine or overpayment properly  
2592 assessed under the Medicaid program in which no appeal is  
2593 pending or after resolution of the proceeding by stipulation or  
2594 agreement, unless the agency has issued a specific letter of  
2595 forgiveness or has approved a repayment schedule to which the  
2596 provider agrees to adhere.

2597 Section 77. Subsection (6) of section 409.9116, Florida  
2598 Statutes, is amended to read:

2599 409.9116 Disproportionate share/financial assistance  
2600 program for rural hospitals.—In addition to the payments made  
2601 under s. 409.911, the Agency for Health Care Administration  
2602 shall administer a federally matched disproportionate share  
2603 program and a state-funded financial assistance program for  
2604 statutory rural hospitals. The agency shall make  
2605 disproportionate share payments to statutory rural hospitals  
2606 that qualify for such payments and financial assistance payments  
2607 to statutory rural hospitals that do not qualify for  
2608 disproportionate share payments. The disproportionate share  
2609 program payments shall be limited by and conform with federal  
2610 requirements. Funds shall be distributed quarterly in each

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2611 fiscal year for which an appropriation is made. Notwithstanding  
2612 the provisions of s. 409.915, counties are exempt from  
2613 contributing toward the cost of this special reimbursement for  
2614 hospitals serving a disproportionate share of low-income  
2615 patients.

2616 (6) This section applies only to hospitals that were  
2617 defined as statutory rural hospitals, or their successor-in-  
2618 interest hospital, prior to January 1, 2001. Any additional  
2619 hospital that is defined as a statutory rural hospital, or its  
2620 successor-in-interest hospital, on or after January 1, 2001, is  
2621 not eligible for programs under this section unless additional  
2622 funds are appropriated each fiscal year specifically to the  
2623 rural hospital disproportionate share and financial assistance  
2624 programs in an amount necessary to prevent any hospital, or its  
2625 successor-in-interest hospital, eligible for the programs prior  
2626 to January 1, 2001, from incurring a reduction in payments  
2627 because of the eligibility of an additional hospital to  
2628 participate in the programs. A hospital, or its successor-in-  
2629 interest hospital, which received funds pursuant to this section  
2630 before January 1, 2001, and which qualifies under s.  
2631 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the  
2632 programs under this section and is not required to seek  
2633 additional appropriations under this subsection.

2634 Section 78. Paragraphs (a) and (b) of subsection (1) of  
2635 section 409.975, Florida Statutes, are amended to read:

2636 409.975 Managed care plan accountability.—In addition to  
2637 the requirements of s. 409.967, plans and providers  
2638 participating in the managed medical assistance program shall  
2639 comply with the requirements of this section.

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2640 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
2641 maintain provider networks that meet the medical needs of their  
2642 enrollees in accordance with standards established pursuant to  
2643 s. 409.967(2)(c). Except as provided in this section, managed  
2644 care plans may limit the providers in their networks based on  
2645 credentials, quality indicators, and price.

2646 (a) Plans must include all providers in the region that are  
2647 classified by the agency as essential Medicaid providers, unless  
2648 the agency approves, in writing, an alternative arrangement for  
2649 securing the types of services offered by the essential  
2650 providers. Providers are essential for serving Medicaid  
2651 enrollees if they offer services that are not available from any  
2652 other provider within a reasonable access standard, or if they  
2653 provided a substantial share of the total units of a particular  
2654 service used by Medicaid patients within the region during the  
2655 last 3 years and the combined capacity of other service  
2656 providers in the region is insufficient to meet the total needs  
2657 of the Medicaid patients. The agency may not classify physicians  
2658 and other practitioners as essential providers. The agency, at a  
2659 minimum, shall determine which providers in the following  
2660 categories are essential Medicaid providers:

- 2661 1. Federally qualified health centers.
- 2662 2. Statutory teaching hospitals as defined in s. 408.07(44)  
2663 ~~s. 408.07(45)~~.
- 2664 3. Hospitals that are trauma centers as defined in s.  
2665 395.4001(14).
- 2666 4. Hospitals located at least 25 miles from any other  
2667 hospital with similar services.

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2669 Managed care plans that have not contracted with all essential  
2670 providers in the region as of the first date of recipient  
2671 enrollment, or with whom an essential provider has terminated  
2672 its contract, must negotiate in good faith with such essential  
2673 providers for 1 year or until an agreement is reached, whichever  
2674 is first. Payments for services rendered by a nonparticipating  
2675 essential provider shall be made at the applicable Medicaid rate  
2676 as of the first day of the contract between the agency and the  
2677 plan. A rate schedule for all essential providers shall be  
2678 attached to the contract between the agency and the plan. After  
2679 1 year, managed care plans that are unable to contract with  
2680 essential providers shall notify the agency and propose an  
2681 alternative arrangement for securing the essential services for  
2682 Medicaid enrollees. The arrangement must rely on contracts with  
2683 other participating providers, regardless of whether those  
2684 providers are located within the same region as the  
2685 nonparticipating essential service provider. If the alternative  
2686 arrangement is approved by the agency, payments to  
2687 nonparticipating essential providers after the date of the  
2688 agency's approval shall equal 90 percent of the applicable  
2689 Medicaid rate. Except for payment for emergency services, if the  
2690 alternative arrangement is not approved by the agency, payment  
2691 to nonparticipating essential providers shall equal 110 percent  
2692 of the applicable Medicaid rate.

2693 (b) Certain providers are statewide resources and essential  
2694 providers for all managed care plans in all regions. All managed  
2695 care plans must include these essential providers in their  
2696 networks. Statewide essential providers include:

2697 1. Faculty plans of Florida medical schools.

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2698           2. Regional perinatal intensive care centers as defined in  
2699 s. 383.16(2).

2700           3. Hospitals licensed as specialty children's hospitals as  
2701 defined in s. 395.002(27) ~~s. 395.002(28)~~.

2702           4. Accredited and integrated systems serving medically  
2703 complex children which comprise separately licensed, but  
2704 commonly owned, health care providers delivering at least the  
2705 following services: medical group home, in-home and outpatient  
2706 nursing care and therapies, pharmacy services, durable medical  
2707 equipment, and Prescribed Pediatric Extended Care.

2708  
2709 Managed care plans that have not contracted with all statewide  
2710 essential providers in all regions as of the first date of  
2711 recipient enrollment must continue to negotiate in good faith.  
2712 Payments to physicians on the faculty of nonparticipating  
2713 Florida medical schools shall be made at the applicable Medicaid  
2714 rate. Payments for services rendered by regional perinatal  
2715 intensive care centers shall be made at the applicable Medicaid  
2716 rate as of the first day of the contract between the agency and  
2717 the plan. Except for payments for emergency services, payments  
2718 to nonparticipating specialty children's hospitals shall equal  
2719 the highest rate established by contract between that provider  
2720 and any other Medicaid managed care plan.

2721           Section 79. Subsections (5) and (17) of section 429.02,  
2722 Florida Statutes, are amended to read:

2723           429.02 Definitions.—When used in this part, the term:

2724           (5) "Assisted living facility" means any building or  
2725 buildings, section or distinct part of a building, private home,  
2726 boarding home, home for the aged, or other residential facility,

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2727 regardless of whether operated for profit ~~or not~~, which  
2728 ~~undertakes~~ through its ownership or management provides to  
2729 ~~provide~~ housing, meals, and one or more personal services for a  
2730 period exceeding 24 hours to one or more adults who are not  
2731 relatives of the owner or administrator.

2732 (17) "Personal services" means direct physical assistance  
2733 with or supervision of the activities of daily living, and the  
2734 self-administration of medication, or ~~and~~ other similar services  
2735 which the department may define by rule. The term may ~~"Personal~~  
2736 ~~services"~~ shall not be construed to mean the provision of  
2737 medical, nursing, dental, or mental health services.

2738 Section 80. Paragraphs (b) and (d) of subsection (2) of  
2739 section 429.04, Florida Statutes, are amended, and subsection  
2740 (3) is added that section, to read:

2741 429.04 Facilities to be licensed; exemptions.—

2742 (2) The following are exempt from licensure under this  
2743 part:

2744 (b) Any facility or part of a facility licensed by the  
2745 Agency for Persons with Disabilities under chapter 393, a mental  
2746 health facility licensed under ~~or~~ chapter 394, a hospital  
2747 licensed under chapter 395, a nursing home licensed under part  
2748 II of chapter 400, an inpatient hospice licensed under part IV  
2749 of chapter 400, a home for special services licensed under part  
2750 V of chapter 400, an intermediate care facility licensed under  
2751 part VIII of chapter 400, or a transitional living facility  
2752 licensed under part XI of chapter 400.

2753 (d) Any person who provides housing, meals, and one or more  
2754 personal services on a 24-hour basis in the person's own home to  
2755 not more than two adults who do not receive optional state

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2756 supplementation. The person who provides the housing, meals, and  
2757 personal services must own or rent the home and must have  
2758 established the home as his or her permanent residence. For  
2759 purposes of this paragraph, any person holding a homestead  
2760 exemption at an address other than that at which the person  
2761 asserts this exemption is presumed to not have established  
2762 permanent residence ~~reside therein.~~ This exemption does not  
2763 apply to a person or entity that previously held a license  
2764 issued by the agency which was revoked or for which renewal was  
2765 denied by final order of the agency, or when the person or  
2766 entity voluntarily relinquished the license during agency  
2767 enforcement proceedings.

2768 (3) Upon agency investigation of unlicensed activity, any  
2769 person or entity that claims that it is exempt under this  
2770 section must provide documentation substantiating entitlement to  
2771 the exemption.

2772 Section 81. Paragraphs (b) and (d) of subsection (1) of  
2773 section 429.08, Florida Statutes, are amended to read:

2774 429.08 Unlicensed facilities; referral of person for  
2775 residency to unlicensed facility; penalties.—

2776 (1)

2777 (b) ~~Except as provided under paragraph (d),~~ Any person who  
2778 owns, rents, or otherwise maintains a building or property used  
2779 as operates, or maintains an unlicensed assisted living facility  
2780 commits a felony of the third degree, punishable as provided in  
2781 s. 775.082, s. 775.083, or s. 775.084. Each day of continued  
2782 operation is a separate offense.

2783 (d) In addition to the requirements of s. 408.812, any  
2784 person who owns, operates, or maintains an unlicensed assisted

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2785 living facility after receiving notice from the agency ~~due to a~~  
2786 ~~change in this part or a modification in rule within 6 months~~  
2787 ~~after the effective date of such change and who, within 10~~  
2788 ~~working days after receiving notification from the agency, fails~~  
2789 ~~to cease operation or apply for a license under this part~~  
2790 commits a felony of the third degree, punishable as provided in  
2791 s. 775.082, s. 775.083, or s. 775.084. Each day of continued  
2792 operation is a separate offense.

2793 Section 82. Section 429.176, Florida Statutes, is amended  
2794 to read:

2795 429.176 Notice of change of administrator.—If, during the  
2796 period for which a license is issued, the owner changes  
2797 administrators, the owner must notify the agency of the change  
2798 within 10 days and provide documentation within 90 days that the  
2799 new administrator has completed the applicable core educational  
2800 requirements under s. 429.52. A facility may not be operated for  
2801 more than 120 consecutive days without an administrator who has  
2802 completed the core educational requirements.

2803 Section 83. Subsection(7) of section 429.19, Florida  
2804 Statutes, is amended to read:

2805 429.19 Violations; imposition of administrative fines;  
2806 grounds.—

2807 (7) In addition to any administrative fines imposed, the  
2808 agency may assess a survey fee, equal to the lesser of one half  
2809 of the facility's biennial license and bed fee or \$500, to cover  
2810 the cost of conducting initial complaint investigations that  
2811 result in the finding of a violation that was the subject of the  
2812 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~  
2813 to verify the correction of the violations.

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2814 Section 84. Subsection (2) of section 429.24, Florida  
2815 Statutes, is amended to read:

2816 429.24 Contracts.—

2817 (2) Each contract must contain express provisions  
2818 specifically setting forth the services and accommodations to be  
2819 provided by the facility; the rates or charges; provision for at  
2820 least 30 days' written notice of a rate increase; the rights,  
2821 duties, and obligations of the residents, other than those  
2822 specified in s. 429.28; and other matters that the parties deem  
2823 appropriate. A new service or accommodation added to, or  
2824 implemented in, a resident's contract for which the resident was  
2825 not previously charged does not require a 30-day written notice  
2826 of a rate increase. Whenever money is deposited or advanced by a  
2827 resident in a contract as security for performance of the  
2828 contract agreement or as advance rent for other than the next  
2829 immediate rental period:

2830 (a) Such funds shall be deposited in a banking institution  
2831 in this state that is located, if possible, in the same  
2832 community in which the facility is located; shall be kept  
2833 separate from the funds and property of the facility; may not be  
2834 represented as part of the assets of the facility on financial  
2835 statements; and shall be used, or otherwise expended, only for  
2836 the account of the resident.

2837 (b) The licensee shall, within 30 days of receipt of  
2838 advance rent or a security deposit, notify the resident or  
2839 residents in writing of the manner in which the licensee is  
2840 holding the advance rent or security deposit and state the name  
2841 and address of the depository where the moneys are being held.  
2842 The licensee shall notify residents of the facility's policy on

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2843 advance deposits.

2844 Section 85. Paragraphs (e) and (j) of subsection (1) and  
2845 paragraphs (c), (d), and (e) of subsection (3) of section  
2846 429.28, Florida Statutes, are amended to read:

2847 429.28 Resident bill of rights.—

2848 (1) No resident of a facility shall be deprived of any  
2849 civil or legal rights, benefits, or privileges guaranteed by  
2850 law, the Constitution of the State of Florida, or the  
2851 Constitution of the United States as a resident of a facility.  
2852 Every resident of a facility shall have the right to:

2853 (e) Freedom to participate in and benefit from community  
2854 services and activities and to pursue ~~achieve~~ the highest  
2855 possible level of independence, autonomy, and interaction within  
2856 the community.

2857 (j) Assistance with obtaining access to adequate and  
2858 appropriate health care. For purposes of this paragraph, the  
2859 term "adequate and appropriate health care" means the management  
2860 of medications, assistance in making appointments for health  
2861 care services, the provision of or arrangement of transportation  
2862 to health care appointments, and the performance of health care  
2863 services in accordance with s. 429.255 which are consistent with  
2864 established and recognized standards within the community.

2865 (3)

2866 ~~(c) During any calendar year in which no survey is~~  
2867 ~~conducted, the agency shall conduct at least one monitoring~~  
2868 ~~visit of each facility cited in the previous year for a class I~~  
2869 ~~or class II violation, or more than three uncorrected class III~~  
2870 ~~violations.~~

2871 ~~(d) The agency may conduct periodic followup inspections as~~

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2872 ~~necessary to monitor the compliance of facilities with a history~~  
2873 ~~of any class I, class II, or class III violations that threaten~~  
2874 ~~the health, safety, or security of residents.~~

2875 ~~(c) The agency may conduct complaint investigations as~~  
2876 ~~warranted to investigate any allegations of noncompliance with~~  
2877 ~~requirements required under this part or rules adopted under~~  
2878 ~~this part.~~

2879 Section 86. Subsection (1) of section 429.294, Florida  
2880 Statutes, is amended to read:

2881 429.294 Availability of facility records for investigation  
2882 of resident's rights violations and defenses; penalty.-

2883 (1) Failure to provide complete copies of a resident's  
2884 records, including, but not limited to, all medical records and  
2885 the resident's chart, within the control or possession of the  
2886 facility ~~within 10 days,~~ in accordance with ~~the provisions of s.~~  
2887 400.145, shall constitute evidence of failure of that party to  
2888 comply with good faith discovery requirements and shall waive  
2889 the good faith certificate and presuit notice requirements under  
2890 this part by the requesting party.

2891 Section 87. Subsection (2) of section 429.34, Florida  
2892 Statutes, is amended to read:

2893 429.34 Right of entry and inspection.-

2894 (2) (a) In addition to the requirements of s. 408.811, the  
2895 agency may inspect and investigate facilities as necessary to  
2896 determine compliance with this part, part II of chapter 408, and  
2897 rules adopted thereunder. ~~The agency shall inspect each licensed~~  
2898 ~~assisted living facility at least once every 24 months to~~  
2899 ~~determine compliance with this chapter and related rules.~~ If an  
2900 assisted living facility is cited for a class I violation or

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2901 three or more class II violations arising from separate surveys  
2902 within a 60-day period or due to unrelated circumstances during  
2903 the same survey, the agency must conduct an additional licensure  
2904 inspection within 6 months.

2905 (b) During any calendar year in which a survey is not  
2906 conducted, the agency may conduct monitoring visits of each  
2907 facility cited in the previous year for a class I or class II  
2908 violation or for more than three uncorrected class III  
2909 violations.

2910 Section 88. Subsection (4) of section 429.52, Florida  
2911 Statutes, is amended to read:

2912 429.52 Staff training and educational programs; core  
2913 educational requirement.—

2914 (4) Effective January 1, 2004, a new facility administrator  
2915 must complete the required training and education, including the  
2916 competency test, within 90 days after date of employment ~~a~~  
2917 ~~reasonable time after being employed~~ as an administrator, ~~as~~  
2918 ~~determined by the department~~. Failure to do so is a violation of  
2919 this part and subjects the violator to an administrative fine as  
2920 prescribed in s. 429.19. Administrators licensed in accordance  
2921 with part II of chapter 468 are exempt from this requirement.  
2922 Other licensed professionals may be exempted, as determined by  
2923 the department by rule.

2924 Section 89. Subsection (3) of section 435.04, Florida  
2925 Statutes, is amended, and subsection (4) is added to that  
2926 section, to read:

2927 435.04 Level 2 screening standards.—

2928 (3) The security background investigations under this  
2929 section must ensure that no person subject to this section has

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2930 been arrested for and is awaiting final disposition of, been  
2931 found guilty of, regardless of adjudication, or entered a plea  
2932 of nolo contendere or guilty to, any offense that constitutes  
2933 domestic violence as defined in s. 741.28, whether such act was  
2934 committed in this state or in another jurisdiction.

2935 (4) For the purpose of screening applicability to  
2936 participate in the Medicaid program, the security background  
2937 investigations under this section must ensure that a person  
2938 subject to screening under this section has not been arrested  
2939 for and is not awaiting final disposition of; has not been found  
2940 guilty of, regardless of adjudication, or entered a plea of nolo  
2941 contendere or guilty to; and has not been adjudicated delinquent  
2942 and the record sealed or expunged for, any of the following  
2943 offenses:

2944 (a) Violation of a federal law or a law in any state which  
2945 creates a criminal offense relating to:

2946 1. The delivery of any goods or services under Medicaid or  
2947 Medicare or any other public or private health care or health  
2948 insurance program, including the performance of management or  
2949 administrative services relating to the delivery of goods or  
2950 services under any such program;

2951 2. Neglect or abuse of a patient in connection with the  
2952 delivery of any health care good or service;

2953 3. Unlawful manufacture, distribution, prescription, or  
2954 dispensing of a controlled substance;

2955 4. Fraud, theft, embezzlement, breach of fiduciary  
2956 responsibility, or other financial misconduct; or

2957 5. Moral turpitude, if punishable by imprisonment of a year  
2958 or more.

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2959       6. Interference with or obstruction of an investigation  
 2960 into any criminal offense identified in this subsection.

2961       (b) Violation of the following state laws or laws of  
 2962 another jurisdiction:

2963           1. Section 817.569, criminal use of a public record or  
 2964 information contained in a public record;

2965           2. Section 838.016, unlawful compensation or reward for  
 2966 official behavior;

2967           3. Section 838.021, corruption by threat against a public  
 2968 servant;

2969           4. Section 838.022, official misconduct;

2970           5. Section 838.22, bid tampering;

2971           6. Section 839.13, falsifying records;

2972           7. Section 839.26, misuse of confidential information; or

2973       (c) Violation of a federal or state law, rule, or  
 2974 regulation governing the Florida Medicaid program or any other  
 2975 state Medicaid program, the Medicare program, or any other  
 2976 publicly funded federal or state health care or health insurance  
 2977 program.

2978       Section 90. Subsection (4) of section 456.001, Florida  
 2979 Statutes, is amended to read:

2980       456.001 Definitions.—As used in this chapter, the term:

2981       (4) "Health care practitioner" means any person licensed  
 2982 under 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.

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2988 Section 91. Subsection (3) of section 456.054, Florida  
2989 Statutes, is redesignated as subsection (4), and a new  
2990 subsection (3) is added to that section, to read:

2991 456.054 Kickbacks prohibited.—

2992 (3) (a) It is unlawful for any person or any entity to pay  
2993 or receive, directly or indirectly, a commission, bonus,  
2994 kickback, or rebate from, or to engage in any form of a split-  
2995 fee arrangement with, a dialysis facility, health care  
2996 practitioner, surgeon, person, or entity for referring patients  
2997 to a clinical laboratory as defined in s. 483.803.

2998 (b) It is unlawful for any clinical laboratory to:

2999 1. Provide personnel to perform any functions or duties in  
3000 a health care practitioner's office or dialysis facility for any  
3001 purpose, including for the collection or handling of specimens,  
3002 directly or indirectly through an employee, contractor,  
3003 independent staffing company, lease agreement, or otherwise,  
3004 unless the laboratory and the practitioner's office, or dialysis  
3005 facility, are wholly owned and operated by the same entity.

3006 2. Lease space within any part of a health care  
3007 practitioner's office or dialysis facility for any purpose,  
3008 including for the purpose of establishing a collection station  
3009 where materials or specimens are collected or drawn from  
3010 patients.

3011 Section 92. Paragraphs (h) and (i) of subsection (2) of  
3012 section 456.057, Florida Statutes, are amended to read:

3013 456.057 Ownership and control of patient records; report or  
3014 copies of records to be furnished; disclosure of information.—

3015 (2) As used in this section, the terms "records owner,"  
3016 "health care practitioner," and "health care practitioner's

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3017 employer" do not include any of the following persons or  
3018 entities; furthermore, the following persons or entities are not  
3019 authorized to acquire or own medical records, but are authorized  
3020 under the confidentiality and disclosure requirements of this  
3021 section to maintain those documents required by the part or  
3022 chapter under which they are licensed or regulated:

3023 (h) Clinical laboratory personnel licensed under part II  
3024 ~~III~~ of chapter 483.

3025 (i) Medical physicists licensed under part III ~~IV~~ of  
3026 chapter 483.

3027 Section 93. Paragraph (j) of subsection (1) of section  
3028 456.076, Florida Statutes, is amended to read:

3029 456.076 Impaired practitioner programs.—

3030 (1) As used in this section, the term:

3031 (j) "Practitioner" means a person licensed, registered,  
3032 certified, or regulated by the department under part III of  
3033 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;  
3034 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
3035 chapter 466; chapter 467; part I, part II, part III, part V,  
3036 part X, part XIII, or part XIV of chapter 468; chapter 478;  
3037 chapter 480; part II or part III ~~or part IV~~ of chapter 483;  
3038 chapter 484; chapter 486; chapter 490; or chapter 491; or an  
3039 applicant for a license, registration, or certification under  
3040 the same laws.

3041 Section 94. Subsection (2) of section 458.307, Florida  
3042 Statutes, is amended to read:

3043 458.307 Board of Medicine.—

3044 (2) Twelve members of the board must be licensed physicians  
3045 in good standing in this state who are residents of the state

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3046 and who have been engaged in the active practice or teaching of  
3047 medicine for at least 4 years immediately preceding their  
3048 appointment. One of the physicians must be on the full-time  
3049 faculty of a medical school in this state, and one of the  
3050 physicians must be in private practice and on the full-time  
3051 staff of a statutory teaching hospital in this state as defined  
3052 in s. 408.07. At least one of the physicians must be a graduate  
3053 of a foreign medical school. The remaining three members must be  
3054 residents of the state who are not, and never have been,  
3055 licensed health care practitioners. One member must be a health  
3056 care risk manager ~~licensed under s. 395.10974~~. At least one  
3057 member of the board must be 60 years of age or older.

3058 Section 95. Subsection (1) of section 458.345, Florida  
3059 Statutes, is amended to read:

3060 458.345 Registration of resident physicians, interns, and  
3061 fellows; list of hospital employees; prescribing of medicinal  
3062 drugs; penalty.—

3063 (1) Any person desiring to practice as a resident  
3064 physician, assistant resident physician, house physician,  
3065 intern, or fellow in fellowship training which leads to  
3066 subspecialty board certification in this state, or any person  
3067 desiring to practice as a resident physician, assistant resident  
3068 physician, house physician, intern, or fellow in fellowship  
3069 training in a teaching hospital in this state as defined in s.  
3070 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a  
3071 valid, active license issued under this chapter shall apply to  
3072 the department to be registered and shall remit a fee not to  
3073 exceed \$300 as set by the board. The department shall register  
3074 any applicant the board certifies has met the following

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3075 requirements:

3076 (a) Is at least 21 years of age.

3077 (b) Has not committed any act or offense within or without  
3078 the state which would constitute the basis for refusal to  
3079 certify an application for licensure pursuant to s. 458.331.

3080 (c) Is a graduate of a medical school or college as  
3081 specified in s. 458.311(1)(f).

3082 Section 96. Subsection (1) of s. 459.021, Florida Statutes,  
3083 is amended to read:

3084 459.021 Registration of resident physicians, interns, and  
3085 fellows; list of hospital employees; penalty.—

3086 (1) Any person who holds a degree of Doctor of Osteopathic  
3087 Medicine from a college of osteopathic medicine recognized and  
3088 approved by the American Osteopathic Association who desires to  
3089 practice as a resident physician, intern, or fellow in  
3090 fellowship training which leads to subspecialty board  
3091 certification in this state, or any person desiring to practice  
3092 as a resident physician, intern, or fellow in fellowship  
3093 training in a teaching hospital in this state as defined in s.  
3094 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an  
3095 active license issued under this chapter shall apply to the  
3096 department to be registered, on an application provided by the  
3097 department, before commencing such a training program and shall  
3098 remit a fee not to exceed \$300 as set by the board.

3099 Section 97. Part I of chapter 483, Florida Statutes,  
3100 consisting of sections 483.011, 483.021, 483.031, 483.035,  
3101 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,  
3102 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,  
3103 is repealed.

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3104 Section 98. Section 483.294, Florida Statutes, is amended  
3105 to read:

3106 483.294 Inspection of centers.—In accordance with s.  
3107 408.811, the agency shall, ~~at least once annually,~~ inspect the  
3108 premises and operations of all centers subject to licensure  
3109 under this part.

3110 Section 99. Subsections (3) and (5) of section 483.801,  
3111 Florida Statutes, are amended, and subsection (6) is added to  
3112 that section, to read:

3113 483.801 Exemptions.—This part applies to all clinical  
3114 laboratories and clinical laboratory personnel within this  
3115 state, except:

3116 (3) Persons engaged in testing performed by laboratories  
3117 that are wholly owned and operated by one or more practitioners  
3118 licensed under chapter 458, chapter 459, chapter 460, chapter  
3119 461, chapter 462, chapter 463, or chapter 466 who practice in  
3120 the same group practice, and in which no clinical laboratory  
3121 work is performed for patients referred by any health care  
3122 provider who is not a member of that group practice ~~regulated~~  
3123 under s. 483.035(1) or exempt from regulation under s.  
3124 483.031(2).

3125 (5) Advanced registered nurse practitioners licensed under  
3126 part I of chapter 464 who perform provider-performed microscopy  
3127 procedures (PPMP) in a an-exclusive-use laboratory setting  
3128 pursuant to subsection (3).

3129 (6) Persons performing laboratory testing within a  
3130 physician office practice for patients referred by a health care  
3131 provider who is a member of the same physician office practice,  
3132 if the laboratory or entity operating the laboratory within a

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3133 physician office practice is under common ownership, directly or  
3134 indirectly, with an entity licensed pursuant to chapter 395.

3135 Section 100. Subsections (2), (3), and (4) of section  
3136 483.803, Florida Statutes, are amended to read:

3137 483.803 Definitions.—As used in this part, the term:

3138 (2) "Clinical laboratory" means the physical location in  
3139 which one or more of the following services are performed to  
3140 provide information or materials for use in the diagnosis,  
3141 prevention, or treatment of a disease or the identification or  
3142 assessment of a medical or physical condition:

3143 (a) Clinical laboratory services, which entail the  
3144 examination of fluids or other materials taken from the human  
3145 body.

3146 (b) Anatomic laboratory services, which entail the  
3147 examination of tissue taken from the human body.

3148 (c) Cytology laboratory services, which entail the  
3149 examination of cells from individual tissues or fluid taken from  
3150 the human body ~~a clinical laboratory as defined in s. 483.041.~~

3151 (3) "Clinical laboratory examination" means a procedure  
3152 performed to deliver the services identified in subsection (2),  
3153 including the oversight or interpretation of such services  
3154 ~~clinical laboratory examination as defined in s. 483.041.~~

3155 (4) "Clinical laboratory personnel" includes a clinical  
3156 laboratory director, supervisor, technologist, blood gas  
3157 analyst, or technician who performs or is responsible for  
3158 laboratory test procedures, but the term does not include  
3159 trainees, persons who perform screening for blood banks or  
3160 plasmapheresis centers, phlebotomists, or persons employed by a  
3161 clinical laboratory to perform manual pretesting duties or

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3162 clerical, personnel, or other administrative responsibilities,  
3163 ~~or persons engaged in testing performed by laboratories~~  
3164 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~  
3165 ~~483.031(2).~~

3166 Section 101. Section 483.813, Florida Statutes, is amended  
3167 to read:

3168 483.813 Clinical laboratory personnel license.—A person may  
3169 not conduct a clinical laboratory examination or report the  
3170 results of such examination unless such person is licensed under  
3171 this part to perform such procedures. However, this provision  
3172 does not apply to any practitioner of the healing arts  
3173 authorized to practice in this state ~~or to persons engaged in~~  
3174 ~~testing performed by laboratories regulated under s. 483.035(1)~~  
3175 ~~or exempt from regulation under s. 483.031(2).~~ The department  
3176 may grant a temporary license to any candidate it deems properly  
3177 qualified, for a period not to exceed 1 year.

3178 Section 102. Subsection (2) of section 483.823, Florida  
3179 Statutes, is amended to read:

3180 483.823 Qualifications of clinical laboratory personnel.—

3181 (2) Personnel qualifications may require appropriate  
3182 education, training, or experience or the passing of an  
3183 examination in appropriate subjects or any combination of these,  
3184 but a ~~ne~~ practitioner of the healing arts licensed to practice  
3185 in this state is not required to obtain any license ~~under this~~  
3186 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~  
3187 ~~required for clinical laboratory licensure.~~

3188 Section 103. Paragraph (c) of subsection (7), and  
3189 subsections (8) and (9) of section 491.003, Florida Statutes,  
3190 are amended to read:

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3191 491.003 Definitions.—As used in this chapter:  
3192 (7) The “practice of clinical social work” is defined as  
3193 the use of scientific and applied knowledge, theories, and  
3194 methods for the purpose of describing, preventing, evaluating,  
3195 and treating individual, couple, marital, family, or group  
3196 behavior, based on the person-in-situation perspective of  
3197 psychosocial development, normal and abnormal behavior,  
3198 psychopathology, unconscious motivation, interpersonal  
3199 relationships, environmental stress, differential assessment,  
3200 differential planning, and data gathering. The purpose of such  
3201 services is the prevention and treatment of undesired behavior  
3202 and enhancement of mental health. The practice of clinical  
3203 social work includes methods of a psychological nature used to  
3204 evaluate, assess, diagnose, treat, and prevent emotional and  
3205 mental disorders and dysfunctions (whether cognitive, affective,  
3206 or behavioral), sexual dysfunction, behavioral disorders,  
3207 alcoholism, and substance abuse. The practice of clinical social  
3208 work includes, but is not limited to, psychotherapy,  
3209 hypnotherapy, and sex therapy. The practice of clinical social  
3210 work also includes counseling, behavior modification,  
3211 consultation, client-centered advocacy, crisis intervention, and  
3212 the provision of needed information and education to clients,  
3213 when using methods of a psychological nature to evaluate,  
3214 assess, diagnose, treat, and prevent emotional and mental  
3215 disorders and dysfunctions (whether cognitive, affective, or  
3216 behavioral), sexual dysfunction, behavioral disorders,  
3217 alcoholism, or substance abuse. The practice of clinical social  
3218 work may also include clinical research into more effective  
3219 psychotherapeutic modalities for the treatment and prevention of

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3220 such conditions.

3221 (c) The terms "diagnose" and "treat," as used in this  
3222 chapter, when considered in isolation or in conjunction with ~~any~~  
3223 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed  
3224 to permit the performance of any act which clinical social  
3225 workers are not educated and trained to perform, including, but  
3226 not limited to, admitting persons to hospitals for treatment of  
3227 the foregoing conditions, treating persons in hospitals without  
3228 medical supervision, prescribing medicinal drugs as defined in  
3229 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~  
3230 ~~to chapter 483~~, or radiological procedures, or use of  
3231 electroconvulsive therapy. In addition, this definition ~~shall~~  
3232 may not be construed to permit any person licensed,  
3233 provisionally licensed, registered, or certified pursuant to  
3234 this chapter to describe or label any test, report, or procedure  
3235 as "psychological," except to relate specifically to the  
3236 definition of practice authorized in this subsection.

3237 (8) The term "practice of marriage and family therapy"  
3238 means ~~is defined as~~ the use of scientific and applied marriage  
3239 and family theories, methods, and procedures for the purpose of  
3240 describing, evaluating, and modifying marital, family, and  
3241 individual behavior, within the context of marital and family  
3242 systems, including the context of marital formation and  
3243 dissolution, and is based on marriage and family systems theory,  
3244 marriage and family development, human development, normal and  
3245 abnormal behavior, psychopathology, human sexuality,  
3246 psychotherapeutic and marriage and family therapy theories and  
3247 techniques. The practice of marriage and family therapy includes  
3248 methods of a psychological nature used to evaluate, assess,

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3249 diagnose, treat, and prevent emotional and mental disorders or  
3250 dysfunctions (whether cognitive, affective, or behavioral),  
3251 sexual dysfunction, behavioral disorders, alcoholism, and  
3252 substance abuse. The practice of marriage and family therapy  
3253 includes, but is not limited to, marriage and family therapy,  
3254 psychotherapy, including behavioral family therapy,  
3255 hypnotherapy, and sex therapy. The practice of marriage and  
3256 family therapy also includes counseling, behavior modification,  
3257 consultation, client-centered advocacy, crisis intervention, and  
3258 the provision of needed information and education to clients,  
3259 when using methods of a psychological nature to evaluate,  
3260 assess, diagnose, treat, and prevent emotional and mental  
3261 disorders and dysfunctions (whether cognitive, affective, or  
3262 behavioral), sexual dysfunction, behavioral disorders,  
3263 alcoholism, or substance abuse. The practice of marriage and  
3264 family therapy may also include clinical research into more  
3265 effective psychotherapeutic modalities for the treatment and  
3266 prevention of such conditions.

3267 (a) Marriage and family therapy may be rendered to  
3268 individuals, including individuals affected by termination of  
3269 marriage, to couples, whether married or unmarried, to families,  
3270 or to groups.

3271 (b) The use of specific methods, techniques, or modalities  
3272 within the practice of marriage and family therapy is restricted  
3273 to marriage and family therapists appropriately trained in the  
3274 use of such methods, techniques, or modalities.

3275 (c) The terms "diagnose" and "treat," as used in this  
3276 chapter, when considered in isolation or in conjunction with ~~any~~  
3277 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed

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3278 to permit the performance of any act that ~~which~~ marriage and  
3279 family therapists are not educated and trained to perform,  
3280 including, but not limited to, admitting persons to hospitals  
3281 for treatment of the foregoing conditions, treating persons in  
3282 hospitals without medical supervision, prescribing medicinal  
3283 drugs as defined in chapter 465, authorizing clinical laboratory  
3284 procedures ~~pursuant to chapter 483,~~ or radiological procedures,  
3285 or the use of electroconvulsive therapy. In addition, this  
3286 definition may ~~shall~~ not be construed to permit any person  
3287 licensed, provisionally licensed, registered, or certified  
3288 pursuant to this chapter to describe or label any test, report,  
3289 or procedure as "psychological," except to relate specifically  
3290 to the definition of practice authorized in this subsection.

3291 (d) The definition of "marriage and family therapy"  
3292 contained in this subsection includes all services offered  
3293 directly to the general public or through organizations, whether  
3294 public or private, and applies whether payment is requested or  
3295 received for services rendered.

3296 (9) The term "practice of mental health counseling" means  
3297 ~~is defined as~~ the use of scientific and applied behavioral  
3298 science theories, methods, and techniques for the purpose of  
3299 describing, preventing, and treating undesired behavior and  
3300 enhancing mental health and human development and is based on  
3301 the person-in-situation perspectives derived from research and  
3302 theory in personality, family, group, and organizational  
3303 dynamics and development, career planning, cultural diversity,  
3304 human growth and development, human sexuality, normal and  
3305 abnormal behavior, psychopathology, psychotherapy, and  
3306 rehabilitation. The practice of mental health counseling

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3307 includes methods of a psychological nature used to evaluate,  
3308 assess, diagnose, and treat emotional and mental dysfunctions or  
3309 disorders, (whether cognitive, affective, or behavioral),  
3310 ~~behavioral disorders,~~ interpersonal relationships, sexual  
3311 dysfunction, alcoholism, and substance abuse. The practice of  
3312 mental health counseling includes, but is not limited to,  
3313 psychotherapy, hypnotherapy, and sex therapy. The practice of  
3314 mental health counseling also includes counseling, behavior  
3315 modification, consultation, client-centered advocacy, crisis  
3316 intervention, and the provision of needed information and  
3317 education to clients, when using methods of a psychological  
3318 nature to evaluate, assess, diagnose, treat, and prevent  
3319 emotional and mental disorders and dysfunctions (whether  
3320 cognitive, affective, or behavioral), behavioral disorders,  
3321 sexual dysfunction, alcoholism, or substance abuse. The practice  
3322 of mental health counseling may also include clinical research  
3323 into more effective psychotherapeutic modalities for the  
3324 treatment and prevention of such conditions.

3325 (a) Mental health counseling may be rendered to  
3326 individuals, including individuals affected by the termination  
3327 of marriage, and to couples, families, groups, organizations,  
3328 and communities.

3329 (b) The use of specific methods, techniques, or modalities  
3330 within the practice of mental health counseling is restricted to  
3331 mental health counselors appropriately trained in the use of  
3332 such methods, techniques, or modalities.

3333 (c) The terms "diagnose" and "treat," as used in this  
3334 chapter, when considered in isolation or in conjunction with any  
3335 provision of the rules of the board, may ~~shall~~ not be construed

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3336 to permit the performance of any act that ~~which~~ mental health  
3337 counselors are not educated and trained to perform, including,  
3338 but not limited to, admitting persons to hospitals for treatment  
3339 of the foregoing conditions, treating persons in hospitals  
3340 without medical supervision, prescribing medicinal drugs as  
3341 defined in chapter 465, authorizing clinical laboratory  
3342 procedures ~~pursuant to chapter 483,~~ or radiological procedures,  
3343 or the use of electroconvulsive therapy. In addition, this  
3344 definition may ~~shall~~ not be construed to permit any person  
3345 licensed, provisionally licensed, registered, or certified  
3346 pursuant to this chapter to describe or label any test, report,  
3347 or procedure as "psychological," except to relate specifically  
3348 to the definition of practice authorized in this subsection.

3349 (d) The definition of "mental health counseling" contained  
3350 in this subsection includes all services offered directly to the  
3351 general public or through organizations, whether public or  
3352 private, and applies whether payment is requested or received  
3353 for services rendered.

3354 Section 104. Paragraph (h) of subsection (4) of section  
3355 627.351, Florida Statutes, is amended to read:

3356 627.351 Insurance risk apportionment plans.—

3357 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

3358 (h) As used in this subsection:

3359 1. "Health care provider" means hospitals licensed under  
3360 chapter 395; physicians licensed under chapter 458; osteopathic  
3361 physicians licensed under chapter 459; podiatric physicians  
3362 licensed under chapter 461; dentists licensed under chapter 466;  
3363 chiropractic physicians licensed under chapter 460; naturopaths  
3364 licensed under chapter 462; nurses licensed under part I of

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3365 chapter 464; midwives licensed under chapter 467; ~~clinical~~  
3366 ~~laboratories registered under chapter 483~~; physician assistants  
3367 licensed under chapter 458 or chapter 459; physical therapists  
3368 and physical therapist assistants licensed under chapter 486;  
3369 health maintenance organizations certificated under part I of  
3370 chapter 641; ambulatory surgical centers licensed under chapter  
3371 395; other medical facilities as defined in subparagraph 2.;  
3372 blood banks, plasma centers, industrial clinics, and renal  
3373 dialysis facilities; or professional associations, partnerships,  
3374 corporations, joint ventures, or other associations for  
3375 professional activity by health care providers.

3376 2. "Other medical facility" means a facility the primary  
3377 purpose of which is to provide human medical diagnostic services  
3378 or a facility providing nonsurgical human medical treatment, to  
3379 which facility the patient is admitted and from which facility  
3380 the patient is discharged within the same working day, and which  
3381 facility is not part of a hospital. However, a facility existing  
3382 for the primary purpose of performing terminations of pregnancy  
3383 or an office maintained by a physician or dentist for the  
3384 practice of medicine may ~~shall~~ not be construed to be an "other  
3385 medical facility."

3386 3. "Health care facility" means any hospital licensed under  
3387 chapter 395, health maintenance organization certificated under  
3388 part I of chapter 641, ambulatory surgical center licensed under  
3389 chapter 395, or other medical facility as defined in  
3390 subparagraph 2.

3391 Section 105. Paragraph (h) of subsection (1) of section  
3392 627.602, Florida Statutes, is amended to read:

3393 627.602 Scope, format of policy.-

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3394 (1) Each health insurance policy delivered or issued for  
3395 delivery to any person in this state must comply with all  
3396 applicable provisions of this code and all of the following  
3397 requirements:

3398 (h) Section 641.312 and the provisions of the Employee  
3399 Retirement Income Security Act of 1974, as implemented by 29  
3400 C.F.R. s. 2560.503-1, relating to internal grievances. This  
3401 paragraph does not apply ~~to a health insurance policy that is~~  
3402 ~~subject to the Subscriber Assistance Program under s. 408.7056~~  
3403 ~~or~~ to the types of benefits or coverages provided under s.  
3404 627.6513(1)-(14) issued in any market.

3405 Section 106. Subsection (1) of section 627.6406, Florida  
3406 Statutes, is amended to read:

3407 627.6406 Maternity care.—

3408 (1) Any policy of health insurance which ~~that~~ provides  
3409 coverage for maternity care must also cover the services of  
3410 certified nurse-midwives and midwives licensed pursuant to  
3411 chapter 467, and the services of birth centers licensed under  
3412 ss. 383.30-383.332 ~~383.30-383.335~~.

3413 Section 107. Paragraphs (b) and (e) of subsection (1) of  
3414 section 627.64194, Florida Statutes, are amended to read:

3415 627.64194 Coverage requirements for services provided by  
3416 nonparticipating providers; payment collection limitations.—

3417 (1) As used in this section, the term:

3418 (b) "Facility" means a licensed facility as defined in s.  
3419 395.002(16) and an urgent care center as defined in s. 395.002  
3420 ~~s. 395.002(30)~~.

3421 (e) "Nonparticipating provider" means a provider who is not  
3422 a preferred provider as defined in s. 627.6471 or a provider who

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3423 is not an exclusive provider as defined in s. 627.6472. For  
3424 purposes of covered emergency services under this section, a  
3425 facility licensed under chapter 395 or an urgent care center  
3426 defined in s. 395.002 ~~s. 395.002(30)~~ is a nonparticipating  
3427 provider if the facility has not contracted with an insurer to  
3428 provide emergency services to its insureds at a specified rate.

3429 Section 108. Section 627.6513, Florida Statutes, is amended  
3430 to read:

3431 627.6513 Scope.—Section 641.312 and the provisions of the  
3432 Employee Retirement Income Security Act of 1974, as implemented  
3433 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,  
3434 apply to all group health insurance policies issued under this  
3435 part. This section does not apply to ~~a group health insurance~~  
3436 ~~policy that is subject to the Subscriber Assistance Program in~~  
3437 ~~s. 408.7056 or to:~~

- 3438 (1) Coverage only for accident insurance, or disability  
3439 income insurance, or any combination thereof.
- 3440 (2) Coverage issued as a supplement to liability insurance.
- 3441 (3) Liability insurance, including general liability  
3442 insurance and automobile liability insurance.
- 3443 (4) Workers' compensation or similar insurance.
- 3444 (5) Automobile medical payment insurance.
- 3445 (6) Credit-only insurance.
- 3446 (7) Coverage for onsite medical clinics, including prepaid  
3447 health clinics under part II of chapter 641.
- 3448 (8) Other similar insurance coverage, specified in rules  
3449 adopted by the commission, under which benefits for medical care  
3450 are secondary or incidental to other insurance benefits. To the  
3451 extent possible, such rules must be consistent with regulations

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3452 adopted by the United States Department of Health and Human  
3453 Services.

3454 (9) Limited scope dental or vision benefits, if offered  
3455 separately.

3456 (10) Benefits for long-term care, nursing home care, home  
3457 health care, or community-based care, or any combination  
3458 thereof, if offered separately.

3459 (11) Other similar, limited benefits, if offered  
3460 separately, as specified in rules adopted by the commission.

3461 (12) Coverage only for a specified disease or illness, if  
3462 offered as independent, noncoordinated benefits.

3463 (13) Hospital indemnity or other fixed indemnity insurance,  
3464 if offered as independent, noncoordinated benefits.

3465 (14) Benefits provided through a Medicare supplemental  
3466 health insurance policy, as defined under s. 1882(g)(1) of the  
3467 Social Security Act, coverage supplemental to the coverage  
3468 provided under 10 U.S.C. chapter 55, and similar supplemental  
3469 coverage provided to coverage under a group health plan, which  
3470 are offered as a separate insurance policy and as independent,  
3471 noncoordinated benefits.

3472 Section 109. Subsection (1) of section 627.6574, Florida  
3473 Statutes, is amended to read:

3474 627.6574 Maternity care.—

3475 (1) Any group, blanket, or franchise policy of health  
3476 insurance which ~~that~~ provides coverage for maternity care must  
3477 also cover the services of certified nurse-midwives and midwives  
3478 licensed pursuant to chapter 467, and the services of birth  
3479 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

3480 Section 110. Paragraph (j) of subsection (1) of section

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3481 641.185, Florida Statutes, is amended to read:

3482 641.185 Health maintenance organization subscriber  
3483 protections.—

3484 (1) With respect to the provisions of this part and part  
3485 III, the principles expressed in the following statements ~~shall~~  
3486 serve as standards to be followed by the commission, the office,  
3487 the department, and the Agency for Health Care Administration in  
3488 exercising their powers and duties, in exercising administrative  
3489 discretion, in administrative interpretations of the law, in  
3490 enforcing its provisions, and in adopting rules:

3491 ~~(j) A health maintenance organization should receive timely~~  
3492 ~~and, if necessary, urgent review by an independent state~~  
3493 ~~external review organization for unresolved grievances and~~  
3494 ~~appeals pursuant to s. 408.7056.~~

3495 Section 111. Paragraph (a) of subsection (18) of section  
3496 641.31, Florida Statutes, is amended to read:

3497 641.31 Health maintenance contracts.—

3498 (18) (a) Health maintenance contracts that provide coverage,  
3499 benefits, or services for maternity care must provide, as an  
3500 option to the subscriber, the services of nurse-midwives and  
3501 midwives licensed pursuant to chapter 467, and the services of  
3502 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~  
3503 ~~383.335~~, if such services are available within the service area.

3504 Section 112. Section 641.312, Florida Statutes, is amended  
3505 to read:

3506 641.312 Scope.—The Office of Insurance Regulation may adopt  
3507 rules to administer ~~the provisions of~~ the National Association  
3508 of Insurance Commissioners' Uniform Health Carrier External  
3509 Review Model Act, issued by the National Association of

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3510 Insurance Commissioners and dated April 2010. This section does  
3511 not apply to a ~~health maintenance contract that is subject to~~  
3512 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~  
3513 types of benefits or coverages provided under s. 627.6513(1)-  
3514 (14) issued in any market.

3515 Section 113. Subsection (4) of section 641.3154, Florida  
3516 Statutes, is amended to read:

3517 641.3154 Organization liability; provider billing  
3518 prohibited.-

3519 (4) A provider or any representative of a provider,  
3520 regardless of whether the provider is under contract with the  
3521 health maintenance organization, may not collect or attempt to  
3522 collect money from, maintain any action at law against, or  
3523 report to a credit agency a subscriber of an organization for  
3524 payment of services for which the organization is liable, if the  
3525 provider in good faith knows or should know that the  
3526 organization is liable. This prohibition applies during the  
3527 pendency of any claim for payment made by the provider to the  
3528 organization for payment of the services and any legal  
3529 proceedings or dispute resolution process to determine whether  
3530 the organization is liable for the services if the provider is  
3531 informed that such proceedings are taking place. It is presumed  
3532 that a provider does not know and should not know that an  
3533 organization is liable unless:

3534 (a) The provider is informed by the organization that it  
3535 accepts liability;

3536 (b) A court of competent jurisdiction determines that the  
3537 organization is liable; or

3538 ~~(c) The office or agency makes a final determination that~~

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3539 ~~the organization is required to pay for such services subsequent~~  
3540 ~~to a recommendation made by the Subscriber Assistance Panel~~  
3541 ~~pursuant to s. 408.7056; or~~

3542 (c)~~(d)~~ The agency issues a final order that the  
3543 organization is required to pay for such services subsequent to  
3544 a recommendation made by a resolution organization pursuant to  
3545 s. 408.7057.

3546 Section 114. Paragraph (c) of subsection (5) of section  
3547 641.51, Florida Statutes, is amended to read:

3548 641.51 Quality assurance program; second medical opinion  
3549 requirement.-

3550 (5) (c) For second opinions provided by contract physicians  
3551 the organization is prohibited from charging a fee to the  
3552 subscriber in an amount in excess of the subscriber fees  
3553 established by contract for referral contract physicians. The  
3554 organization shall pay the amount of all charges, which are  
3555 usual, reasonable, and customary in the community, for second  
3556 opinion services performed by a physician not under contract  
3557 with the organization, but may require the subscriber to be  
3558 responsible for up to 40 percent of such amount. The  
3559 organization may require that any tests deemed necessary by a  
3560 noncontract physician shall be conducted by the organization.  
3561 The organization may deny reimbursement rights granted under  
3562 this section in the event the subscriber seeks in excess of  
3563 three such referrals per year if such subsequent referral costs  
3564 are deemed by the organization to be evidence that the  
3565 subscriber has unreasonably overutilized the second opinion  
3566 privilege. A subscriber ~~thus~~ denied reimbursement under this  
3567 section has ~~shall have~~ recourse to grievance procedures as

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3568 specified in ss. ~~408.7056~~, 641.495, and 641.511. The  
3569 organization's physician's professional judgment concerning the  
3570 treatment of a subscriber derived after review of a second  
3571 opinion is ~~shall be~~ controlling as to the treatment obligations  
3572 of the health maintenance organization. Treatment not authorized  
3573 by the health maintenance organization is ~~shall be~~ at the  
3574 subscriber's expense.

3575 Section 115. Subsection (1), paragraph (e) of subsection  
3576 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of  
3577 subsection (6), and subsections (7) through (12) of section  
3578 641.511, Florida Statutes, are amended to read:

3579 641.511 Subscriber grievance reporting and resolution  
3580 requirements.—

3581 (1) Every organization must have a grievance procedure  
3582 available to its subscribers for the purpose of addressing  
3583 complaints and grievances. Every organization must notify its  
3584 subscribers that a subscriber must submit a grievance within 1  
3585 year after the date of occurrence of the action that initiated  
3586 the grievance, ~~and may submit the grievance for review to the~~  
3587 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~  
3588 ~~after receiving a final disposition of the grievance through the~~  
3589 ~~organization's grievance process.~~ An organization shall maintain  
3590 records of all grievances and shall report annually to the  
3591 agency the total number of grievances handled, a categorization  
3592 of the cases underlying the grievances, and the final  
3593 disposition of the grievances.

3594 (3) Each organization's grievance procedure, as required  
3595 under subsection (1), must include, at a minimum:

3596 (e) A notice that a subscriber may voluntarily pursue

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3597 binding arbitration in accordance with the terms of the contract  
3598 if offered by the organization, after completing the  
3599 organization's grievance procedure ~~and as an alternative to the~~  
3600 ~~Subscriber Assistance Program~~. Such notice shall include an  
3601 explanation that the subscriber may incur some costs if the  
3602 subscriber pursues binding arbitration, depending upon the terms  
3603 of the subscriber's contract.

3604 (4)

3605 ~~(d) In any case when the review process does not resolve a~~  
3606 ~~difference of opinion between the organization and the~~  
3607 ~~subscriber or the provider acting on behalf of the subscriber,~~  
3608 ~~the subscriber or the provider acting on behalf of the~~  
3609 ~~subscriber may submit a written grievance to the Subscriber~~  
3610 ~~Assistance Program.~~

3611 (6)

3612 ~~(g) In any case when the expedited review process does not~~  
3613 ~~resolve a difference of opinion between the organization and the~~  
3614 ~~subscriber or the provider acting on behalf of the subscriber,~~  
3615 ~~the subscriber or the provider acting on behalf of the~~  
3616 ~~subscriber may submit a written grievance to the Subscriber~~  
3617 ~~Assistance Program.~~

3618 (g)~~(h)~~ An organization shall not provide an expedited  
3619 retrospective review of an adverse determination.

3620 ~~(7) Each organization shall send to the agency a copy of~~  
3621 ~~its quarterly grievance reports submitted to the office pursuant~~  
3622 ~~to s. 408.7056(12).~~

3623 (7)~~(8)~~ The agency shall investigate all reports of  
3624 unresolved quality of care grievances received from:

3625 ~~(a)~~ annual and quarterly grievance reports submitted by the

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3626 organization to the office.

3627 ~~(b) Review requests of subscribers whose grievances remain~~  
3628 ~~unresolved after the subscriber has followed the full grievance~~  
3629 ~~procedure of the organization.~~

3630 ~~(9) (a) The agency shall advise subscribers with grievances~~  
3631 ~~to follow their organization's formal grievance process for~~  
3632 ~~resolution prior to review by the Subscriber Assistance Program.~~  
3633 ~~The subscriber may, however, submit a copy of the grievance to~~  
3634 ~~the agency at any time during the process.~~

3635 ~~(b) Requiring completion of the organization's grievance~~  
3636 ~~process before the Subscriber Assistance Program panel's review~~  
3637 ~~does not preclude the agency from investigating any complaint or~~  
3638 ~~grievance before the organization makes its final determination.~~

3639 ~~(10) Each organization must notify the subscriber in a~~  
3640 ~~final decision letter that the subscriber may request review of~~  
3641 ~~the organization's decision concerning the grievance by the~~  
3642 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~  
3643 ~~the grievance is not resolved to the satisfaction of the~~  
3644 ~~subscriber. The final decision letter must inform the subscriber~~  
3645 ~~that the request for review must be made within 365 days after~~  
3646 ~~receipt of the final decision letter, must explain how to~~  
3647 ~~initiate such a review, and must include the addresses and toll-~~  
3648 ~~free telephone numbers of the agency and the Subscriber~~  
3649 ~~Assistance Program.~~

3650 (8) ~~(11)~~ Each organization, as part of its contract with any  
3651 provider, must require the provider to post a consumer  
3652 assistance notice prominently displayed in the reception area of  
3653 the provider and clearly noticeable by all patients. The  
3654 consumer assistance notice must state the addresses and toll-

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3655 free telephone numbers of the Agency for Health Care  
3656 Administration, ~~the Subscriber Assistance Program,~~ and the  
3657 Department of Financial Services. The consumer assistance notice  
3658 must also clearly state that the address and toll-free telephone  
3659 number of the organization's grievance department shall be  
3660 provided upon request. The agency may adopt rules to implement  
3661 this section.

3662 (9) ~~(12)~~ The agency may impose administrative sanction, in  
3663 accordance with s. 641.52, against an organization for  
3664 noncompliance with this section.

3665 Section 116. Subsection (1) of section 641.515, Florida  
3666 Statutes, is amended to read:

3667 641.515 Investigation by the agency.—

3668 (1) The agency shall investigate further any quality of  
3669 care issue contained in recommendations and reports submitted  
3670 pursuant to s. ss. 408.7056 ~~and~~ 641.511. The agency shall also  
3671 investigate further any information that indicates that the  
3672 organization does not meet accreditation standards or the  
3673 standards of the review organization performing the external  
3674 quality assurance assessment pursuant to reports submitted under  
3675 s. 641.512. Every organization shall submit its books and  
3676 records and take other appropriate action as may be necessary to  
3677 facilitate an examination. The agency shall have access to the  
3678 organization's medical records of individuals and records of  
3679 employed and contracted physicians, with the consent of the  
3680 subscriber or by court order, as necessary to administer ~~carry~~  
3681 ~~out the provisions of this part.~~

3682 Section 117. Subsection (2) of section 641.55, Florida  
3683 Statutes, is amended to read:

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3684 641.55 Internal risk management program.—

3685 (2) The risk management program shall be the responsibility

3686 of the governing authority or board of the organization. Every

3687 organization which has an annual premium volume of \$10 million

3688 or more and which directly provides health care in a building

3689 owned or leased by the organization shall hire a risk manager~~7~~

3690 ~~certified under ss. 395.10971-395.10975~~, who is shall be

3691 responsible for implementation of the organization's risk

3692 management program required by this section. A part-time risk

3693 manager may ~~shall~~ not be responsible for risk management

3694 programs in more than four organizations or facilities. Every

3695 organization that ~~which~~ does not directly provide health care in

3696 a building owned or leased by the organization and every

3697 organization with an annual premium volume of less than \$10

3698 million shall designate an officer or employee of the

3699 organization to serve as the risk manager.

3700

3701 The gross data compiled under this section or s. 395.0197 shall

3702 be furnished by the agency upon request to organizations to be

3703 utilized for risk management purposes. The agency shall adopt

3704 rules necessary to administer ~~carry out the provisions of~~ this

3705 section.

3706 Section 118. Section 641.60, Florida Statutes, is repealed.

3707 Section 119. Section 641.65, Florida Statutes, is repealed.

3708 Section 120. Section 641.67, Florida Statutes, is repealed.

3709 Section 121. Section 641.68, Florida Statutes, is repealed.

3710 Section 122. Section 641.70, Florida Statutes, is repealed.

3711 Section 123. Section 641.75, Florida Statutes, is repealed.

3712 Section 124. Paragraph (b) of subsection (6) of section

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3713 766.118, Florida Statutes, is amended to read:

3714 766.118 Determination of noneconomic damages.—

3715 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A  
3716 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID  
3717 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with  
3718 respect to a cause of action for personal injury or wrongful  
3719 death arising from medical negligence of a practitioner  
3720 committed in the course of providing medical services and  
3721 medical care to a Medicaid recipient, regardless of the number  
3722 of such practitioner defendants providing the services and care,  
3723 noneconomic damages may not exceed \$300,000 per claimant, unless  
3724 the claimant pleads and proves, by clear and convincing  
3725 evidence, that the practitioner acted in a wrongful manner. A  
3726 practitioner providing medical services and medical care to a  
3727 Medicaid recipient is not liable for more than \$200,000 in  
3728 noneconomic damages, regardless of the number of claimants,  
3729 unless the claimant pleads and proves, by clear and convincing  
3730 evidence, that the practitioner acted in a wrongful manner. The  
3731 fact that a claimant proves that a practitioner acted in a  
3732 wrongful manner does not preclude the application of the  
3733 limitation on noneconomic damages prescribed elsewhere in this  
3734 section. For purposes of this subsection:

3735 (b) The term "practitioner," in addition to the meaning  
3736 prescribed in subsection (1), includes any hospital or  
3737 ambulatory surgical center, ~~or mobile surgical facility~~ as  
3738 defined and licensed under chapter 395.

3739 Section 125. Subsection (4) of section 766.202, Florida  
3740 Statutes, is amended to read:

3741 766.202 Definitions; ss. 766.201-766.212.—As used in ss.

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3742 766.201-766.212, the term:

3743 (4) "Health care provider" means any hospital or  
 3744 ambulatory surgical center, ~~or mobile surgical facility~~ as  
 3745 defined and licensed under chapter 395; a birth center licensed  
 3746 under chapter 383; any person licensed under chapter 458,  
 3747 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 3748 part I of chapter 464, chapter 466, chapter 467, part XIV of  
 3749 chapter 468, or chapter 486; ~~a clinical lab licensed under~~  
 3750 ~~chapter 483~~; a health maintenance organization certificated  
 3751 under part I of chapter 641; a blood bank; a plasma center; an  
 3752 industrial clinic; a renal dialysis facility; or a professional  
 3753 association partnership, corporation, joint venture, or other  
 3754 association for professional activity by health care providers.

3755 Section 126. Section 945.36, Florida Statutes, is amended  
 3756 to read:

3757 945.36 ~~Exemption from health testing regulations for Law~~  
 3758 ~~enforcement personnel~~ authorized to conduct ~~conducting~~ drug  
 3759 tests on inmates and releasees.-

3760 (1) Any law enforcement officer, state or county probation  
 3761 officer, employee of the Department of Corrections, or employee  
 3762 of a contracted community correctional center who is certified  
 3763 by the Department of Corrections pursuant to subsection (2) may  
 3764 administer, ~~is exempt from part I of chapter 483, for the~~  
 3765 ~~limited purpose of administering~~ a urine screen drug test to:

- 3766 (a) Persons during incarceration;
- 3767 (b) Persons released as a condition of probation for either  
 3768 a felony or misdemeanor;
- 3769 (c) Persons released as a condition of community control;
- 3770 (d) Persons released as a condition of conditional release;

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- 3771 (e) Persons released as a condition of parole;  
 3772 (f) Persons released as a condition of provisional release;  
 3773 (g) Persons released as a condition of pretrial release; or  
 3774 (h) Persons released as a condition of control release.

3775 (2) The Department of Corrections shall develop a procedure  
 3776 for certification of any law enforcement officer, state or  
 3777 county probation officer, employee of the Department of  
 3778 Corrections, or employee of a contracted community correctional  
 3779 center to perform a urine screen drug test on the persons  
 3780 specified in subsection (1).

3781 Section 127. Paragraph (b) of subsection (2) of section  
 3782 1009.65, Florida Statutes, is amended to read:

3783 1009.65 Medical Education Reimbursement and Loan Repayment  
 3784 Program.—

3785 (2) From the funds available, the Department of Health  
 3786 shall make payments to selected medical professionals as  
 3787 follows:

3788 (b) All payments are ~~shall be~~ contingent on continued proof  
 3789 of primary care practice in an area defined in s. 395.602(2)(b)  
 3790 ~~s. 395.602(2)(e)~~, or an underserved area designated by the  
 3791 Department of Health, provided the practitioner accepts Medicaid  
 3792 reimbursement if eligible for such reimbursement. Correctional  
 3793 facilities, state hospitals, and other state institutions that  
 3794 employ medical personnel shall be designated by the Department  
 3795 of Health as underserved locations. Locations with high  
 3796 incidences of infant mortality, high morbidity, or low Medicaid  
 3797 participation by health care professionals may be designated as  
 3798 underserved.

3799 Section 128. Subsection (2) of section 1011.52, Florida

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3800 Statutes, is amended to read:

3801 1011.52 Appropriation to first accredited medical school.—

3802 (2) In order for a medical school to qualify under ~~the~~  
3803 ~~provisions of~~ this section and to be entitled to the benefits  
3804 herein, such medical school:

3805 (a) Must be primarily operated and established to offer,  
3806 afford, and render a medical education to residents of the state  
3807 qualifying for admission to such institution;

3808 (b) Must be operated by a municipality or county of this  
3809 state, or by a nonprofit organization heretofore or hereafter  
3810 established exclusively for educational purposes;

3811 (c) Must, upon the formation and establishment of an  
3812 accredited medical school, transmit and file with the Department  
3813 of Education documentary proof evidencing the facts that such  
3814 institution has been certified and approved by the council on  
3815 medical education and hospitals of the American Medical  
3816 Association and has adequately met the requirements of that  
3817 council in regard to its administrative facilities,  
3818 administrative plant, clinical facilities, curriculum, and all  
3819 other such requirements as may be necessary to qualify with the  
3820 council as a recognized, approved, and accredited medical  
3821 school;

3822 (d) Must certify to the Department of Education the name,  
3823 address, and educational history of each student approved and  
3824 accepted for enrollment in such institution for the ensuing  
3825 school year; and

3826 (e) Must have in place an operating agreement with a  
3827 government-owned hospital that is located in the same county as  
3828 the medical school and that is a statutory teaching hospital as

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3829 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement  
3830 must ~~shall~~ provide for the medical school to maintain the same  
3831 level of affiliation with the hospital, including the level of  
3832 services to indigent and charity care patients served by the  
3833 hospital, which was in place in the prior fiscal year. Each  
3834 year, documentation demonstrating that an operating agreement is  
3835 in effect shall be submitted jointly to the Department of  
3836 Education by the hospital and the medical school prior to the  
3837 payment of moneys from the annual appropriation.

3838 Section 129. This act shall take effect July 1, 2018.