

1 A bill to be entitled

2 An act relating to health care services rulemaking;
3 amending s. 390.012, F.S.; revising rulemaking
4 authority relating to the operation of certain
5 abortion clinics; amending s. 400.021, F.S.; revising
6 the definition of the term "nursing home bed" to
7 remove rulemaking authority for determining minimum
8 space requirements for nursing home beds; amending s.
9 400.0712, F.S.; removing rulemaking authority relating
10 to inactive nursing home facility licenses; amending
11 s. 400.23, F.S.; revising general rulemaking authority
12 relating to nursing homes and certain health care
13 providers; amending s. 400.487, F.S.; removing
14 rulemaking authority relating to orders not to
15 resuscitate presented to home health agency personnel;
16 amending s. 400.497, F.S.; revising rulemaking
17 authority relating to the Home Health Services Act;
18 amending s. 400.506, F.S.; removing rulemaking
19 authority relating to the licensure of nurse
20 registries and the establishment of certain emergency
21 management plans; amending s. 400.509, F.S.; removing
22 rulemaking authority relating to registration of
23 certain companion services and homemaker services;
24 amending s. 400.6095, F.S.; removing rulemaking
25 authority relating to orders not to resuscitate
26 presented to a hospice care team; amending s. 400.914,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 F.S.; revising rulemaking authority relating to
28 standards for prescribed pediatric extended care
29 (PPEC) centers; removing rulemaking authority relating
30 to certain limitations on PPEC centers; creating s.
31 400.9141, F.S.; providing limitations on PPEC centers;
32 amending s. 400.934, F.S.; revising rulemaking
33 authority relating to the preparation of emergency
34 managements plans by home medical equipment providers;
35 amending s. 400.935, F.S.; revising rulemaking
36 authority relating to minimum standards for home
37 medical equipment providers; amending s. 400.962,
38 F.S.; removing rulemaking authority relating to
39 certain standards for active treatment by intermediate
40 care facilities for the developmentally disabled;
41 amending s. 400.967, F.S.; revising rulemaking
42 authority relating to the construction of, the
43 preparation of emergency management plans by, and the
44 classification of deficiencies of intermediate care
45 facilities for the developmentally disabled;
46 amending s. 400.980, F.S.; removing rulemaking
47 authority relating to the registration of health care
48 services pools; amending s. 409.912, F.S.; removing
49 rulemaking authority relating to Medicaid provider
50 lock-in programs; amending s. 429.255, F.S.; removing
51 rulemaking authority relating to orders not to
52 resuscitate presented to assisted living facility

53 staff and the use of automated external
54 defibrillators; amending s. 429.73, F.S.; removing
55 rulemaking authority relating to orders not to
56 resuscitate presented to adult family-care home
57 providers; amending s. 440.102, F.S.; removing
58 rulemaking authority relating to certain guidelines
59 for drug-free workplace laboratories; amending s.
60 483.245, F.S.; revising rulemaking authority relating
61 to the imposition of certain administrative penalties
62 against clinical laboratories; amending s. 765.541,
63 F.S.; revising rulemaking authority relating to
64 standards and guidelines for certain organ donation
65 programs; amending s. 765.544, F.S., removing
66 rulemaking authority relating to administrative
67 penalties for violations with respect to organ and
68 tissue donations; providing an effective date.

69
70 WHEREAS, rulemaking is not a matter of agency discretion;
71 rulemaking authority is delegated by the Legislature for
72 agencies to adopt statements of general applicability that
73 interpret or implement law; the valid adoption of a rule
74 requires both a grant of express rulemaking authority and a
75 specific law to be implemented or interpreted, and

76 WHEREAS, the repeal or deletion of a redundant or
77 unnecessary provision authorizing agency rulemaking does not
78 repeal rulemaking authority otherwise provided that clearly

79 applies to the same subject, and

80 WHEREAS, statutory provisions mandating rules, when the
 81 substantive law otherwise would be implemented either without
 82 need for administrative rules or by rulemaking under a broader
 83 grant of authority, may be repealed without altering the
 84 substantive law or rulemaking authority on which existing rules
 85 rely, NOW THEREFORE

86

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

88

89 Section 1. Paragraph (d) of subsection (3) of section
 90 390.012, Florida Statutes, is amended to read:

91 390.012 Powers of agency; rules; disposal of fetal
 92 remains.—

93 (3) For clinics that perform or claim to perform abortions
 94 after the first trimester of pregnancy, the agency shall adopt
 95 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 96 provisions of this chapter, including the following:

97 (d) Rules relating to the medical screening and evaluation
 98 of each abortion clinic patient. At a minimum, these rules shall
 99 require:

100 1. A medical history, including reported allergies to
 101 medications, antiseptic solutions, or latex; past surgeries; and
 102 an obstetric and gynecological history.

103 2. A physical examination, including a bimanual
 104 examination estimating uterine size and palpation of the adnexa.

- 105 3. The appropriate laboratory tests, including:
- 106 a. Urine or blood tests for pregnancy performed before the
- 107 abortion procedure.
- 108 b. A test for anemia.
- 109 c. Rh typing, unless reliable written documentation of
- 110 blood type is available.
- 111 d. Other tests as indicated from the physical examination.

112 4. An ultrasound evaluation for all patients. The rules

113 shall require that if a person who is not a physician performs

114 an ultrasound examination, that person shall have documented

115 evidence that he or she has completed a course in the operation

116 of ultrasound equipment as prescribed in rule. ~~The rules shall~~

117 ~~require clinics to be in compliance with s. 390.0111.~~

118 5. That the physician is responsible for estimating the

119 gestational age of the fetus based on the ultrasound examination

120 and obstetric standards in keeping with established standards of

121 care regarding the estimation of fetal age as defined in rule

122 and shall write the estimate in the patient's medical history.

123 The physician shall keep original prints of each ultrasound

124 examination of a patient in the patient's medical history file.

125 Section 2. Subsection (11) of section 400.021, Florida

126 Statutes, is amended to read:

127 400.021 Definitions.—When used in this part, unless the

128 context otherwise requires, the term:

129 (11) "Nursing home bed" means an accommodation that ~~which~~

130 is ready for immediate occupancy, or is capable of being made

131 ready for occupancy within 48 hours, excluding provision of
 132 staffing; and that ~~which~~ conforms to minimum space requirements,
 133 including the availability of appropriate equipment and
 134 furnishings within the 48 hours, as specified by ~~rule of~~ the
 135 agency, for the provision of services specified in this part to
 136 a single resident.

137 Section 3. Subsection (3) of section 400.0712, Florida
 138 Statutes, is amended to read:

139 400.0712 Application for inactive license.—

140 ~~(3) The agency shall adopt rules pursuant to ss.~~
 141 ~~120.536(1) and 120.54 necessary to implement this section.~~

142 Section 4. Subsection (2), paragraph (a) of subsection
 143 (3), subsections (4) and (5), paragraph (e) of subsection (7),
 144 and subsection (8) of section 400.23, Florida Statutes, are
 145 amended to read:

146 400.23 Rules; evaluation and deficiencies; licensure
 147 status.—

148 (2) Pursuant to the intention of the Legislature, the
 149 agency, in consultation with the Department of Health and the
 150 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules
 151 to implement this part and part II of chapter 408. The rules,
 152 ~~which~~ shall include, but need not be limited to, reasonable and
 153 fair criteria in relation to:

154 (a) The location of the facility and housing conditions
 155 that will ensure the health, safety, and comfort of residents,
 156 including an adequate call system. In making such rules, the

157 agency shall be guided by criteria recommended by nationally
158 recognized reputable professional groups and associations with
159 knowledge of such subject matters. The agency shall update or
160 revise such criteria as the need arises. The agency may require
161 alterations to a building if it determines that an existing
162 condition constitutes a distinct hazard to life, health, or
163 safety. In performing any inspections of facilities authorized
164 by this part or part II of chapter 408, the agency may enforce
165 the special-occupancy provisions of the Florida Building Code
166 and the Florida Fire Prevention Code which apply to nursing
167 homes. Residents or their representatives shall be able to
168 request a change in the placement of the bed in their room,
169 provided that at admission they are presented with a room that
170 meets requirements of the Florida Building Code. The location of
171 a bed may be changed if the requested placement does not
172 infringe on the resident's roommate or interfere with the
173 resident's care or safety as determined by the care planning
174 team in accordance with facility policies and procedures. In
175 addition, the bed placement may not be used as a restraint. Each
176 facility shall maintain a log of resident rooms with beds that
177 are not in strict compliance with the Florida Building Code in
178 order for such log to be used by surveyors and nurse monitors
179 during inspections and visits. A resident or resident
180 representative who requests that a bed be moved shall sign a
181 statement indicating that he or she understands the room will
182 not be in compliance with the Florida Building Code, but they

183 would prefer to exercise their right to self-determination. The
184 statement must be retained as part of the resident's care plan.
185 Any facility that offers this option must submit a letter signed
186 by the nursing home administrator of record to the agency
187 notifying it of this practice with a copy of the policies and
188 procedures of the facility. The agency is directed to provide
189 assistance to the Florida Building Commission in updating the
190 construction standards of the code relative to nursing homes.

191 (b) The number and qualifications of all personnel,
192 including management, medical, nursing, and other professional
193 personnel, and nursing assistants, orderlies, and support
194 personnel, having responsibility for any part of the care given
195 residents.

196 (c) All sanitary conditions within the facility and its
197 surroundings, including water supply, sewage disposal, food
198 handling, and general hygiene which will ensure the health and
199 comfort of residents.

200 (d) The equipment essential to the health and welfare of
201 the residents.

202 (e) A uniform accounting system.

203 (f) The care, treatment, and maintenance of residents and
204 measurement of the quality and adequacy thereof, based on rules
205 developed under this chapter and the Omnibus Budget
206 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
207 1987), Title IV (Medicare, Medicaid, and Other Health-Related
208 Programs), Subtitle C (Nursing Home Reform), as amended.

209 (g) The preparation and annual update of a comprehensive
 210 emergency management plan. The agency shall establish ~~adopt~~
 211 ~~rules establishing~~ minimum criteria for the plan after
 212 consultation with the Division of Emergency Management. At a
 213 minimum, ~~the rules must provide for~~ plan components shall
 214 provide for ~~that address~~ emergency evacuation transportation;
 215 adequate sheltering arrangements; postdisaster activities,
 216 including emergency power, food, and water; postdisaster
 217 transportation; supplies; staffing; emergency equipment;
 218 individual identification of residents and transfer of records;
 219 and responding to family inquiries. The comprehensive emergency
 220 management plan is subject to review and approval by the local
 221 emergency management agency. During its review, the local
 222 emergency management agency shall ensure that the following
 223 agencies, at a minimum, are given the opportunity to review the
 224 plan: the Department of Elderly Affairs, the Department of
 225 Health, the Agency for Health Care Administration, and the
 226 Division of Emergency Management. Also, appropriate volunteer
 227 organizations must be given the opportunity to review the plan.
 228 The local emergency management agency shall complete its review
 229 within 60 days and either approve the plan or advise the
 230 facility of necessary revisions.

231 (h) The availability, distribution, and posting of reports
 232 and records pursuant to s. 400.191 and the Gold Seal Program
 233 pursuant to s. 400.235.

234 (3) (a) 1. The agency shall enforce ~~adopt rules providing~~

235 minimum staffing requirements for nursing home facilities that-
 236 ~~These requirements~~ must include, for each facility:

237 a. A minimum weekly average of certified nursing assistant
 238 and licensed nursing staffing combined of 3.6 hours of direct
 239 care per resident per day. As used in this sub-subparagraph, a
 240 week is defined as Sunday through Saturday.

241 b. A minimum certified nursing assistant staffing of 2.5
 242 hours of direct care per resident per day. A facility may not
 243 staff below one certified nursing assistant per 20 residents.

244 c. A minimum licensed nursing staffing of 1.0 hour of
 245 direct care per resident per day. A facility may not staff below
 246 one licensed nurse per 40 residents.

247 2. Nursing assistants employed under s. 400.211(2) may be
 248 included in computing the staffing ratio for certified nursing
 249 assistants if their job responsibilities include only nursing-
 250 assistant-related duties.

251 3. Each nursing home facility must document compliance
 252 with staffing standards as required under this paragraph and
 253 post daily the names of staff on duty for the benefit of
 254 facility residents and the public.

255 4. The agency shall recognize the use of licensed nurses
 256 for compliance with minimum staffing requirements for certified
 257 nursing assistants if the nursing home facility otherwise meets
 258 the minimum staffing requirements for licensed nurses and the
 259 licensed nurses are performing the duties of a certified nursing
 260 assistant. Unless otherwise approved by the agency, licensed

261 nurses counted toward the minimum staffing requirements for
 262 certified nursing assistants must exclusively perform the duties
 263 of a certified nursing assistant for the entire shift and not
 264 also be counted toward the minimum staffing requirements for
 265 licensed nurses. If the agency approved a facility's request to
 266 use a licensed nurse to perform both licensed nursing and
 267 certified nursing assistant duties, the facility must allocate
 268 the amount of staff time specifically spent on certified nursing
 269 assistant duties for the purpose of documenting compliance with
 270 minimum staffing requirements for certified and licensed nursing
 271 staff. The hours of a licensed nurse with dual job
 272 responsibilities may not be counted twice.

273 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~
 274 not restrict the use of shared staffing and shared programming
 275 in facilities that ~~which~~ are part of retirement communities that
 276 provide multiple levels of care and otherwise meet the
 277 requirement of law or rule.

278 (5) (a) The agency, in collaboration with the Division of
 279 Children's Medical Services of the Department of Health, may
 280 establish ~~must adopt rules for:~~

281 ~~(a)~~ minimum standards of care for persons under 21 years
 282 of age who reside in nursing home facilities. A facility may be
 283 exempted from these standards and the requirements of paragraph
 284 (b) for specific persons between 18 and 21 years of age, if the
 285 person's physician agrees that minimum standards of care based
 286 on age are not necessary.

287 (b) The following ~~Minimum~~ staffing requirements for
 288 persons under 21 years of age who reside in nursing home
 289 facilities, ~~which~~ apply in lieu of the requirements contained in
 290 subsection (3) :-

291 1. For persons under 21 years of age who require skilled
 292 care:

293 a. A minimum combined average of 3.9 hours of direct care
 294 per resident per day must be provided by licensed nurses,
 295 respiratory therapists, respiratory care practitioners, and
 296 certified nursing assistants.

297 b. A minimum licensed nursing staffing of 1.0 hour of
 298 direct care per resident per day must be provided.

299 c. No more than 1.5 hours of certified nursing assistant
 300 care per resident per day may be counted in determining the
 301 minimum direct care hours required.

302 d. One registered nurse must be on duty on the site 24
 303 hours per day on the unit where children reside.

304 2. For persons under 21 years of age who are medically
 305 fragile:

306 a. A minimum combined average of 5.0 hours of direct care
 307 per resident per day must be provided by licensed nurses,
 308 respiratory therapists, respiratory care practitioners, and
 309 certified nursing assistants.

310 b. A minimum licensed nursing staffing of 1.7 hours of
 311 direct care per resident per day must be provided.

312 c. No more than 1.5 hours of certified nursing assistant

313 care per resident per day may be counted in determining the
 314 minimum direct care hours required.

315 d. One registered nurse must be on duty on the site 24
 316 hours per day on the unit where children reside.

317 (7) The agency shall, at least every 15 months, evaluate
 318 all nursing home facilities and make a determination as to the
 319 degree of compliance by each licensee with the established rules
 320 adopted under this part as a basis for assigning a licensure
 321 status to that facility. The agency shall base its evaluation on
 322 the most recent inspection report, taking into consideration
 323 findings from other official reports, surveys, interviews,
 324 investigations, and inspections. In addition to license
 325 categories authorized under part II of chapter 408, the agency
 326 shall assign a licensure status of standard or conditional to
 327 each nursing home.

328 (e) The agency shall ~~adopt rules that:~~

329 1. Establish uniform procedures for the evaluation of
 330 facilities.

331 2. Provide criteria in the areas referenced in paragraph
 332 (c).

333 3. Address other areas necessary for carrying out the
 334 intent of this section.

335 (8) The agency shall ensure that ~~adopt rules pursuant to~~
 336 ~~this part and part II of chapter 408 to provide that,~~ when the
 337 criteria established under subsection (2) are not met, such
 338 deficiencies shall be classified according to the nature and the

339 scope of the deficiency. The scope shall be cited as isolated,
340 patterned, or widespread. An isolated deficiency is a deficiency
341 affecting one or a very limited number of residents, or
342 involving one or a very limited number of staff, or a situation
343 that occurred only occasionally or in a very limited number of
344 locations. A patterned deficiency is a deficiency where more
345 than a very limited number of residents are affected, or more
346 than a very limited number of staff are involved, or the
347 situation has occurred in several locations, or the same
348 resident or residents have been affected by repeated occurrences
349 of the same deficient practice but the effect of the deficient
350 practice is not found to be pervasive throughout the facility. A
351 widespread deficiency is a deficiency in which the problems
352 causing the deficiency are pervasive in the facility or
353 represent systemic failure that has affected or has the
354 potential to affect a large portion of the facility's residents.
355 The agency shall indicate the classification on the face of the
356 notice of deficiencies as follows:

357 (a) A class I deficiency is a deficiency that the agency
358 determines presents a situation in which immediate corrective
359 action is necessary because the facility's noncompliance has
360 caused, or is likely to cause, serious injury, harm, impairment,
361 or death to a resident receiving care in a facility. The
362 condition or practice constituting a class I violation shall be
363 abated or eliminated immediately, unless a fixed period of time,
364 as determined by the agency, is required for correction. A class

365 I deficiency is subject to a civil penalty of \$10,000 for an
366 isolated deficiency, \$12,500 for a patterned deficiency, and
367 \$15,000 for a widespread deficiency. The fine amount shall be
368 doubled for each deficiency if the facility was previously cited
369 for one or more class I or class II deficiencies during the last
370 licensure inspection or any inspection or complaint
371 investigation since the last licensure inspection. A fine must
372 be levied notwithstanding the correction of the deficiency.

373 (b) A class II deficiency is a deficiency that the agency
374 determines has compromised the resident's ability to maintain or
375 reach his or her highest practicable physical, mental, and
376 psychosocial well-being, as defined by an accurate and
377 comprehensive resident assessment, plan of care, and provision
378 of services. A class II deficiency is subject to a civil penalty
379 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
380 deficiency, and \$7,500 for a widespread deficiency. The fine
381 amount shall be doubled for each deficiency if the facility was
382 previously cited for one or more class I or class II
383 deficiencies during the last licensure inspection or any
384 inspection or complaint investigation since the last licensure
385 inspection. A fine shall be levied notwithstanding the
386 correction of the deficiency.

387 (c) A class III deficiency is a deficiency that the agency
388 determines will result in no more than minimal physical, mental,
389 or psychosocial discomfort to the resident or has the potential
390 to compromise the resident's ability to maintain or reach his or

391 her highest practical physical, mental, or psychosocial well-
392 being, as defined by an accurate and comprehensive resident
393 assessment, plan of care, and provision of services. A class III
394 deficiency is subject to a civil penalty of \$1,000 for an
395 isolated deficiency, \$2,000 for a patterned deficiency, and
396 \$3,000 for a widespread deficiency. The fine amount shall be
397 doubled for each deficiency if the facility was previously cited
398 for one or more class I or class II deficiencies during the last
399 licensure inspection or any inspection or complaint
400 investigation since the last licensure inspection. A citation
401 for a class III deficiency must specify the time within which
402 the deficiency is required to be corrected. If a class III
403 deficiency is corrected within the time specified, a civil
404 penalty may not be imposed.

405 (d) A class IV deficiency is a deficiency that the agency
406 determines has the potential for causing no more than a minor
407 negative impact on the resident. If the class IV deficiency is
408 isolated, no plan of correction is required.

409 Section 5. Subsection (7) of section 400.487, Florida
410 Statutes, is amended to read:

411 400.487 Home health service agreements; physician's,
412 physician assistant's, and advanced registered nurse
413 practitioner's treatment orders; patient assessment;
414 establishment and review of plan of care; provision of services;
415 orders not to resuscitate.-

416 (7) Home health agency personnel may withhold or withdraw

417 cardiopulmonary resuscitation if presented with an order not to
418 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
419 ~~adopt rules providing for the implementation of such orders.~~
420 Home health personnel and agencies shall not be subject to
421 criminal prosecution or civil liability, nor be considered to
422 have engaged in negligent or unprofessional conduct, for
423 withholding or withdrawing cardiopulmonary resuscitation
424 pursuant to such an order ~~and rules adopted by the agency.~~

425 Section 6. Section 400.497, Florida Statutes, is amended
426 to read:

427 400.497 Rules establishing minimum standards.—The agency
428 may shall ~~adopt, publish, and enforce~~ rules to implement part II
429 of chapter 408 and this part, including the agency's duties and
430 responsibilities under, as applicable, ss. 400.506 and 400.509.
431 The rules shall include, but need not be limited to, which must
432 provide reasonable and fair minimum standards relating to:

433 (1) The home health aide competency test and home health
434 aide training. The agency shall create the home health aide
435 competency test and establish the curriculum and instructor
436 qualifications for home health aide training. Licensed home
437 health agencies may provide this training and shall furnish
438 documentation of such training to other licensed home health
439 agencies upon request. Successful passage of the competency test
440 by home health aides may be substituted for the training
441 required under this section and any rule adopted pursuant
442 thereto.

443 (2) Shared staffing. ~~The agency shall allow~~ Shared
 444 staffing is permitted if the home health agency is part of a
 445 retirement community that provides multiple levels of care, is
 446 located on one campus, is licensed under this chapter or chapter
 447 429, and otherwise meets the requirements of law and rule.

448 (3) The criteria for the frequency of onsite licensure
 449 surveys.

450 (4) Licensure application and renewal.

451 (5) Oversight by the director of nursing, including. ~~The~~
 452 ~~agency shall develop rules related to:~~

453 (a) Standards that address oversight responsibilities by
 454 the director of nursing of skilled nursing and personal care
 455 services provided by the home health agency's staff;

456 (b) Requirements for a director of nursing to provide to
 457 the agency, upon request, a certified daily report of the home
 458 health services provided by a specified direct employee or
 459 contracted staff member on behalf of the home health agency. The
 460 agency may request a certified daily report only for a period
 461 not to exceed 2 years before ~~prior to~~ the date of the request;
 462 and

463 (c) A quality assurance program for home health services
 464 provided by the home health agency.

465 (6) Conditions for using a recent unannounced licensure
 466 inspection for the inspection required in s. 408.806 related to
 467 a licensure application associated with a change in ownership of
 468 a licensed home health agency.

469 (7) The requirements for onsite and electronic
 470 accessibility of supervisory personnel of home health agencies.

471 (8) Information to be included in patients' records.

472 (9) Geographic service areas.

473 (10) Preparation of a comprehensive emergency management
 474 plan pursuant to s. 400.492.

475 ~~(a) The Agency for Health Care Administration shall adopt~~
 476 ~~rules establishing minimum criteria for the plan and plan~~
 477 ~~updates, with the concurrence of the Department of Health and in~~
 478 ~~consultation with the Division of Emergency Management.~~

479 (a)(b) An emergency plan ~~The rules must address the~~
 480 ~~requirements in s. 400.492. In addition, the rules shall provide~~
 481 for the maintenance of patient-specific medication lists that
 482 can accompany patients who are transported from their homes.

483 (b)(e) ~~The plan is subject to review and approval by the~~
 484 county health department. During its review, the county health
 485 department shall contact state and local health and medical
 486 stakeholders when necessary. The county health department shall
 487 complete its review to ensure that the plan complies ~~is in~~
 488 ~~accordance with the requirements of law~~ criteria in the Agency
 489 ~~for Health Care Administration rules~~ within 90 days after
 490 receipt of the plan and shall approve the plan or advise the
 491 home health agency of necessary revisions. If the home health
 492 agency fails to submit a plan or fails to submit the requested
 493 information or revisions to the county health department within
 494 30 days after written notification from the county health

495 department, the county health department shall notify the Agency
496 for Health Care Administration. The agency shall notify the home
497 health agency that its failure constitutes a deficiency, subject
498 to a fine of \$5,000 per occurrence. If the plan is not
499 submitted, information is not provided, or revisions are not
500 made as requested, the agency may impose the fine.

501 (c)~~(d)~~ For any home health agency that operates in more
502 than one county, the Department of Health shall review the plan,
503 after consulting with state and local health and medical
504 stakeholders when necessary. The department shall complete its
505 review within 90 days after receipt of the plan and shall
506 approve the plan or advise the home health agency of necessary
507 revisions. The department shall make every effort to avoid
508 imposing differing requirements on a home health agency that
509 operates in more than one county as a result of differing or
510 conflicting comprehensive plan requirements of the counties in
511 which the home health agency operates.

512 (d)~~(e)~~ The requirements in this subsection do not apply
513 to:

514 1. A facility that is certified under chapter 651 and has
515 a licensed home health agency used exclusively by residents of
516 the facility; or

517 2. A retirement community that consists of residential
518 units for independent living and either a licensed nursing home
519 or an assisted living facility, and has a licensed home health
520 agency used exclusively by the residents of the retirement

521 community, provided the comprehensive emergency management plan
 522 for the facility or retirement community provides for continuous
 523 care of all residents with special needs during an emergency.

524 Section 7. Paragraph (f) of subsection (12) and subsection
 525 (17) of section 400.506, Florida Statutes, are amended to read:

526 400.506 Licensure of nurse registries; requirements;
 527 penalties.—

528 (12) Each nurse registry shall prepare and maintain a
 529 comprehensive emergency management plan that is consistent with
 530 the criteria in this subsection and with the local special needs
 531 plan. The plan shall be updated annually. The plan shall include
 532 the means by which the nurse registry will continue to provide
 533 the same type and quantity of services to its patients who
 534 evacuate to special needs shelters which were being provided to
 535 those patients prior to evacuation. The plan shall specify how
 536 the nurse registry shall facilitate the provision of continuous
 537 care by persons referred for contract to persons who are
 538 registered pursuant to s. 252.355 during an emergency that
 539 interrupts the provision of care or services in private
 540 residences. Nurse registries may establish links to local
 541 emergency operations centers to determine a mechanism by which
 542 to approach specific areas within a disaster area in order for a
 543 provider to reach its clients. Nurse registries shall
 544 demonstrate a good faith effort to comply with the requirements
 545 of this subsection by documenting attempts of staff to follow
 546 procedures outlined in the nurse registry's comprehensive

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547 emergency management plan which support a finding that the
548 provision of continuing care has been attempted for patients
549 identified as needing care by the nurse registry and registered
550 under s. 252.355 in the event of an emergency under this
551 subsection.

552 ~~(f) The Agency for Health Care Administration shall adopt~~
553 ~~rules establishing minimum criteria for the comprehensive~~
554 ~~emergency management plan and plan updates required by this~~
555 ~~subsection, with the concurrence of the Department of Health and~~
556 ~~in consultation with the Division of Emergency Management.~~

557 ~~(17) The Agency for Health Care Administration shall adopt~~
558 ~~rules to implement this section and part II of chapter 408.~~

559 Section 8. Subsection (7) of section 400.509, Florida
560 Statutes, is amended to read:

561 400.509 Registration of particular service providers
562 exempt from licensure; certificate of registration; regulation
563 of registrants.—

564 ~~(7) The Agency for Health Care Administration shall adopt~~
565 ~~rules to administer this section and part II of chapter 408.~~

566 Section 9. Subsection (8) of section 400.6095, Florida
567 Statutes, is amended to read:

568 400.6095 Patient admission; assessment; plan of care;
569 discharge; death.—

570 (8) The hospice care team may withhold or withdraw
571 cardiopulmonary resuscitation if presented with an order not to
572 resuscitate executed pursuant to s. 401.45. ~~The department shall~~

573 ~~adopt rules providing for the implementation of such orders.~~
 574 Hospice staff shall not be subject to criminal prosecution or
 575 civil liability, nor be considered to have engaged in negligent
 576 or unprofessional conduct, for withholding or withdrawing
 577 cardiopulmonary resuscitation pursuant to such an order and
 578 applicable rules. The absence of an order to resuscitate
 579 executed pursuant to s. 401.45 does not preclude a physician
 580 from withholding or withdrawing cardiopulmonary resuscitation as
 581 otherwise permitted by law.

582 Section 10. Section 400.914, Florida Statutes, is amended
 583 to read:

584 400.914 Rulemaking; Rules establishing standards.—

585 ~~(1)~~ Pursuant to the intention of the Legislature to
 586 provide safe and sanitary facilities and healthful programs, the
 587 agency in conjunction with the Division of Children's Medical
 588 Services of the Department of Health may ~~shall~~ adopt ~~and publish~~
 589 rules to implement the provisions of this part and part II of
 590 chapter 408, ~~which shall include reasonable and fair standards.~~
 591 Any conflict between these rules standards and those standards
 592 that may be set forth in local, county, or city ordinances shall
 593 be resolved in favor of those having statewide effect. The rules
 594 shall include, but need not be limited to, reasonable and fair
 595 standards relating ~~Such standards shall relate~~ to:

596 (1)(a) The assurance that PPEC services are family
 597 centered and provide individualized medical, developmental, and
 598 family training services.

599 (2) ~~(b)~~ The maintenance of PPEC centers, not in conflict
600 with the provisions of chapter 553 and based upon the size of
601 the structure and number of children, relating to plumbing,
602 heating, lighting, ventilation, and other building conditions,
603 including adequate space, which will ensure the health, safety,
604 comfort, and protection from fire of the children served.

605 (c) The appropriate provisions of the most recent edition
606 of the "Life Safety Code" (NFPA-101) shall be applied.

607 (d) The number and qualifications of all personnel who
608 have responsibility for the care of the children served.

609 (e) All sanitary conditions within the PPEC center and its
610 surroundings, including water supply, sewage disposal, food
611 handling, and general hygiene, and maintenance thereof, which
612 will ensure the health and comfort of children served.

613 (f) Programs and basic services promoting and maintaining
614 the health and development of the children served and meeting
615 the training needs of the children's legal guardians.

616 (g) Supportive, contracted, other operational, and
617 transportation services.

618 (h) Maintenance of appropriate medical records, data, and
619 information relative to the children and programs. Such records
620 shall be maintained in the facility for inspection by the
621 agency.

622 ~~(2) The agency shall adopt rules to ensure that:~~

623 ~~(a) No child attends a PPEC center for more than 12 hours~~
624 ~~within a 24-hour period.~~

625 ~~(b) No PPEC center provides services other than those~~
 626 ~~provided to medically or technologically dependent children.~~

627 Section 11. Section 400.9141, Florida Statutes, is created
 628 to read:

629 400.9141 Limitations.-

630 (1) A child may not attend a PPEC center for more than 12
 631 hours within a 24-hour period.

632 (2) A PPEC center may only provide those services that are
 633 provided to medically or technologically dependent children.

634 Section 12. Paragraph (a) of subsection (20) of section
 635 400.934, Florida Statutes, is amended to read:

636 400.934 Minimum standards.-As a requirement of licensure,
 637 home medical equipment providers shall:

638 (20) (a) Prepare and maintain a comprehensive emergency
 639 management plan that meets minimum criteria established by
 640 agency rule, including the maintenance of patient equipment and
 641 supply lists that can accompany patients who are transported
 642 from their homes. Such rules shall be formulated in consultation
 643 with the Department of Health and the Division of Emergency

644 Management ~~under s. 400.935~~. The plan shall be updated annually
 645 and shall provide for continuing home medical equipment services
 646 for life-supporting or life-sustaining equipment, as defined in
 647 s. 400.925, during an emergency that interrupts home medical
 648 equipment services in a patient's home. The plan shall include:

649 1. The means by which the home medical equipment provider
 650 will continue to provide equipment to perform the same type and

651 quantity of services to its patients who evacuate to special
652 needs shelters which were being provided to those patients prior
653 to evacuation.

654 2. The means by which the home medical equipment provider
655 establishes and maintains an effective response to emergencies
656 and disasters, including plans for:

657 a. Notification of staff when emergency response measures
658 are initiated.

659 b. Communication between staff members, county health
660 departments, and local emergency management agencies, which
661 includes provisions for a backup communications system.

662 c. Identification of resources necessary to continue
663 essential care or services or referrals to other organizations
664 subject to written agreement.

665 d. Contacting and prioritizing patients in need of
666 continued medical equipment services and supplies.

667 Section 13. Section 400.935, Florida Statutes, is amended
668 to read:

669 400.935 Rulemaking authority ~~Rules establishing minimum~~
670 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules
671 necessary to implement this part and part II of chapter 408. ~~r~~
672 ~~which must provide reasonable and fair minimum standards~~
673 ~~relating to:~~

674 ~~(1) The qualifications and minimum training requirements~~
675 ~~of all home medical equipment provider personnel.~~

676 ~~(2) Financial ability to operate.~~

677 ~~(3) The administration of the home medical equipment~~
 678 ~~provider.~~

679 ~~(4) Procedures for maintaining patient records.~~

680 ~~(5) Ensuring that the home medical equipment and services~~
 681 ~~provided by a home medical equipment provider are in accordance~~
 682 ~~with the plan of treatment established for each patient, when~~
 683 ~~provided as a part of a plan of treatment.~~

684 ~~(6) Contractual arrangements for the provision of home~~
 685 ~~medical equipment and services by providers not employed by the~~
 686 ~~home medical equipment provider providing for the consumer's~~
 687 ~~needs.~~

688 ~~(7) Physical location and zoning requirements.~~

689 ~~(8) Home medical equipment requiring home medical~~
 690 ~~equipment services.~~

691 ~~(9) Preparation of the comprehensive emergency management~~
 692 ~~plan under s. 400.934 and the establishment of minimum criteria~~
 693 ~~for the plan, including the maintenance of patient equipment and~~
 694 ~~supply lists that can accompany patients who are transported~~
 695 ~~from their homes. Such rules shall be formulated in consultation~~
 696 ~~with the Department of Health and the Division of Emergency~~
 697 ~~Management.~~

698 Section 14. Subsection (5) of section 400.962, Florida
 699 Statutes, is amended to read:

700 400.962 License required; license application.-

701 (5) The applicant must agree to provide or arrange for
 702 active treatment services by an interdisciplinary team to

703 maximize individual independence or prevent regression or loss
704 of functional status. ~~Standards for active treatment shall be~~
705 ~~adopted by the Agency for Health Care Administration by rule~~
706 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
707 shall be provided in accordance with the individual support plan
708 and shall be reimbursed as part of the per diem rate as paid
709 under the Medicaid program.

710 Section 15. Subsections (2) and (3) of section 400.967,
711 Florida Statutes, are amended to read:

712 400.967 Rules and classification of deficiencies.—

713 (2) ~~Pursuant to the intention of the Legislature,~~ The
714 agency, in consultation with the Agency for Persons with
715 Disabilities and the Department of Elderly Affairs, may ~~shall~~
716 adopt ~~and enforce~~ rules necessary to administer this part and
717 part II of chapter 408, which may ~~shall~~ include ~~reasonable and~~
718 ~~fair~~ criteria governing:

719 (a) The location and construction of the facility;
720 including fire and life safety, plumbing, heating, cooling,
721 lighting, ventilation, and other housing conditions that ensure
722 the health, safety, and comfort of residents. The agency shall
723 establish standards for facilities and equipment to increase the
724 extent to which new facilities and a new wing or floor added to
725 an existing facility after July 1, 2000, are structurally
726 capable of serving as shelters only for residents, staff, and
727 families of residents and staff, and equipped to be self-
728 supporting during and immediately following disasters. The

729 agency shall update or revise the criteria as the need arises.
730 All facilities must comply with those lifesafety code
731 requirements and building code standards applicable at the time
732 of approval of their construction plans. The agency may require
733 alterations to a building if it determines that an existing
734 condition constitutes a distinct hazard to life, health, or
735 safety. The agency may prescribe the ~~shall adopt fair and~~
736 ~~reasonable rules setting forth~~ conditions under which existing
737 facilities undergoing additions, alterations, conversions,
738 renovations, or repairs are required to comply with the most
739 recent updated or revised standards.

740 (b) The number and qualifications of all personnel,
741 including management, medical nursing, and other personnel,
742 having responsibility for any part of the care given to
743 residents.

744 (c) All sanitary conditions within the facility and its
745 surroundings, including water supply, sewage disposal, food
746 handling, and general hygiene, which will ensure the health and
747 comfort of residents.

748 (d) The equipment essential to the health and welfare of
749 the residents.

750 (e) A uniform accounting system.

751 (f) The care, treatment, and maintenance of residents and
752 measurement of the quality and adequacy thereof.

753 (g) The preparation and annual update of a comprehensive
754 emergency management plan. After consultation with the Division

755 of Emergency Management, the agency may establish ~~shall adopt~~
756 ~~rules establishing~~ minimum criteria for ~~the plan after~~
757 ~~consultation with the Division of Emergency Management. At a~~
758 ~~minimum, the rules must provide for~~ plan components that address
759 emergency evacuation transportation; adequate sheltering
760 arrangements; postdisaster activities, including emergency
761 power, food, and water; postdisaster transportation; supplies;
762 staffing; emergency equipment; individual identification of
763 residents and transfer of records; and responding to family
764 inquiries. The comprehensive emergency management plan is
765 subject to review and approval by the local emergency management
766 agency. During its review, the local emergency management agency
767 shall ensure that the following agencies, at a minimum, are
768 given the opportunity to review the plan: the Department of
769 Elderly Affairs, the Agency for Persons with Disabilities, the
770 Agency for Health Care Administration, and the Division of
771 Emergency Management. Also, appropriate volunteer organizations
772 must be given the opportunity to review the plan. The local
773 emergency management agency shall complete its review within 60
774 days and either approve the plan or advise the facility of
775 necessary revisions.

776 (h) The use of restraint and seclusion. Such rules must be
777 consistent with recognized best practices; prohibit inherently
778 dangerous restraint or seclusion procedures; establish
779 limitations on the use and duration of restraint and seclusion;
780 establish measures to ensure the safety of clients and staff

781 during an incident of restraint or seclusion; establish
782 procedures for staff to follow before, during, and after
783 incidents of restraint or seclusion, including individualized
784 plans for the use of restraints or seclusion in emergency
785 situations; establish professional qualifications of and
786 training for staff who may order or be engaged in the use of
787 restraint or seclusion; establish requirements for facility data
788 collection and reporting relating to the use of restraint and
789 seclusion; and establish procedures relating to the
790 documentation of the use of restraint or seclusion in the
791 client's facility or program record.

792 ~~(3) The agency shall adopt rules to provide that,~~ When the
793 criteria established under this part and part II of chapter 408
794 are not met, such deficiencies shall be classified according to
795 the nature of the deficiency. The agency shall indicate the
796 classification on the face of the notice of deficiencies as
797 follows:

798 (a) Class I deficiencies are those which the agency
799 determines present an imminent danger to the residents or guests
800 of the facility or a substantial probability that death or
801 serious physical harm would result therefrom. The condition or
802 practice constituting a class I violation must be abated or
803 eliminated immediately, unless a fixed period of time, as
804 determined by the agency, is required for correction. A class I
805 deficiency is subject to a civil penalty in an amount not less
806 than \$5,000 and not exceeding \$10,000 for each deficiency. A

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807 fine may be levied notwithstanding the correction of the
808 deficiency.

809 (b) Class II deficiencies are those which the agency
810 determines have a direct or immediate relationship to the
811 health, safety, or security of the facility residents, other
812 than class I deficiencies. A class II deficiency is subject to a
813 civil penalty in an amount not less than \$1,000 and not
814 exceeding \$5,000 for each deficiency. A citation for a class II
815 deficiency shall specify the time within which the deficiency
816 must be corrected. If a class II deficiency is corrected within
817 the time specified, no civil penalty shall be imposed, unless it
818 is a repeated offense.

819 (c) Class III deficiencies are those which the agency
820 determines to have an indirect or potential relationship to the
821 health, safety, or security of the facility residents, other
822 than class I or class II deficiencies. A class III deficiency is
823 subject to a civil penalty of not less than \$500 and not
824 exceeding \$1,000 for each deficiency. A citation for a class III
825 deficiency shall specify the time within which the deficiency
826 must be corrected. If a class III deficiency is corrected within
827 the time specified, no civil penalty shall be imposed, unless it
828 is a repeated offense.

829 Section 16. Subsection (2) of section 400.980, Florida
830 Statutes, is amended to read:

831 400.980 Health care services pools.—

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

833 the provision of services that require licensure or registration
834 pursuant to this part and part II of chapter 408 and to entities
835 registered by or applying for such registration from the agency
836 pursuant to this part. Registration or a license issued by the
837 agency is required for the operation of a health care services
838 pool in this state. In accordance with s. 408.805, an applicant
839 or licensee shall pay a fee for each license application
840 submitted using this part, part II of chapter 408, and
841 applicable rules. The agency shall ~~adopt rules and~~ provide forms
842 required for such registration and shall impose a registration
843 fee in an amount sufficient to cover the cost of administering
844 this part and part II of chapter 408. In addition to the
845 requirements in part II of chapter 408, the registrant must
846 provide the agency with any change of information contained on
847 the original registration application within 14 days prior to
848 the change.

849 Section 17. Subsection (43) of section 409.912, Florida
850 Statutes, is amended to read:

851 409.912 Cost-effective purchasing of health care.—The
852 agency shall purchase goods and services for Medicaid recipients
853 in the most cost-effective manner consistent with the delivery
854 of quality medical care. To ensure that medical services are
855 effectively utilized, the agency may, in any case, require a
856 confirmation or second physician's opinion of the correct
857 diagnosis for purposes of authorizing future services under the
858 Medicaid program. This section does not restrict access to

859 emergency services or poststabilization care services as defined
860 in 42 C.F.R. part 438.114. Such confirmation or second opinion
861 shall be rendered in a manner approved by the agency. The agency
862 shall maximize the use of prepaid per capita and prepaid
863 aggregate fixed-sum basis services when appropriate and other
864 alternative service delivery and reimbursement methodologies,
865 including competitive bidding pursuant to s. 287.057, designed
866 to facilitate the cost-effective purchase of a case-managed
867 continuum of care. The agency shall also require providers to
868 minimize the exposure of recipients to the need for acute
869 inpatient, custodial, and other institutional care and the
870 inappropriate or unnecessary use of high-cost services. The
871 agency shall contract with a vendor to monitor and evaluate the
872 clinical practice patterns of providers in order to identify
873 trends that are outside the normal practice patterns of a
874 provider's professional peers or the national guidelines of a
875 provider's professional association. The vendor must be able to
876 provide information and counseling to a provider whose practice
877 patterns are outside the norms, in consultation with the agency,
878 to improve patient care and reduce inappropriate utilization.
879 The agency may mandate prior authorization, drug therapy
880 management, or disease management participation for certain
881 populations of Medicaid beneficiaries, certain drug classes, or
882 particular drugs to prevent fraud, abuse, overuse, and possible
883 dangerous drug interactions. The Pharmaceutical and Therapeutics
884 Committee shall make recommendations to the agency on drugs for

885 | which prior authorization is required. The agency shall inform
886 | the Pharmaceutical and Therapeutics Committee of its decisions
887 | regarding drugs subject to prior authorization. The agency is
888 | authorized to limit the entities it contracts with or enrolls as
889 | Medicaid providers by developing a provider network through
890 | provider credentialing. The agency may competitively bid single-
891 | source-provider contracts if procurement of goods or services
892 | results in demonstrated cost savings to the state without
893 | limiting access to care. The agency may limit its network based
894 | on the assessment of beneficiary access to care, provider
895 | availability, provider quality standards, time and distance
896 | standards for access to care, the cultural competence of the
897 | provider network, demographic characteristics of Medicaid
898 | beneficiaries, practice and provider-to-beneficiary standards,
899 | appointment wait times, beneficiary use of services, provider
900 | turnover, provider profiling, provider licensure history,
901 | previous program integrity investigations and findings, peer
902 | review, provider Medicaid policy and billing compliance records,
903 | clinical and medical record audits, and other factors. Providers
904 | are not entitled to enrollment in the Medicaid provider network.
905 | The agency shall determine instances in which allowing Medicaid
906 | beneficiaries to purchase durable medical equipment and other
907 | goods is less expensive to the Medicaid program than long-term
908 | rental of the equipment or goods. The agency may establish rules
909 | to facilitate purchases in lieu of long-term rentals in order to
910 | protect against fraud and abuse in the Medicaid program as

911 defined in s. 409.913. The agency may seek federal waivers
 912 necessary to administer these policies.

913 (43) Subject to the availability of funds, the agency
 914 shall mandate a recipient's participation in a provider lock-in
 915 program, when appropriate, if a recipient is found by the agency
 916 to have used Medicaid goods or services at a frequency or amount
 917 not medically necessary, limiting the receipt of goods or
 918 services to medically necessary providers after the 21-day
 919 appeal process has ended, for a period of not less than 1 year.
 920 The lock-in programs shall include, but are not limited to,
 921 pharmacies, medical doctors, and infusion clinics. The
 922 limitation does not apply to emergency services and care
 923 provided to the recipient in a hospital emergency department.
 924 The agency shall seek any federal waivers necessary to implement
 925 this subsection. ~~The agency shall adopt any rules necessary to~~
 926 ~~comply with or administer this subsection.~~ This subsection
 927 expires October 1, 2014.

928 Section 18. Subsections (4) and (5) of section 429.255,
 929 Florida Statutes, are amended to read:

930 429.255 Use of personnel; emergency care.—

931 (4) Facility staff may withhold or withdraw
 932 cardiopulmonary resuscitation or the use of an automated
 933 external defibrillator if presented with an order not to
 934 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 935 ~~adopt rules providing for the implementation of such orders.~~
 936 Facility staff and facilities shall not be subject to criminal

937 prosecution or civil liability, nor be considered to have
 938 engaged in negligent or unprofessional conduct, for withholding
 939 or withdrawing cardiopulmonary resuscitation or use of an
 940 automated external defibrillator pursuant to such an order and
 941 rules adopted by the department. The absence of an order to
 942 resuscitate executed pursuant to s. 401.45 does not preclude a
 943 physician from withholding or withdrawing cardiopulmonary
 944 resuscitation or use of an automated external defibrillator as
 945 otherwise permitted by law.

946 (5) The Department of Elderly Affairs may adopt rules to
 947 implement the provisions of this section ~~relating to use of an~~
 948 ~~automated external defibrillator.~~

949 Section 19. Subsection (3) of section 429.73, Florida
 950 Statutes, is amended to read:

951 429.73 Rules and standards relating to adult family-care
 952 homes.—

953 (3) ~~The department shall adopt rules providing for the~~
 954 ~~implementation of orders not to resuscitate.~~ The provider may
 955 withhold or withdraw cardiopulmonary resuscitation if presented
 956 with an order not to resuscitate executed pursuant to s. 401.45.
 957 The provider shall not be subject to criminal prosecution or
 958 civil liability, nor be considered to have engaged in negligent
 959 or unprofessional conduct, for withholding or withdrawing
 960 cardiopulmonary resuscitation pursuant to such an order and
 961 applicable rules.

962 Section 20. Subsection (10) of section 440.102, Florida

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963 Statutes, is amended to read:

964 440.102 Drug-free workplace program requirements.—The
965 following provisions apply to a drug-free workplace program
966 implemented pursuant to law or to rules adopted by the Agency
967 for Health Care Administration:

968 (10) RULES.—~~The Agency for Health Care Administration~~
969 ~~shall adopt rules~~ Pursuant to s. 112.0455, part II of chapter
970 408, and criteria established by the United States Department of
971 Health and Human Services, the agency shall adopt ~~as~~ general
972 guidelines for modeling drug-free workplace laboratories,
973 concerning, but not limited to:

974 (a) Standards for licensing drug-testing laboratories and
975 suspension and revocation of such licenses.

976 (b) Urine, hair, blood, and other body specimens and
977 minimum specimen amounts that are appropriate for drug testing.

978 (c) Methods of analysis and procedures to ensure reliable
979 drug-testing results, including standards for initial tests and
980 confirmation tests.

981 (d) Minimum cutoff detection levels for each drug or
982 metabolites of such drug for the purposes of determining a
983 positive test result.

984 (e) Chain-of-custody procedures to ensure proper
985 identification, labeling, and handling of specimens tested.

986 (f) Retention, storage, and transportation procedures to
987 ensure reliable results on confirmation tests and retests.

988 Section 21. Subsection (2) of section 483.245, Florida

989 Statutes, is amended to read:

990 483.245 Rebates prohibited; penalties.—

991 (2) The agency may establish and ~~shall adopt rules that~~
 992 assess administrative penalties for acts prohibited by
 993 subsection (1). In the case of an entity licensed by the agency,
 994 such penalties may include any disciplinary action available to
 995 the agency under the appropriate licensing laws. In the case of
 996 an entity not licensed by the agency, such penalties may
 997 include:

998 (a) A fine not to exceed \$1,000;

999 (b) If applicable, a recommendation by the agency to the
 1000 appropriate licensing board that disciplinary action be taken.

1001 Section 22. Subsection (2) of section 765.541, Florida
 1002 Statutes, is amended to read:

1003 765.541 Certification of procurement organizations; agency
 1004 responsibilities.—The agency shall:

1005 (2) Adopt rules necessary to implement ~~that set forth~~
 1006 ~~appropriate standards and guidelines for the program in~~
 1007 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.

1008 (a) These Standards and guidelines for the program adopted
 1009 by the agency must be substantially based on the ~~existing~~ laws
 1010 of the Federal Government and this state and the ~~existing~~
 1011 standards and guidelines of the United Network for Organ Sharing
 1012 (UNOS), the American Association of Tissue Banks (AATB), the
 1013 South-Eastern Organ Procurement Foundation (SEOPF), the North
 1014 American Transplant Coordinators Organization (NATCO), and the

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1015 Eye Bank Association of America (EBAA), existing as of January
1016 1, 2014.

1017 (b) ~~In addition, the agency shall,~~ Before adopting these
1018 standards and guidelines for the program, the agency shall, seek
1019 input from all procurement organizations based in this state.

1020 Section 23. Subsection (2) of section 765.544, Florida
1021 Statutes, is amended to read:

1022 765.544 Fees; organ and tissue donor education and
1023 procurement.—

1024 ~~(2) The agency shall specify by rule the administrative~~
1025 ~~penalties for the purpose of ensuring adherence to the standards~~
1026 ~~of quality and practice required by this chapter, part II of~~
1027 ~~chapter 408, and applicable rules of the agency for continued~~
1028 ~~certification.~~

1029 Section 24. This act shall take effect July 1, 2014.