

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,

Page 1 of 40

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, as applicable, ss.  
 430 400.506 and 400.509, which must provide reasonable and fair  
 431 minimum standards relating to:

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

442 (2) Shared staffing. ~~The agency shall allow~~ Shared

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

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

449 (4) Licensure application and renewal.

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

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

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

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

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

468 (7) The requirements for onsite and electronic

469 accessibility of supervisory personnel of home health agencies.

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

471 (9) Geographic service areas.

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

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

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

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

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

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

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

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

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

521 for the facility or retirement community provides for continuous  
522 care of all residents with special needs during an emergency.

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

525 400.506 Licensure of nurse registries; requirements;  
526 penalties.—

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

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

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

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

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

560 400.509 Registration of particular service providers  
561 exempt from licensure; certificate of registration; regulation  
562 of registrants.—

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

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

567 400.6095 Patient admission; assessment; plan of care;  
568 discharge; death.—

569 (8) The hospice care team may withhold or withdraw  
570 cardiopulmonary resuscitation if presented with an order not to  
571 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
572 ~~adopt rules providing for the implementation of such orders.~~

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

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

583 400.914 Rulemaking; ~~Rules establishing~~ standards.—

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

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

598 (2) ~~(b)~~ The maintenance of PPEC centers, not in conflict

599 with the provisions of chapter 553 and based upon the size of  
600 the structure and number of children, relating to plumbing,  
601 heating, lighting, ventilation, and other building conditions,  
602 including adequate space, which will ensure the health, safety,  
603 comfort, and protection from fire of the children served.

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

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

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

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

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

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

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

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

624 ~~(b) No PPEC center provides services other than those~~



625 ~~provided to medically or technologically dependent children.~~

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

628 400.9141 Limitations.-

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

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

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

635 400.934 Minimum standards.-As a requirement of licensure,  
636 home medical equipment providers shall:

637 (20) (a) Prepare and maintain a comprehensive emergency  
638 management plan that meets minimum criteria established by  
639 agency rule, including the maintenance of patient equipment and  
640 supply lists that can accompany patients who are transported  
641 from their homes. Such rules shall be formulated in consultation  
642 with the Department of Health and the Division of Emergency  
643 Management under s. 400.935. The plan shall be updated annually

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

648 1. The means by which the home medical equipment provider  
649 will continue to provide equipment to perform the same type and  
650 quantity of services to its patients who evacuate to special

651 needs shelters which were being provided to those patients prior  
 652 to evacuation.

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

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

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

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

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

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

668 400.935 Rulemaking authority ~~Rules establishing minimum~~  
 669 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules  
 670 necessary to implement this part and part II of chapter 408. ~~7~~  
 671 ~~which must provide reasonable and fair minimum standards~~  
 672 ~~relating to:~~

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

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

676 ~~(3) The administration of the home medical equipment~~

677 ~~provider.~~

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

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

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

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

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

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

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

699 400.962 License required; license application.—

700 (5) The applicant must agree to provide or arrange for  
701 active treatment services by an interdisciplinary team to  
702 maximize individual independence or prevent regression or loss

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

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

711 400.967 Rules and classification of deficiencies.—

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

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

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

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

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

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

749 (e) A uniform accounting system.

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

752 (g) The preparation and annual update of a comprehensive  
 753 emergency management plan. After consultation with the Division  
 754 of Emergency Management, the agency may establish ~~shall adopt~~

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

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

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

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

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

807 deficiency.

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

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

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

830 400.980 Health care services pools.—

831 (2) The requirements of part II of chapter 408 apply to  
 832 the provision of services that require licensure or registration



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

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

850 409.912 Cost-effective purchasing of health care.—The  
851 agency shall purchase goods and services for Medicaid recipients  
852 in the most cost-effective manner consistent with the delivery  
853 of quality medical care. To ensure that medical services are  
854 effectively utilized, the agency may, in any case, require a  
855 confirmation or second physician's opinion of the correct  
856 diagnosis for purposes of authorizing future services under the  
857 Medicaid program. This section does not restrict access to  
858 emergency services or poststabilization care services as defined

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

885 the Pharmaceutical and Therapeutics Committee of its decisions  
886 regarding drugs subject to prior authorization. The agency is  
887 authorized to limit the entities it contracts with or enrolls as  
888 Medicaid providers by developing a provider network through  
889 provider credentialing. The agency may competitively bid single-  
890 source-provider contracts if procurement of goods or services  
891 results in demonstrated cost savings to the state without  
892 limiting access to care. The agency may limit its network based  
893 on the assessment of beneficiary access to care, provider  
894 availability, provider quality standards, time and distance  
895 standards for access to care, the cultural competence of the  
896 provider network, demographic characteristics of Medicaid  
897 beneficiaries, practice and provider-to-beneficiary standards,  
898 appointment wait times, beneficiary use of services, provider  
899 turnover, provider profiling, provider licensure history,  
900 previous program integrity investigations and findings, peer  
901 review, provider Medicaid policy and billing compliance records,  
902 clinical and medical record audits, and other factors. Providers  
903 are not entitled to enrollment in the Medicaid provider network.  
904 The agency shall determine instances in which allowing Medicaid  
905 beneficiaries to purchase durable medical equipment and other  
906 goods is less expensive to the Medicaid program than long-term  
907 rental of the equipment or goods. The agency may establish rules  
908 to facilitate purchases in lieu of long-term rentals in order to  
909 protect against fraud and abuse in the Medicaid program as  
910 defined in s. 409.913. The agency may seek federal waivers

911 necessary to administer these policies.

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

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

929 429.255 Use of personnel; emergency care.—

930 (4) Facility staff may withhold or withdraw  
 931 cardiopulmonary resuscitation or the use of an automated  
 932 external defibrillator if presented with an order not to  
 933 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
 934 ~~adopt rules providing for the implementation of such orders.~~  
 935 Facility staff and facilities shall not be subject to criminal  
 936 prosecution or civil liability, nor be considered to have

937 engaged in negligent or unprofessional conduct, for withholding  
 938 or withdrawing cardiopulmonary resuscitation or use of an  
 939 automated external defibrillator pursuant to such an order and  
 940 rules adopted by the department. The absence of an order to  
 941 resuscitate executed pursuant to s. 401.45 does not preclude a  
 942 physician from withholding or withdrawing cardiopulmonary  
 943 resuscitation or use of an automated external defibrillator as  
 944 otherwise permitted by law.

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

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

950 429.73 Rules and standards relating to adult family-care  
 951 homes.—

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

961 Section 20. Subsection (10) of section 440.102, Florida  
 962 Statutes, is amended to read:

963 440.102 Drug-free workplace program requirements.—The  
 964 following provisions apply to a drug-free workplace program  
 965 implemented pursuant to law or to rules adopted by the Agency  
 966 for Health Care Administration:

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

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.