



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. 400.471, F.S.; exempting  
14          certain home health agencies from requirements  
15          relating to documentation of accreditation; amending  
16          s. 400.474, F.S.; revising reporting requirements to  
17          be submitted to the Agency for Health Care  
18          Administration by home health agencies; revising  
19          entities that are not required to submit the report;  
20          amending s. 400.487, F.S.; removing rulemaking  
21          authority relating to orders not to resuscitate  
22          presented to home health agency personnel; amending s.  
23          400.497, F.S.; revising rulemaking authority relating  
24          to the Home Health Services Act; amending s. 400.506,  
25          F.S.; removing rulemaking authority relating to the  
26          licensure of nurse registries and the establishment of



27 certain emergency management plans; amending s.  
28 400.509, F.S.; removing rulemaking authority relating  
29 to registration of certain companion services and  
30 homemaker services; amending s. 400.6095, F.S.;  
31 removing rulemaking authority relating to orders not  
32 to resuscitate presented to a hospice care team;  
33 amending s. 400.914, F.S.; revising rulemaking  
34 authority relating to standards for prescribed  
35 pediatric extended care (PPEC) centers; removing  
36 rulemaking authority relating to certain limitations  
37 on PPEC centers; creating s. 400.9141, F.S.; providing  
38 limitations on PPEC centers; amending s. 400.934,  
39 F.S.; revising rulemaking authority relating to the  
40 preparation of emergency managements plans by home  
41 medical equipment providers; amending s. 400.935,  
42 F.S.; revising rulemaking authority relating to  
43 minimum standards for home medical equipment  
44 providers; amending s. 400.962, F.S.; removing  
45 rulemaking authority relating to certain standards for  
46 active treatment by intermediate care facilities for  
47 the developmentally disabled; amending s. 400.967,  
48 F.S.; revising rulemaking authority relating to the  
49 construction of, the preparation of emergency  
50 management plans by, and the classification of  
51 deficiencies of intermediate care facilities for the  
52 developmentally disabled; amending s. 400.980, F.S.;



53 removing rulemaking authority relating to the  
54 registration of health care services pools; amending  
55 s. 409.912, F.S.; removing rulemaking authority  
56 relating to Medicaid provider lock-in programs;  
57 amending s. 409.972, F.S.; revising Medicaid-eligible  
58 persons exempt from mandatory managed care enrollment;  
59 amending s. 429.255, F.S.; removing rulemaking  
60 authority relating to orders not to resuscitate  
61 presented to assisted living facility staff and the  
62 use of automated external defibrillators; amending s.  
63 429.73, F.S.; removing rulemaking authority relating  
64 to orders not to resuscitate presented to adult  
65 family-care home providers; amending s. 440.102, F.S.;  
66 removing rulemaking authority relating to certain  
67 guidelines for drug-free workplace laboratories;  
68 amending s. 483.245, F.S.; revising rulemaking  
69 authority relating to the imposition of certain  
70 administrative penalties against clinical  
71 laboratories; amending s. 765.541, F.S.; revising  
72 rulemaking authority relating to standards and  
73 guidelines for certain organ donation programs;  
74 revising provisions relating to organ procurement  
75 programs; amending s. 765.544, F.S.; removing  
76 rulemaking authority relating to administrative  
77 penalties for violations with respect to organ and  
78 tissue donations; providing an effective date.



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

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

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

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

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

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

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

3. The appropriate laboratory tests, including:

a. Urine or blood tests for pregnancy performed before the abortion procedure.

b. A test for anemia.

c. Rh typing, unless reliable written documentation of blood type is available.

d. Other tests as indicated from the physical examination.



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105           4. An ultrasound evaluation for all patients. The rules  
106 shall require that if a person who is not a physician performs  
107 an ultrasound examination, that person shall have documented  
108 evidence that he or she has completed a course in the operation  
109 of ultrasound equipment as prescribed in rule. ~~The rules shall~~  
110 ~~require clinics to be in compliance with s. 390.0111.~~

111           5. That the physician is responsible for estimating the  
112 gestational age of the fetus based on the ultrasound examination  
113 and obstetric standards in keeping with established standards of  
114 care regarding the estimation of fetal age as defined in rule  
115 and shall write the estimate in the patient's medical history.  
116 The physician shall keep original prints of each ultrasound  
117 examination of a patient in the patient's medical history file.

118           Section 2. Subsection (11) of section 400.021, Florida  
119 Statutes, is amended to read:

120           400.021 Definitions.—When used in this part, unless the  
121 context otherwise requires, the term:

122           (11) "Nursing home bed" means an accommodation that ~~which~~  
123 is ready for immediate occupancy, or is capable of being made  
124 ready for occupancy within 48 hours, excluding provision of  
125 staffing; and that ~~which~~ conforms to minimum space requirements,  
126 including the availability of appropriate equipment and  
127 furnishings within the 48 hours, as specified by ~~rule of~~ the  
128 agency, for the provision of services specified in this part to  
129 a single resident.

130           Section 3. Subsection (3) of section 400.0712, Florida



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131 Statutes, is amended to read:

132 400.0712 Application for inactive license.—

133 ~~(3) The agency shall adopt rules pursuant to ss.~~

134 ~~120.536(1) and 120.54 necessary to implement this section.~~

135 Section 4. Subsection (2), paragraph (a) of subsection  
136 (3), subsections (4) and (5), paragraph (e) of subsection (7),  
137 and subsection (8) of section 400.23, Florida Statutes, are  
138 amended to read:

139 400.23 Rules; evaluation and deficiencies; licensure  
140 status.—

141 (2) Pursuant to the intention of the Legislature, the  
142 agency, in consultation with the Department of Health and the  
143 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules  
144 to implement this part and part II of chapter 408. The rules,  
145 ~~which~~ shall include, but need not be limited to, reasonable and  
146 fair criteria in relation to:

147 (a) The location of the facility and housing conditions  
148 that will ensure the health, safety, and comfort of residents,  
149 including an adequate call system. In making such rules, the  
150 agency shall be guided by criteria recommended by nationally  
151 recognized reputable professional groups and associations with  
152 knowledge of such subject matters. The agency shall update or  
153 revise such criteria as the need arises. The agency may require  
154 alterations to a building if it determines that an existing  
155 condition constitutes a distinct hazard to life, health, or  
156 safety. In performing any inspections of facilities authorized



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157 | by this part or part II of chapter 408, the agency may enforce  
158 | the special-occupancy provisions of the Florida Building Code  
159 | and the Florida Fire Prevention Code which apply to nursing  
160 | homes. Residents or their representatives shall be able to  
161 | request a change in the placement of the bed in their room,  
162 | provided that at admission they are presented with a room that  
163 | meets requirements of the Florida Building Code. The location of  
164 | a bed may be changed if the requested placement does not  
165 | infringe on the resident's roommate or interfere with the  
166 | resident's care or safety as determined by the care planning  
167 | team in accordance with facility policies and procedures. In  
168 | addition, the bed placement may not be used as a restraint. Each  
169 | facility shall maintain a log of resident rooms with beds that  
170 | are not in strict compliance with the Florida Building Code in  
171 | order for such log to be used by surveyors and nurse monitors  
172 | during inspections and visits. A resident or resident  
173 | representative who requests that a bed be moved shall sign a  
174 | statement indicating that he or she understands the room will  
175 | not be in compliance with the Florida Building Code, but they  
176 | would prefer to exercise their right to self-determination. The  
177 | statement must be retained as part of the resident's care plan.  
178 | Any facility that offers this option must submit a letter signed  
179 | by the nursing home administrator of record to the agency  
180 | notifying it of this practice with a copy of the policies and  
181 | procedures of the facility. The agency is directed to provide  
182 | assistance to the Florida Building Commission in updating the

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183 construction standards of the code relative to nursing homes.

184 (b) The number and qualifications of all personnel,  
185 including management, medical, nursing, and other professional  
186 personnel, and nursing assistants, orderlies, and support  
187 personnel, having responsibility for any part of the care given  
188 residents.

189 (c) All sanitary conditions within the facility and its  
190 surroundings, including water supply, sewage disposal, food  
191 handling, and general hygiene which will ensure the health and  
192 comfort of residents.

193 (d) The equipment essential to the health and welfare of  
194 the residents.

195 (e) A uniform accounting system.

196 (f) The care, treatment, and maintenance of residents and  
197 measurement of the quality and adequacy thereof, based on rules  
198 developed under this chapter and the Omnibus Budget  
199 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
200 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
201 Programs), Subtitle C (Nursing Home Reform), as amended.

202 (g) The preparation and annual update of a comprehensive  
203 emergency management plan. The agency shall establish ~~adopt~~  
204 ~~rules establishing~~ minimum criteria for the plan after  
205 consultation with the Division of Emergency Management. At a  
206 minimum, ~~the rules must provide for~~ plan components shall  
207 provide for ~~that address~~ emergency evacuation transportation;  
208 adequate sheltering arrangements; postdisaster activities,

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209 including emergency power, food, and water; postdisaster  
210 transportation; supplies; staffing; emergency equipment;  
211 individual identification of residents and transfer of records;  
212 and responding to family inquiries. The comprehensive emergency  
213 management plan is subject to review and approval by the local  
214 emergency management agency. During its review, the local  
215 emergency management agency shall ensure that the following  
216 agencies, at a minimum, are given the opportunity to review the  
217 plan: the Department of Elderly Affairs, the Department of  
218 Health, the Agency for Health Care Administration, and the  
219 Division of Emergency Management. Also, appropriate volunteer  
220 organizations must be given the opportunity to review the plan.  
221 The local emergency management agency shall complete its review  
222 within 60 days and either approve the plan or advise the  
223 facility of necessary revisions.

224 (h) The availability, distribution, and posting of reports  
225 and records pursuant to s. 400.191 and the Gold Seal Program  
226 pursuant to s. 400.235.

227 (3)(a)1. The agency shall enforce ~~adopt rules providing~~  
228 minimum staffing requirements for nursing home facilities that-  
229 ~~These requirements~~ must include, for each facility:

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

234 b. A minimum certified nursing assistant staffing of 2.5



235 hours of direct care per resident per day. A facility may not  
236 staff below one certified nursing assistant per 20 residents.

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

240 2. Nursing assistants employed under s. 400.211(2) may be  
241 included in computing the staffing ratio for certified nursing  
242 assistants if their job responsibilities include only nursing-  
243 assistant-related duties.

244 3. Each nursing home facility must document compliance  
245 with staffing standards as required under this paragraph and  
246 post daily the names of staff on duty for the benefit of  
247 facility residents and the public.

248 4. The agency shall recognize the use of licensed nurses  
249 for compliance with minimum staffing requirements for certified  
250 nursing assistants if the nursing home facility otherwise meets  
251 the minimum staffing requirements for licensed nurses and the  
252 licensed nurses are performing the duties of a certified nursing  
253 assistant. Unless otherwise approved by the agency, licensed  
254 nurses counted toward the minimum staffing requirements for  
255 certified nursing assistants must exclusively perform the duties  
256 of a certified nursing assistant for the entire shift and not  
257 also be counted toward the minimum staffing requirements for  
258 licensed nurses. If the agency approved a facility's request to  
259 use a licensed nurse to perform both licensed nursing and  
260 certified nursing assistant duties, the facility must allocate



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261 the amount of staff time specifically spent on certified nursing  
262 assistant duties for the purpose of documenting compliance with  
263 minimum staffing requirements for certified and licensed nursing  
264 staff. The hours of a licensed nurse with dual job  
265 responsibilities may not be counted twice.

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

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

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

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

284 1. For persons under 21 years of age who require skilled  
285 care:

286 a. A minimum combined average of 3.9 hours of direct care



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287 per resident per day must be provided by licensed nurses,  
288 respiratory therapists, respiratory care practitioners, and  
289 certified nursing assistants.

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

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

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

297 2. For persons under 21 years of age who are medically  
298 fragile:

299 a. A minimum combined average of 5.0 hours of direct care  
300 per resident per day must be provided by licensed nurses,  
301 respiratory therapists, respiratory care practitioners, and  
302 certified nursing assistants.

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

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

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

310 (7) The agency shall, at least every 15 months, evaluate  
311 all nursing home facilities and make a determination as to the  
312 degree of compliance by each licensee with the established rules



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313 adopted under this part as a basis for assigning a licensure  
314 status to that facility. The agency shall base its evaluation on  
315 the most recent inspection report, taking into consideration  
316 findings from other official reports, surveys, interviews,  
317 investigations, and inspections. In addition to license  
318 categories authorized under part II of chapter 408, the agency  
319 shall assign a licensure status of standard or conditional to  
320 each nursing home.

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

322 1. Establish uniform procedures for the evaluation of  
323 facilities.

324 2. Provide criteria in the areas referenced in paragraph  
325 (c).

326 3. Address other areas necessary for carrying out the  
327 intent of this section.

328 (8) The agency shall ensure that ~~adopt rules pursuant to~~  
329 ~~this part and part II of chapter 408 to provide that~~, when the  
330 criteria established under subsection (2) are not met, such  
331 deficiencies shall be classified according to the nature and the  
332 scope of the deficiency. The scope shall be cited as isolated,  
333 patterned, or widespread. An isolated deficiency is a deficiency  
334 affecting one or a very limited number of residents, or  
335 involving one or a very limited number of staff, or a situation  
336 that occurred only occasionally or in a very limited number of  
337 locations. A patterned deficiency is a deficiency where more  
338 than a very limited number of residents are affected, or more



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

350 (a) A class I deficiency is a deficiency that the agency  
351 determines presents a situation in which immediate corrective  
352 action is necessary because the facility's noncompliance has  
353 caused, or is likely to cause, serious injury, harm, impairment,  
354 or death to a resident receiving care in a facility. The  
355 condition or practice constituting a class I violation shall be  
356 abated or eliminated immediately, unless a fixed period of time,  
357 as determined by the agency, is required for correction. A class  
358 I deficiency is subject to a civil penalty of \$10,000 for an  
359 isolated deficiency, \$12,500 for a patterned deficiency, and  
360 \$15,000 for a widespread deficiency. The fine amount shall be  
361 doubled for each deficiency if the facility was previously cited  
362 for one or more class I or class II deficiencies during the last  
363 licensure inspection or any inspection or complaint  
364 investigation since the last licensure inspection. A fine must



365 be levied notwithstanding the correction of the deficiency.

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

380 (c) A class III deficiency is a deficiency that the agency  
381 determines will result in no more than minimal physical, mental,  
382 or psychosocial discomfort to the resident or has the potential  
383 to compromise the resident's ability to maintain or reach his or  
384 her highest practical physical, mental, or psychosocial well-  
385 being, as defined by an accurate and comprehensive resident  
386 assessment, plan of care, and provision of services. A class III  
387 deficiency is subject to a civil penalty of \$1,000 for an  
388 isolated deficiency, \$2,000 for a patterned deficiency, and  
389 \$3,000 for a widespread deficiency. The fine amount shall be  
390 doubled for each deficiency if the facility was previously cited



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391 for one or more class I or class II deficiencies during the last  
392 licensure inspection or any inspection or complaint  
393 investigation since the last licensure inspection. A citation  
394 for a class III deficiency must specify the time within which  
395 the deficiency is required to be corrected. If a class III  
396 deficiency is corrected within the time specified, a civil  
397 penalty may not be imposed.

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

402 Section 5. Paragraph (h) of subsection (2) of section  
403 400.471, Florida Statutes, is amended to read:

404 400.471 Application for license; fee.—

405 (2) In addition to the requirements of part II of chapter  
406 408, the initial applicant must file with the application  
407 satisfactory proof that the home health agency is in compliance  
408 with this part and applicable rules, including:

409 (h) In the case of an application for initial licensure,  
410 documentation of accreditation, or an application for  
411 accreditation, from an accrediting organization that is  
412 recognized by the agency as having standards comparable to those  
413 required by this part and part II of chapter 408.

414 Notwithstanding s. 408.806, an applicant that has applied for  
415 accreditation must provide proof of accreditation that is not  
416 conditional or provisional within 120 days after the date of the





417 agency's receipt of the application for licensure or the  
418 application shall be withdrawn from further consideration. Such  
419 accreditation must be maintained by the home health agency to  
420 maintain licensure. The agency shall accept, in lieu of its own  
421 periodic licensure survey, the submission of the survey of an  
422 accrediting organization that is recognized by the agency if the  
423 accreditation of the licensed home health agency is not  
424 provisional and if the licensed home health agency authorizes  
425 releases of, and the agency receives the report of, the  
426 accrediting organization. A home health agency that is not  
427 Medicare or Medicaid certified and does not provide skilled  
428 nursing care is exempt from this paragraph.

429 Section 6. Subsection (7) of section 400.474, Florida  
430 Statutes, is amended to read:

431 400.474 Administrative penalties.—

432 (7) A home health agency shall electronically submit to  
433 the agency, ~~within 15 days after the end of each calendar~~  
434 ~~quarter,~~ a ~~written~~ report for each 6-month period ending March  
435 31 and September 30.

436 (a) Each report must include ~~that includes~~ the following  
437 data as they existed on the last day of the reporting period  
438 ~~quarter~~:

439 1.(a) The number of insulin-dependent diabetic patients  
440 who receive insulin-injection services from the home health  
441 agency.

442 2.(b) The number of patients who receive both home health



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443 services from the home health agency and hospice services.

444 3.~~(e)~~ The number of patients who receive home health  
445 services from the home health agency.

446 4.~~(d)~~ The name and license number of each nurse whose  
447 primary job responsibility is to provide home health services to  
448 patients and who received remuneration from the home health  
449 agency in excess of \$50,000 ~~\$25,000~~ during the reporting period  
450 ~~calendar quarter~~.

451 (b) If the home health agency fails to submit the ~~written~~  
452 ~~quarterly~~ report within 15 days after the end of the applicable  
453 reporting period ~~each calendar quarter~~, the agency ~~for Health~~  
454 ~~Care Administration~~ shall impose a fine of \$200 per day against  
455 the home health agency ~~in the amount of \$200 per day~~ until the  
456 agency ~~for Health Care Administration~~ receives the report,  
457 except that the total fine imposed pursuant to this subsection  
458 may not exceed \$5,000 per reporting period ~~quarter~~. A home  
459 health agency is exempt from submission of the report and the  
460 imposition of the fine if it is not a Medicaid or Medicare  
461 provider ~~or if it does not share a controlling interest with a~~  
462 ~~licensee, as defined in s. 408.803, which bills the Florida~~  
463 ~~Medicaid program or the Medicare program.~~

464 Section 7. Subsection (7) of section 400.487, Florida  
465 Statutes, is amended to read:

466 400.487 Home health service agreements; physician's,  
467 physician assistant's, and advanced registered nurse  
468 practitioner's treatment orders; patient assessment;



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469 establishment and review of plan of care; provision of services;  
470 orders not to resuscitate.-

471 (7) Home health agency personnel may withhold or withdraw  
472 cardiopulmonary resuscitation if presented with an order not to  
473 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
474 ~~adopt rules providing for the implementation of such orders.~~  
475 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to  
476 criminal prosecution or civil liability and are not, ~~nor be~~  
477 considered to have engaged in negligent or unprofessional  
478 conduct, ~~for withholding or withdrawing cardiopulmonary~~  
479 resuscitation pursuant to such an order and rules adopted by the  
480 agency.

481 Section 8. Section 400.497, Florida Statutes, is amended  
482 to read:

483 400.497 Rules establishing minimum standards.-The agency  
484 may shall ~~adopt, publish, and enforce~~ rules to administer  
485 ~~implement~~ part II of chapter 408 and this part, including the  
486 provider's duties and responsibilities under, ~~as applicable,~~ ss.  
487 400.506 and 400.509. Rules shall specify, but are not limited  
488 to, which must provide reasonable and fair minimum standards  
489 relating to:

490 (1) The home health aide competency test and home health  
491 aide training. The agency shall create the home health aide  
492 competency test and establish the curriculum and instructor  
493 qualifications for home health aide training. Licensed home  
494 health agencies may provide this training and shall furnish



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495 documentation of such training to other licensed home health  
496 agencies upon request. Successful passage of the competency test  
497 by home health aides may be substituted for the training  
498 required under this section and agency ~~any rule adopted pursuant~~  
499 ~~thereto~~.

500 (2) Shared staffing. ~~The agency shall allow~~ Shared  
501 staffing is allowed if the home health agency is part of a  
502 retirement community that provides multiple levels of care, is  
503 located on one campus, is licensed under this chapter or chapter  
504 429, and otherwise meets the requirements of law and rule.

505 (3) The criteria for the frequency of onsite licensure  
506 surveys.

507 (4) Licensure application and renewal.

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

510 (a) Standards that address oversight responsibilities by  
511 the director of nursing for ~~of~~ skilled nursing and personal care  
512 services provided by the home health agency's staff;

513 (b) Requirements for a director of nursing to provide to  
514 the agency, upon request, a certified daily report of the home  
515 health services provided by a specified direct employee or  
516 contracted staff member on behalf of the home health agency. The  
517 agency may request a certified daily report for up to ~~only for a~~  
518 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the  
519 request; and

520 (c) A quality assurance program for home health services



521 provided by the home health agency.

522 (6) Conditions for using a recent unannounced licensure  
523 inspection for the inspection required under ~~in~~ s. 408.806  
524 related to a licensure application associated with a change in  
525 ownership of a licensed home health agency.

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

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

529 (9) Geographic service areas.

530 (10) Preparation of a comprehensive emergency management  
531 plan pursuant to s. 400.492.

532 ~~(a) The Agency for Health Care Administration shall adopt~~  
533 ~~rules establishing minimum criteria for the plan and plan~~  
534 ~~updates, with the concurrence of the Department of Health and in~~  
535 ~~consultation with the Division of Emergency Management.~~

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

540 (b)(e) The plan is subject to review and approval by the  
541 county health department. During its review, the county health  
542 department shall contact state and local health and medical  
543 stakeholders when necessary. The county health department shall  
544 complete its review to ensure that the plan is in accordance  
545 with the requirements of law ~~criteria in the Agency for Health~~  
546 ~~Care Administration rules~~ within 90 days after receipt of the



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547 | plan and shall approve the plan or advise the home health agency  
548 | of necessary revisions. If the home health agency fails to  
549 | submit a plan or fails to submit the requested information or  
550 | revisions to the county health department within 30 days after  
551 | written notification from the county health department, the  
552 | county health department shall notify the Agency for Health Care  
553 | Administration. The agency shall notify the home health agency  
554 | that its failure constitutes a deficiency, subject to a fine of  
555 | \$5,000 per occurrence. If the plan is not submitted, information  
556 | is not provided, or revisions are not made as requested, the  
557 | agency may impose the fine.

558 |       (c)~~(d)~~ For any home health agency that operates in more  
559 | than one county, the Department of Health shall review the plan,  
560 | after consulting with state and local health and medical  
561 | stakeholders when necessary. The department shall complete its  
562 | review within 90 days after receipt of the plan and shall  
563 | approve the plan or advise the home health agency of necessary  
564 | revisions. The department shall make every effort to avoid  
565 | imposing differing requirements on a home health agency that  
566 | operates in more than one county as a result of differing or  
567 | conflicting comprehensive plan requirements of the counties in  
568 | which the home health agency operates.

569 |       (d)~~(e)~~ The requirements in this subsection do not apply  
570 | to:

571 |           1. A facility that is certified under chapter 651 and has  
572 | a licensed home health agency used exclusively by residents of



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573 the facility; or

574 2. A retirement community that consists of both  
575 residential units for independent living and ~~either~~ a licensed  
576 nursing home or an assisted living facility, and has a licensed  
577 home health agency used exclusively by ~~the~~ residents of the  
578 retirement community, if, ~~provided~~ the comprehensive emergency  
579 management plan for the facility or retirement community  
580 provides for continuous care of all residents with special needs  
581 during an emergency.

582 Section 9. Paragraph (f) of subsection (12) and subsection  
583 (17) of section 400.506, Florida Statutes, are amended to read:

584 400.506 Licensure of nurse registries; requirements;  
585 penalties.—

586 (12) Each nurse registry shall prepare and maintain a  
587 comprehensive emergency management plan that is consistent with  
588 the criteria in this subsection and with the local special needs  
589 plan. The plan shall be updated annually. The plan shall include  
590 the means by which the nurse registry will continue to provide  
591 the same type and quantity of services to its patients who  
592 evacuate to special needs shelters which were being provided to  
593 those patients prior to evacuation. The plan shall specify how  
594 the nurse registry shall facilitate the provision of continuous  
595 care by persons referred for contract to persons who are  
596 registered pursuant to s. 252.355 during an emergency that  
597 interrupts the provision of care or services in private  
598 residences. Nurse registries may establish links to local

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599 emergency operations centers to determine a mechanism by which  
600 to approach specific areas within a disaster area in order for a  
601 provider to reach its clients. Nurse registries shall  
602 demonstrate a good faith effort to comply with the requirements  
603 of this subsection by documenting attempts of staff to follow  
604 procedures outlined in the nurse registry's comprehensive  
605 emergency management plan which support a finding that the  
606 provision of continuing care has been attempted for patients  
607 identified as needing care by the nurse registry and registered  
608 under s. 252.355 in the event of an emergency under this  
609 subsection.

610 ~~(f) The Agency for Health Care Administration shall adopt~~  
611 ~~rules establishing minimum criteria for the comprehensive~~  
612 ~~emergency management plan and plan updates required by this~~  
613 ~~subsection, with the concurrence of the Department of Health and~~  
614 ~~in consultation with the Division of Emergency Management.~~

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

617 Section 10. Subsection (7) of section 400.509, Florida  
618 Statutes, is amended to read:

619 400.509 Registration of particular service providers  
620 exempt from licensure; certificate of registration; regulation  
621 of registrants.—

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

624 Section 11. Subsection (8) of section 400.6095, Florida





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625 Statutes, is amended to read:

626 400.6095 Patient admission; assessment; plan of care;  
627 discharge; death.—

628 (8) The hospice care team may withhold or withdraw  
629 cardiopulmonary resuscitation if presented with an order not to  
630 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
631 ~~adopt rules providing for the implementation of such orders.~~  
632 Hospice staff are ~~shall~~ not be subject to criminal prosecution  
633 or civil liability, and are not ~~nor~~ be considered to have  
634 engaged in negligent or unprofessional conduct, for withholding  
635 or withdrawing cardiopulmonary resuscitation pursuant to such an  
636 order and applicable rules. The absence of an order to  
637 resuscitate executed pursuant to s. 401.45 does not preclude a  
638 physician from withholding or withdrawing cardiopulmonary  
639 resuscitation as otherwise permitted by law.

640 Section 12. Section 400.914, Florida Statutes, is amended  
641 to read:

642 400.914 Rulemaking; ~~Rules establishing~~ standards.—

643 ~~(1)~~ Pursuant to the intention of the Legislature to  
644 provide safe and sanitary facilities and healthful programs, the  
645 agency in conjunction with the Division of Children's Medical  
646 Services of the Department of Health may ~~shall~~ adopt ~~and publish~~  
647 rules to implement the provisions of this part and part II of  
648 chapter 408, ~~which shall include reasonable and fair standards.~~  
649 Any conflict between these rules ~~standards~~ and those standards  
650 that may be set forth in local, county, or city ordinances shall



651 be resolved in favor of those having statewide effect. The rules  
652 shall include, but need not be limited to, reasonable and fair  
653 standards relating ~~Such standards shall relate~~ to:

654 (1)~~(a)~~ The assurance that PPEC services are family  
655 centered and provide individualized medical, developmental, and  
656 family training services.

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

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

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

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

671 (f) Programs and basic services promoting and maintaining  
672 the health and development of the children served and meeting  
673 the training needs of the children's legal guardians.

674 (g) Supportive, contracted, other operational, and  
675 transportation services.

676 (h) Maintenance of appropriate medical records, data, and



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677 information relative to the children and programs. Such records  
678 shall be maintained in the facility for inspection by the  
679 agency.

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

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

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

685 Section 13. Section 400.9141, Florida Statutes, is created  
686 to read:

687 400.9141 Limitations.-

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

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

692 Section 14. Paragraph (a) of subsection (20) of section  
693 400.934, Florida Statutes, is amended to read:

694 400.934 Minimum standards.-As a requirement of licensure,  
695 home medical equipment providers shall:

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



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

707 1. The means by which the home medical equipment provider  
708 will continue to provide equipment to perform the same type and  
709 quantity of services to its patients who evacuate to special  
710 needs shelters which were being provided to those patients prior  
711 to evacuation.

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

715 a. Notification of staff when emergency response measures  
716 are initiated.

717 b. Communication between staff members, county health  
718 departments, and local emergency management agencies, which  
719 includes provisions for a backup communications system.

720 c. Identification of resources necessary to continue  
721 essential care or services or referrals to other organizations  
722 subject to written agreement.

723 d. Contacting and prioritizing patients in need of  
724 continued medical equipment services and supplies.

725 Section 15. Section 400.935, Florida Statutes, is amended  
726 to read:

727 400.935 Rulemaking authority ~~Rules establishing minimum~~  
728 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules



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729 necessary to implement this part and part II of chapter 408,  
730 ~~which must provide reasonable and fair minimum standards~~  
731 relating to:

732 (1) The qualifications and minimum training requirements  
733 of all home medical equipment provider personnel.

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

735 ~~(3) The administration of the home medical equipment~~  
736 ~~provider.~~

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

738 (3)~~(5)~~ Ensuring that the home medical equipment and  
739 services provided by a home medical equipment provider are in  
740 accordance with the plan of treatment established for each  
741 patient, when provided as a part of a plan of treatment.

742 (4)~~(6)~~ Contractual arrangements for the provision of home  
743 medical equipment and services by providers not employed by the  
744 home medical equipment provider providing for the consumer's  
745 needs.

746 (5)~~(7)~~ Physical location and zoning requirements.

747 (6)~~(8)~~ Home medical equipment requiring home medical  
748 equipment services.

749 ~~(9) Preparation of the comprehensive emergency management~~  
750 ~~plan under s. 400.934 and the establishment of minimum criteria~~  
751 ~~for the plan, including the maintenance of patient equipment and~~  
752 ~~supply lists that can accompany patients who are transported~~  
753 ~~from their homes. Such rules shall be formulated in consultation~~  
754 ~~with the Department of Health and the Division of Emergency~~



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755 ~~Management.~~

756 Section 16. Subsection (5) of section 400.962, Florida  
757 Statutes, is amended to read:

758 400.962 License required; license application.—

759 (5) The applicant must agree to provide or arrange for  
760 active treatment services by an interdisciplinary team to  
761 maximize individual independence or prevent regression or loss  
762 of functional status. ~~Standards for active treatment shall be~~  
763 ~~adopted by the Agency for Health Care Administration by rule~~  
764 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services  
765 shall be provided in accordance with the individual support plan  
766 and shall be reimbursed as part of the per diem rate as paid  
767 under the Medicaid program.

768 Section 17. Subsections (2) and (3) of section 400.967,  
769 Florida Statutes, are amended to read:

770 400.967 Rules and classification of deficiencies.—

771 (2) ~~Pursuant to the intention of the Legislature,~~ The  
772 agency, in consultation with the Agency for Persons with  
773 Disabilities and the Department of Elderly Affairs, may ~~shall~~  
774 adopt ~~and enforce~~ rules necessary to administer this part and  
775 part II of chapter 408, which may ~~shall~~ include ~~reasonable and~~  
776 ~~fair~~ criteria governing:

777 (a) The location and construction of the facility;  
778 including fire and life safety, plumbing, heating, cooling,  
779 lighting, ventilation, and other housing conditions that ensure  
780 the health, safety, and comfort of residents. The agency shall



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781 establish standards for facilities and equipment to increase the  
782 extent to which new facilities and a new wing or floor added to  
783 an existing facility after July 1, 2000, are structurally  
784 capable of serving as shelters only for residents, staff, and  
785 families of residents and staff, and equipped to be self-  
786 supporting during and immediately following disasters. The  
787 agency shall update or revise the criteria as the need arises.  
788 All facilities must comply with those lifesafety code  
789 requirements and building code standards applicable at the time  
790 of approval of their construction plans. The agency may require  
791 alterations to a building if it determines that an existing  
792 condition constitutes a distinct hazard to life, health, or  
793 safety. The agency may prescribe the ~~shall adopt fair and~~  
794 ~~reasonable rules setting forth~~ conditions under which existing  
795 facilities undergoing additions, alterations, conversions,  
796 renovations, or repairs are required to comply with the most  
797 recent updated or revised standards.

798 (b) The number and qualifications of all personnel,  
799 including management, medical nursing, and other personnel,  
800 having responsibility for any part of the care given to  
801 residents.

802 (c) All sanitary conditions within the facility and its  
803 surroundings, including water supply, sewage disposal, food  
804 handling, and general hygiene, which will ensure the health and  
805 comfort of residents.

806 (d) The equipment essential to the health and welfare of



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807 the residents.

808 (e) A uniform accounting system.

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

811 (g) The preparation and annual update of a comprehensive  
812 emergency management plan. After consultation with the Division  
813 of Emergency Management, the agency may establish ~~shall adopt~~  
814 ~~rules establishing~~ minimum criteria for ~~the plan after~~  
815 ~~consultation with the Division of Emergency Management. At a~~  
816 ~~minimum, the rules must provide for~~ plan components that address  
817 emergency evacuation transportation; adequate sheltering  
818 arrangements; postdisaster activities, including emergency  
819 power, food, and water; postdisaster transportation; supplies;  
820 staffing; emergency equipment; individual identification of  
821 residents and transfer of records; and responding to family  
822 inquiries. The comprehensive emergency management plan is  
823 subject to review and approval by the local emergency management  
824 agency. During its review, the local emergency management agency  
825 shall ensure that the following agencies, at a minimum, are  
826 given the opportunity to review the plan: the Department of  
827 Elderly Affairs, the Agency for Persons with Disabilities, the  
828 Agency for Health Care Administration, and the Division of  
829 Emergency Management. Also, appropriate volunteer organizations  
830 must be given the opportunity to review the plan. The local  
831 emergency management agency shall complete its review within 60  
832 days and either approve the plan or advise the facility of





833 necessary revisions.

834 (h) The use of restraint and seclusion. Such rules must be  
835 consistent with recognized best practices; prohibit inherently  
836 dangerous restraint or seclusion procedures; establish  
837 limitations on the use and duration of restraint and seclusion;  
838 establish measures to ensure the safety of clients and staff  
839 during an incident of restraint or seclusion; establish  
840 procedures for staff to follow before, during, and after  
841 incidents of restraint or seclusion, including individualized  
842 plans for the use of restraints or seclusion in emergency  
843 situations; establish professional qualifications of and  
844 training for staff who may order or be engaged in the use of  
845 restraint or seclusion; establish requirements for facility data  
846 collection and reporting relating to the use of restraint and  
847 seclusion; and establish procedures relating to the  
848 documentation of the use of restraint or seclusion in the  
849 client's facility or program record.

850 (3) ~~The agency shall adopt rules to provide that,~~ When the  
851 criteria established under this part and part II of chapter 408  
852 are not met, such deficiencies shall be classified according to  
853 the nature of the deficiency. The agency shall indicate the  
854 classification on the face of the notice of deficiencies as  
855 follows:

856 (a) Class I deficiencies are those which the agency  
857 determines present an imminent danger to the residents or guests  
858 of the facility or a substantial probability that death or



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859 | serious physical harm would result therefrom. The condition or  
860 | practice constituting a class I violation must be abated or  
861 | eliminated immediately, unless a fixed period of time, as  
862 | determined by the agency, is required for correction. A class I  
863 | deficiency is subject to a civil penalty in an amount not less  
864 | than \$5,000 and not exceeding \$10,000 for each deficiency. A  
865 | fine may be levied notwithstanding the correction of the  
866 | deficiency.

867 |       (b) Class II deficiencies are those which the agency  
868 | determines have a direct or immediate relationship to the  
869 | health, safety, or security of the facility residents, other  
870 | than class I deficiencies. A class II deficiency is subject to a  
871 | civil penalty in an amount not less than \$1,000 and not  
872 | exceeding \$5,000 for each deficiency. A citation for a class II  
873 | deficiency shall specify the time within which the deficiency  
874 | must be corrected. If a class II deficiency is corrected within  
875 | the time specified, no civil penalty shall be imposed, unless it  
876 | is a repeated offense.

877 |       (c) Class III deficiencies are those which the agency  
878 | determines to have an indirect or potential relationship to the  
879 | health, safety, or security of the facility residents, other  
880 | than class I or class II deficiencies. A class III deficiency is  
881 | subject to a civil penalty of not less than \$500 and not  
882 | exceeding \$1,000 for each deficiency. A citation for a class III  
883 | deficiency shall specify the time within which the deficiency  
884 | must be corrected. If a class III deficiency is corrected within



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885 the time specified, no civil penalty shall be imposed, unless it  
886 is a repeated offense.

887 Section 18. Subsection (2) of section 400.980, Florida  
888 Statutes, is amended to read:

889 400.980 Health care services pools.—

890 (2) The requirements of part II of chapter 408 apply to  
891 the provision of services that require licensure or registration  
892 pursuant to this part and part II of chapter 408 and to entities  
893 registered by or applying for such registration from the agency  
894 pursuant to this part. Registration or a license issued by the  
895 agency is required for the operation of a health care services  
896 pool in this state. In accordance with s. 408.805, an applicant  
897 or licensee shall pay a fee for each license application  
898 submitted using this part, part II of chapter 408, and  
899 applicable rules. The agency shall ~~adopt rules and~~ provide forms  
900 required for such registration and shall impose a registration  
901 fee in an amount sufficient to cover the cost of administering  
902 this part and part II of chapter 408. In addition to the  
903 requirements in part II of chapter 408, the registrant must  
904 provide the agency with any change of information contained on  
905 the original registration application within 14 days prior to  
906 the change.

907 Section 19. Subsection (43) of section 409.912, Florida  
908 Statutes, is amended to read:

909 409.912 Cost-effective purchasing of health care.—The  
910 agency shall purchase goods and services for Medicaid recipients



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911 in the most cost-effective manner consistent with the delivery  
912 of quality medical care. To ensure that medical services are  
913 effectively utilized, the agency may, in any case, require a  
914 confirmation or second physician's opinion of the correct  
915 diagnosis for purposes of authorizing future services under the  
916 Medicaid program. This section does not restrict access to  
917 emergency services or poststabilization care services as defined  
918 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
919 shall be rendered in a manner approved by the agency. The agency  
920 shall maximize the use of prepaid per capita and prepaid  
921 aggregate fixed-sum basis services when appropriate and other  
922 alternative service delivery and reimbursement methodologies,  
923 including competitive bidding pursuant to s. 287.057, designed  
924 to facilitate the cost-effective purchase of a case-managed  
925 continuum of care. The agency shall also require providers to  
926 minimize the exposure of recipients to the need for acute  
927 inpatient, custodial, and other institutional care and the  
928 inappropriate or unnecessary use of high-cost services. The  
929 agency shall contract with a vendor to monitor and evaluate the  
930 clinical practice patterns of providers in order to identify  
931 trends that are outside the normal practice patterns of a  
932 provider's professional peers or the national guidelines of a  
933 provider's professional association. The vendor must be able to  
934 provide information and counseling to a provider whose practice  
935 patterns are outside the norms, in consultation with the agency,  
936 to improve patient care and reduce inappropriate utilization.

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937 The agency may mandate prior authorization, drug therapy  
938 management, or disease management participation for certain  
939 populations of Medicaid beneficiaries, certain drug classes, or  
940 particular drugs to prevent fraud, abuse, overuse, and possible  
941 dangerous drug interactions. The Pharmaceutical and Therapeutics  
942 Committee shall make recommendations to the agency on drugs for  
943 which prior authorization is required. The agency shall inform  
944 the Pharmaceutical and Therapeutics Committee of its decisions  
945 regarding drugs subject to prior authorization. The agency is  
946 authorized to limit the entities it contracts with or enrolls as  
947 Medicaid providers by developing a provider network through  
948 provider credentialing. The agency may competitively bid single-  
949 source-provider contracts if procurement of goods or services  
950 results in demonstrated cost savings to the state without  
951 limiting access to care. The agency may limit its network based  
952 on the assessment of beneficiary access to care, provider  
953 availability, provider quality standards, time and distance  
954 standards for access to care, the cultural competence of the  
955 provider network, demographic characteristics of Medicaid  
956 beneficiaries, practice and provider-to-beneficiary standards,  
957 appointment wait times, beneficiary use of services, provider  
958 turnover, provider profiling, provider licensure history,  
959 previous program integrity investigations and findings, peer  
960 review, provider Medicaid policy and billing compliance records,  
961 clinical and medical record audits, and other factors. Providers  
962 are not entitled to enrollment in the Medicaid provider network.



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963 The agency shall determine instances in which allowing Medicaid  
964 beneficiaries to purchase durable medical equipment and other  
965 goods is less expensive to the Medicaid program than long-term  
966 rental of the equipment or goods. The agency may establish rules  
967 to facilitate purchases in lieu of long-term rentals in order to  
968 protect against fraud and abuse in the Medicaid program as  
969 defined in s. 409.913. The agency may seek federal waivers  
970 necessary to administer these policies.

971 (43) Subject to the availability of funds, the agency  
972 shall mandate a recipient's participation in a provider lock-in  
973 program, when appropriate, if a recipient is found by the agency  
974 to have used Medicaid goods or services at a frequency or amount  
975 not medically necessary, limiting the receipt of goods or  
976 services to medically necessary providers after the 21-day  
977 appeal process has ended, for a period of not less than 1 year.  
978 The lock-in programs shall include, but are not limited to,  
979 pharmacies, medical doctors, and infusion clinics. The  
980 limitation does not apply to emergency services and care  
981 provided to the recipient in a hospital emergency department.  
982 The agency shall seek any federal waivers necessary to implement  
983 this subsection. ~~The agency shall adopt any rules necessary to~~  
984 ~~comply with or administer this subsection.~~ This subsection  
985 expires October 1, 2014.

986 Section 20. Paragraph (e) of subsection (2) of section  
987 409.972, Florida Statutes, is amended to read:

988 409.972 Mandatory and voluntary enrollment.—



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989 (2) The following Medicaid-eligible persons are exempt  
990 from mandatory managed care enrollment required by s. 409.965,  
991 and may voluntarily choose to participate in the managed medical  
992 assistance program:

993 (e) Medicaid recipients enrolled in the home and community  
994 based services waiver pursuant to chapter 393, ~~and~~ Medicaid  
995 recipients waiting for waiver services, and Medicaid recipients  
996 under the age of 21 who are not receiving waiver services but  
997 are authorized by the Agency for Persons with Disabilities or  
998 the Department of Children and Families to reside in a group  
999 home facility licensed pursuant to chapter 393.

1000 Section 21. Subsections (4) and (5) of section 429.255,  
1001 Florida Statutes, are amended to read:

1002 429.255 Use of personnel; emergency care.—

1003 (4) Facility staff may withhold or withdraw  
1004 cardiopulmonary resuscitation or the use of an automated  
1005 external defibrillator if presented with an order not to  
1006 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
1007 ~~adopt rules providing for the implementation of such orders.~~  
1008 Facility staff and facilities are ~~shall~~ not ~~be~~ subject to  
1009 criminal prosecution or civil liability, nor ~~be~~ considered to  
1010 have engaged in negligent or unprofessional conduct, for  
1011 withholding or withdrawing cardiopulmonary resuscitation or use  
1012 of an automated external defibrillator pursuant to such an order  
1013 and rules adopted by the department. The absence of an order to  
1014 resuscitate executed pursuant to s. 401.45 does not preclude a



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1015 physician from withholding or withdrawing cardiopulmonary  
1016 resuscitation or use of an automated external defibrillator as  
1017 otherwise permitted by law.

1018 (5) The Department of Elderly Affairs may adopt rules to  
1019 implement the provisions of this section ~~relating to use of an~~  
1020 ~~automated external defibrillator.~~

1021 Section 22. Subsection (3) of section 429.73, Florida  
1022 Statutes, is amended to read:

1023 429.73 Rules and standards relating to adult family-care  
1024 homes.—

1025 (3) ~~The department shall adopt rules providing for the~~  
1026 ~~implementation of orders not to resuscitate.~~ The provider may  
1027 withhold or withdraw cardiopulmonary resuscitation if presented  
1028 with an order not to resuscitate executed pursuant to s. 401.45.  
1029 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or  
1030 civil liability, nor ~~be~~ considered to have engaged in negligent  
1031 or unprofessional conduct, for withholding or withdrawing  
1032 cardiopulmonary resuscitation pursuant to such an order and  
1033 applicable rules.

1034 Section 23. Subsection (10) of section 440.102, Florida  
1035 Statutes, is amended to read:

1036 440.102 Drug-free workplace program requirements.—The  
1037 following provisions apply to a drug-free workplace program  
1038 implemented pursuant to law or to rules adopted by the Agency  
1039 for Health Care Administration:

1040 (10) ~~RULES.—The Agency for Health Care Administration~~





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1041 ~~shall adopt rules~~ Pursuant to s. 112.0455, part II of chapter  
1042 408, and using criteria established by the United States  
1043 Department of Health and Human Services, the agency shall adopt  
1044 rules as necessary to establish ~~as~~ general guidelines for  
1045 modeling drug-free workplace laboratories, concerning, but not  
1046 limited to:

1047 (a) Standards for licensing drug-testing laboratories and  
1048 suspension and revocation of such licenses.

1049 (b) Urine, hair, blood, and other body specimens and  
1050 minimum specimen amounts that are appropriate for drug testing.

1051 (c) Methods of analysis and procedures to ensure reliable  
1052 drug-testing results, including standards for initial tests and  
1053 confirmation tests.

1054 (d) Minimum cutoff detection levels for each drug or  
1055 metabolites of such drug for the purposes of determining a  
1056 positive test result.

1057 (e) Chain-of-custody procedures to ensure proper  
1058 identification, labeling, and handling of specimens tested.

1059 (f) Retention, storage, and transportation procedures to  
1060 ensure reliable results on confirmation tests and retests.

1061 Section 24. Subsection (2) of section 483.245, Florida  
1062 Statutes, is amended to read:

1063 483.245 Rebates prohibited; penalties.—

1064 (2) The agency may establish and ~~shall adopt rules that~~  
1065 assess administrative penalties for acts prohibited by  
1066 subsection (1). In the case of an entity licensed by the agency,



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1067 such penalties may include any disciplinary action available to  
1068 the agency under the appropriate licensing laws. In the case of  
1069 an entity not licensed by the agency, such penalties may  
1070 include:

1071 (a) A fine not to exceed \$1,000.~~+~~

1072 (b) If applicable, a recommendation by the agency to the  
1073 appropriate licensing board that disciplinary action be taken.

1074 Section 25. Subsection (2) of section 765.541, Florida  
1075 Statutes, is amended to read:

1076 765.541 Certification of procurement organizations; agency  
1077 responsibilities.—The agency shall:

1078 (2) Adopt rules necessary to implement ~~that set forth~~  
1079 ~~appropriate standards and guidelines for the program in~~  
1080 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.  
1081 ~~These~~ Standards and guidelines for the program adopted by the  
1082 agency must be substantially based on the ~~existing~~ laws of the  
1083 Federal Government and this state and the ~~existing~~ standards and  
1084 guidelines, consistent with the requirements of ss. 765.541-  
1085 765.546, of one or more nationally recognized accreditation  
1086 organizations or a federally regulated network determined by the  
1087 agency to possess reasonable expertise in organ procurement. ~~the~~  
1088 ~~United Network for Organ Sharing (UNOS), the American~~  
1089 ~~Association of Tissue Banks (AATB), the South-Eastern Organ~~  
1090 ~~Procurement Foundation (SEOPF), the North American Transplant~~  
1091 ~~Coordinators Organization (NATCO), and the Eye Bank Association~~  
1092 ~~of America (EBAA).~~



1093 ~~In addition, the agency shall, before adopting these standards~~  
 1094 ~~and guidelines, seek input from all procurement organizations~~  
 1095 ~~based in this state.~~

1096 Section 26. Subsection (2) of section 765.544, Florida  
 1097 Statutes, is amended to read:

1098 765.544 Fees; organ and tissue donor education and  
 1099 procurement.—

1100 ~~(2) The agency shall specify by rule the administrative~~  
 1101 ~~penalties for the purpose of ensuring adherence to the standards~~  
 1102 ~~of quality and practice required by this chapter, part II of~~  
 1103 ~~chapter 408, and applicable rules of the agency for continued~~  
 1104 ~~certification.~~

1105 Section 27. This act shall take effect July 1, 2014.