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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to health care facility regulation;  
creating s. 154.13, F.S.; providing that a designated  
facility owned or operated by a public health trust  
and located within the boundaries of a municipality is  
under the exclusive jurisdiction of the county  
creating the public health trust; amending ss.  
381.0031, 381.004, 384.31, 395.009, 400.0625, and  
409.905, F.S.; eliminating state licensure  
requirements for clinical laboratories; requiring  
clinical laboratories to be federally certified;  
amending s. 383.313, F.S.; requiring a birth center to  
be federally certified and meet specified requirements  
to perform certain laboratory tests; repealing s.  
383.335, F.S., relating to partial exemptions from  
licensure requirements for certain facilities that  
provide obstetrical and gynecological surgical  
services; amending s. 395.002, F.S.; revising and  
deleting definitions to remove the term "mobile  
surgical facility"; conforming a cross-reference;  
creating s. 395.0091, F.S.; requiring the Agency for  
Health Care Administration, in consultation with the  
Board of Clinical Laboratory Personnel, to adopt rules  
establishing criteria for alternate-site laboratory  
testing; requiring specifications to be included in  
the criteria; defining the term "alternate-site  
testing"; amending ss. 395.0161 and 395.0163, F.S.;



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28 deleting licensure and inspection requirements for  
29 mobile surgical facilities to conform to changes made  
30 by the act; amending s. 395.0197, F.S.; requiring the  
31 manager of a hospital or ambulatory surgical center  
32 internal risk management program to demonstrate  
33 competence in specified administrative and health care  
34 service areas; conforming provisions to changes made  
35 by the act; repealing s. 395.1046, F.S., relating to  
36 hospital complaint investigation procedures; amending  
37 s. 395.1055, F.S.; requiring hospitals that provide  
38 specified services to meet agency licensure  
39 requirements; providing standards to be included in  
40 licensure requirements; conforming a provision to  
41 changes made by the act; requiring a level 2  
42 background screening for personnel of distinct part  
43 nursing units; repealing ss. 395.10971 and 395.10972,  
44 F.S., relating to the purpose and the establishment of  
45 the Health Care Risk Manager Advisory Council,  
46 respectively; amending s. 395.10973, F.S.; removing  
47 requirements relating to agency standards for health  
48 care risk managers to conform provisions to changes  
49 made by the act; repealing s. 395.10974, F.S.,  
50 relating to licensure of health care risk managers,  
51 qualifications, licensure, and fees; repealing s.  
52 395.10975, F.S., relating to grounds for denial,  
53 suspension, or revocation of a health care risk  
54 manager's license and an administrative fine; amending  
55 s. 395.602, F.S.; deleting definitions for the terms  
56 "emergency care hospital", "essential access community



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57 hospital," "inactive rural hospital bed", and "rural  
58 primary care hospital"; amending s. 395.603, F.S.;  
59 deleting provisions relating to deactivation of  
60 general hospital beds by certain rural and emergency  
61 care hospitals; repealing s. 395.604, F.S., relating  
62 to other rural hospital programs; repealing s.  
63 395.605, F.S., relating to emergency care hospitals;  
64 amending s. 395.701, F.S.; revising the definition of  
65 the term "hospital" to exclude hospitals operated by a  
66 state agency; amending s. 400.191, F.S.; removing the  
67 30-month reporting timeframe for the Nursing Home  
68 Guide; amending s. 400.464, F.S.; requiring that a  
69 license issued to a home health agency on or after a  
70 specified date specify the services the organization  
71 is authorized to perform and whether the services  
72 constitute skilled care; providing that the provision  
73 or advertising of certain services constitutes  
74 unlicensed activity under certain circumstances;  
75 authorizing certain persons, entities or organizations  
76 providing home health services to voluntarily apply  
77 for a certificate of exemption from licensure by  
78 providing certain information to the agency; providing  
79 that the certificate is valid for a specified time and  
80 is nontransferable; authorizing the agency to charge a  
81 fee for the certificate; amending s. 400.471, F.S.;  
82 revising home health agency licensure requirements;  
83 providing requirements for proof of accreditation for  
84 home health agencies applying for change of ownership  
85 or the addition of skilled care services; removing a



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86 provision prohibiting the agency from issuing a  
87 license to a home health agency that fails to satisfy  
88 the requirements of a Medicare certification survey  
89 from the agency; amending s. 400.474, F.S.; revising  
90 conditions for the imposition of a fine against a home  
91 health agency; amending s. 400.476, F.S.; requiring a  
92 home health agency providing skilled nursing care to  
93 have a director of nursing; amending s. 400.484, F.S.;  
94 imposing administrative fines on home health agencies  
95 for specified classes of violations; amending s.  
96 400.497, F.S.; requiring the agency to adopt, publish,  
97 and enforce rules establishing standards for  
98 certificates of exemption; amending s. 400.506, F.S.;  
99 specifying a criminal penalty for any person who owns,  
100 operates, or maintains an unlicensed nurse registry  
101 that fails to cease operation immediately and apply  
102 for a license after notification from the agency;  
103 revising provisions authorizing the agency to impose a  
104 fine on a nurse registry that fails to cease operation  
105 after agency notification; revising circumstances  
106 under which the agency is authorized to deny, suspend,  
107 or revoke a license or impose a fine on a nurse  
108 registry; prohibiting a nurse registry from  
109 monitoring, supervising, managing, or training a  
110 certain caregiver who is an independent contractor;  
111 amending s. 400.606, F.S.; removing a requirement that  
112 an existing licensed health care provider's hospice  
113 licensure application be accompanied by a copy of the  
114 most recent profit-loss statement and licensure



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115 inspection report; amending s. 400.925, F.S.; revising  
116 the definition of the term "home medical equipment";  
117 amending s. 400.931, F.S.; requiring a home medical  
118 equipment provider to notify the agency of certain  
119 personnel changes within a specified timeframe;  
120 amending s. 400.933, F.S.; requiring the agency to  
121 accept the submission of a valid medical oxygen retail  
122 establishment permit issued by the Department of  
123 Business and Professional Regulation in lieu of an  
124 agency inspection for licensure; amending s. 400.980,  
125 F.S.; revising the timeframe within which a health  
126 care services pool registrant must provide the agency  
127 with certain changes of information; amending s.  
128 400.9935, F.S.; specifying that a voluntary  
129 certificate of exemption may be valid for up to 2  
130 years; amending s. 408.036, F.S.; conforming  
131 provisions to changes made by the act; deleting  
132 obsolete provisions relating to certificate of need  
133 requirements for specified services; amending s.  
134 408.0361, F.S.; providing an exception for a hospital  
135 to become a Level I Adult Cardiovascular provider if  
136 certain requirements are met; amending s. 408.061,  
137 F.S.; excluding hospitals operated by state agencies  
138 from certain financial reporting requirements;  
139 conforming a cross-reference; amending s. 408.07,  
140 F.S.; deleting the definition for the term "clinical  
141 laboratory"; amending s. 408.20, F.S.; exempting  
142 hospitals operated by any state agency from  
143 assessments against the Health Care Trust Fund to fund



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144 certain agency activities; repealing s. 408.7056,  
145 F.S., relating to the Subscriber Assistance Program;  
146 amending s. 408.803, F.S.; defining the term  
147 "relative" for purposes of the Health Care Licensing  
148 Procedures Act; amending s. 408.806, F.S.; authorizing  
149 licensees who hold licenses for multiple providers to  
150 request that the agency align related license  
151 expiration dates; authorizing the agency to issue  
152 licenses for an abbreviated licensure period and to  
153 charge a prorated licensure fee; amending s. 408.809,  
154 F.S.; expanding the scope of persons subject to a  
155 level 2 background screening to include any employee  
156 of a licensee who is a controlling interest and  
157 certain part-time contractors; amending s. 408.810,  
158 F.S.; providing that an applicant for change of  
159 ownership licensure is exempt from furnishing proof of  
160 financial ability to operate if certain conditions are  
161 met; authorizing the agency to adopt rules governing  
162 circumstances under which a controlling interest may  
163 act in certain legal capacities on behalf of a patient  
164 or client; requiring a licensee to ensure that certain  
165 persons do not hold an ownership interest if the  
166 licensee is not organized as or owned by a publicly  
167 traded corporation; defining the term "publicly traded  
168 corporation"; amending s. 408.812, F.S.; providing  
169 that certain unlicensed activity by a provider  
170 constitutes abuse and neglect; clarifying that the  
171 agency may impose a fine or penalty, as prescribed in  
172 an authorizing statute, if an unlicensed provider who



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173 has received notification fails to cease operation;  
174 authorizing the agency to revoke all licenses and  
175 impose a fine or penalties upon a controlling interest  
176 or licensee who has an interest in more than one  
177 provider and who fails to license a provider rendering  
178 services that require licensure in certain  
179 circumstances; amending s. 408.820, F.S.; deleting  
180 certain exemptions from part II of ch. 408, F.S., for  
181 specified providers to conform provisions to changes  
182 made by the act; amending s. 409.907, F.S.; removing  
183 the agency's authority to consider certain factors in  
184 determining whether to enter into, and in maintaining,  
185 a Medicaid provider agreement; amending s. 429.02,  
186 F.S.; revising definitions of the terms "assisted  
187 living facility" and "personal services"; amending s.  
188 429.04, F.S.; providing additional exemptions from  
189 licensure as an assisted living facility; requiring a  
190 person or entity asserting the exemption to provide  
191 documentation that substantiates the claim upon agency  
192 investigation of unlicensed activity; amending s.  
193 429.08, F.S.; providing criminal penalties and fines  
194 for a person who rents or otherwise maintains a  
195 building or property used as an unlicensed assisted  
196 living facility; providing criminal penalties and  
197 fines for a person who owns, operates, or maintains an  
198 unlicensed assisted living facility after receiving  
199 notice from the agency; amending s. 429.176, F.S.;  
200 prohibiting an assisted living facility from operating  
201 for more than a specified time without an



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202 administrator who has completed certain educational  
203 requirements; amending s. 429.24, F.S.; providing that  
204 30-day written notice of rate increase for residency  
205 in an assisted living facility is not required in  
206 certain situations; amending s. 429.28, F.S.; revising  
207 the assisted living facility resident bill of rights  
208 to include assistance with obtaining access to  
209 adequate and appropriate health care; defining the  
210 term "adequate and appropriate health care"; deleting  
211 a requirement that the agency conduct at least one  
212 monitoring visit under certain circumstances; deleting  
213 provisions authorizing the agency to conduct periodic  
214 followup inspections and complaint investigations  
215 under certain circumstances; amending s. 429.294,  
216 F.S.; deleting the specified timeframe within which an  
217 assisted living facility must provide complete copies  
218 of a resident's records in an investigation of  
219 resident's rights; amending s. 429.34, F.S.;  
220 authorizing the agency to inspect and investigate  
221 assisted living facilities as necessary to determine  
222 compliance with certain laws; removing a provision  
223 requiring the agency to inspect each licensed assisted  
224 living facility at least biennially; authorizing the  
225 agency to conduct monitoring visits of each facility  
226 cited for prior violations under certain  
227 circumstances; amending s. 429.52, F.S.; requiring an  
228 assisted living facility administrator to complete  
229 required training and education within a specified  
230 timeframe; amending s. 435.04, F.S.; providing that





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231 security background investigations must ensure that a  
232 person has not been arrested for, and is not awaiting  
233 final disposition of, certain offenses; requiring that  
234 security background investigations for purposes of  
235 participation in the Medicaid program screen for  
236 violations of federal or state law, rule, or  
237 regulation governing any state Medicaid program, the  
238 Medicare program, or any other publicly funded federal  
239 or state health care or health insurance program;  
240 specifying offenses under federal law or any state law  
241 that the security background investigations must  
242 screen for; amending s. 456.054, F.S.; prohibiting any  
243 person or entity from paying or receiving a kickback  
244 for referring patients to a clinical laboratory;  
245 prohibiting a clinical laboratory from providing  
246 personnel to perform certain functions or duties in a  
247 health care practitioner's office or dialysis  
248 facility; providing an exception; prohibiting a  
249 clinical laboratory from leasing space in any part of  
250 a health care practitioner's office or dialysis  
251 facility; repealing part I of ch. 483, F.S., relating  
252 to clinical laboratories; amending s. 483.294, F.S.;  
253 removing a requirement that the agency inspect  
254 multiphasic health testing centers at least once  
255 annually; amending s. 483.801, F.S.; providing an  
256 exemption from regulation for certain persons employed  
257 by certain laboratories; amending s. 483.803, F.S.;  
258 revising definitions of the terms "clinical  
259 laboratory", and "clinical laboratory examination";



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260 removing a cross-reference; amending s. 641.511, F.S.;

261 revising health maintenance organization subscriber

262 grievance reporting requirements; repealing s. 641.60,

263 F.S., relating to the Statewide Managed Care Ombudsman

264 Committee; repealing s. 641.65, F.S., relating to

265 district managed care ombudsman committees; repealing

266 s. 641.67, F.S., relating to a district managed care

267 ombudsman committee, exemption from public records

268 requirements, and exceptions; repealing s. 641.68,

269 F.S., relating to a district managed care ombudsman

270 committee and exemption from public meeting

271 requirements; repealing s. 641.70, F.S., relating to

272 agency duties relating to the Statewide Managed Care

273 Ombudsman Committee and the district managed care

274 ombudsman committees; repealing s. 641.75, F.S.,

275 relating to immunity from liability and limitation on

276 testimony; amending s. 945.36, F.S.; authorizing law

277 enforcement personnel to conduct drug tests on certain

278 inmates and releasees; amending ss. 20.43, 220.1845,

279 376.30781, 376.86, 381.0034, 381.0405, 383.14, 383.30,

280 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,

281 394.4787, 395.001, 395.003, 395.7015, 400.9905,

282 408.033, 408.802, 409.9116, 409.975, 429.19, 456.001,

283 456.057, 456.076, 458.307, 458.345, 459.021, 483.813,

284 483.823, 491.003, 627.351, 627.602, 627.6406,

285 627.64194, 627.6513, 627.6574, 641.185, 641.31,

286 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,

287 766.202, 1009.65, and 1011.52, F.S.; conforming

288 provisions to changes made by the act; providing an



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289           effective date.

290

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

292

293           Section 1. Paragraph (g) of subsection (3) of section  
294 20.43, Florida Statutes, is amended to read:

295           20.43 Department of Health.—There is created a Department  
296 of Health.

297           (3) The following divisions of the Department of Health are  
298 established:

299           (g) Division of Medical Quality Assurance, which is  
300 responsible for the following boards and professions established  
301 within the division:

302           1. The Board of Acupuncture, created under chapter 457.

303           2. The Board of Medicine, created under chapter 458.

304           3. The Board of Osteopathic Medicine, created under chapter  
305 459.

306           4. The Board of Chiropractic Medicine, created under  
307 chapter 460.

308           5. The Board of Podiatric Medicine, created under chapter  
309 461.

310           6. Naturopathy, as provided under chapter 462.

311           7. The Board of Optometry, created under chapter 463.

312           8. The Board of Nursing, created under part I of chapter  
313 464.

314           9. Nursing assistants, as provided under part II of chapter  
315 464.

316           10. The Board of Pharmacy, created under chapter 465.

317           11. The Board of Dentistry, created under chapter 466.



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- 318           12. Midwifery, as provided under chapter 467.
- 319           13. The Board of Speech-Language Pathology and Audiology,  
320 created under part I of chapter 468.
- 321           14. The Board of Nursing Home Administrators, created under  
322 part II of chapter 468.
- 323           15. The Board of Occupational Therapy, created under part  
324 III of chapter 468.
- 325           16. Respiratory therapy, as provided under part V of  
326 chapter 468.
- 327           17. Dietetics and nutrition practice, as provided under  
328 part X of chapter 468.
- 329           18. The Board of Athletic Training, created under part XIII  
330 of chapter 468.
- 331           19. The Board of Orthotists and Prosthetists, created under  
332 part XIV of chapter 468.
- 333           20. Electrolysis, as provided under chapter 478.
- 334           21. The Board of Massage Therapy, created under chapter  
335 480.
- 336           22. The Board of Clinical Laboratory Personnel, created  
337 under part II ~~III~~ of chapter 483.
- 338           23. Medical physicists, as provided under part IV of  
339 chapter 483.
- 340           24. The Board of Opticianry, created under part I of  
341 chapter 484.
- 342           25. The Board of Hearing Aid Specialists, created under  
343 part II of chapter 484.
- 344           26. The Board of Physical Therapy Practice, created under  
345 chapter 486.
- 346           27. The Board of Psychology, created under chapter 490.



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

348 29. The Board of Clinical Social Work, Marriage and Family  
349 Therapy, and Mental Health Counseling, created under chapter  
350 491.

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

353 Section 2. Section 154.13, Florida Statutes, is created to  
354 read:

355 154.13 Designated facilities; jurisdiction.—Any designated  
356 facility owned or operated by a public health trust and located  
357 within the boundaries of a municipality is under the exclusive  
358 jurisdiction of the county creating the public health trust and  
359 is not within the jurisdiction of the municipality.

360 Section 3. Paragraph (k) of subsection (2) of section  
361 220.1845, Florida Statutes, is amended to read:

362 220.1845 Contaminated site rehabilitation tax credit.—

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

364 (k) In order to encourage the construction and operation of  
365 a new health care facility as defined in s. 408.032 or s.  
366 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~  
367 ~~408.7056~~, on a brownfield site, an applicant for a tax credit  
368 may claim an additional 25 percent of the total site  
369 rehabilitation costs, not to exceed \$500,000, if the applicant  
370 meets the requirements of this paragraph. In order to receive  
371 this additional tax credit, the applicant must provide  
372 documentation indicating that the construction of the health  
373 care facility or health care provider by the applicant on the  
374 brownfield site has received a certificate of occupancy or a  
375 license or certificate has been issued for the operation of the



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376 health care facility or health care provider.

377 Section 4. Paragraph (f) of subsection (3) of section  
378 376.30781, Florida Statutes, is amended to read:

379 376.30781 Tax credits for rehabilitation of drycleaning-  
380 solvent-contaminated sites and brownfield sites in designated  
381 brownfield areas; application process; rulemaking authority;  
382 revocation authority.-

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

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

398 376.86 Brownfield Areas Loan Guarantee Program.-

399 (1) The Brownfield Areas Loan Guarantee Council is created  
400 to review and approve or deny, by a majority vote of its  
401 membership, the situations and circumstances for participation  
402 in partnerships by agreements with local governments, financial  
403 institutions, and others associated with the redevelopment of  
404 brownfield areas pursuant to the Brownfields Redevelopment Act



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405 for a limited state guaranty of up to 5 years of loan guarantees  
406 or loan loss reserves issued pursuant to law. The limited state  
407 loan guaranty applies only to 50 percent of the primary lenders  
408 loans for redevelopment projects in brownfield areas. If the  
409 redevelopment project is for affordable housing, as defined in  
410 s. 420.0004, in a brownfield area, the limited state loan  
411 guaranty applies to 75 percent of the primary lender's loan. If  
412 the redevelopment project includes the construction and  
413 operation of a new health care facility or a health care  
414 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~  
415 ~~408.7056~~, on a brownfield site and the applicant has obtained  
416 documentation in accordance with s. 376.30781 indicating that  
417 the construction of the health care facility or health care  
418 provider by the applicant on the brownfield site has received a  
419 certificate of occupancy or a license or certificate has been  
420 issued for the operation of the health care facility or health  
421 care provider, the limited state loan guaranty applies to 75  
422 percent of the primary lender's loan. A limited state guaranty  
423 of private loans or a loan loss reserve is authorized for  
424 lenders licensed to operate in the state upon a determination by  
425 the council that such an arrangement would be in the public  
426 interest and the likelihood of the success of the loan is great.

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

429 381.0031 Epidemiological research; report of diseases of  
430 public health significance to department.—

431 (2) Any practitioner licensed in this state to practice  
432 medicine, osteopathic medicine, chiropractic medicine,  
433 naturopathy, or veterinary medicine; any hospital licensed under



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434 part I of chapter 395; or any laboratory appropriately certified  
435 by the Centers for Medicare and Medicaid Services under the  
436 federal Clinical Laboratory Improvement Amendments and the  
437 federal rules adopted thereunder which licensed under chapter  
438 ~~483 that~~ diagnoses or suspects the existence of a disease of  
439 public health significance shall immediately report the fact to  
440 the Department of Health.

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

443 381.0034 Requirement for instruction on HIV and AIDS.—

444 (3) The department shall require, as a condition of  
445 granting a license under chapter 467 or part II ~~III~~ of chapter  
446 483, that an applicant making initial application for licensure  
447 complete an educational course acceptable to the department on  
448 human immunodeficiency virus and acquired immune deficiency  
449 syndrome. Upon submission of an affidavit showing good cause, an  
450 applicant who has not taken a course at the time of licensure  
451 shall be allowed 6 months to complete this requirement.

452 Section 8. Paragraph (c) of subsection (4) of section  
453 381.004, Florida Statutes, is amended to read:

454 381.004 HIV testing.—

455 (4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS;  
456 REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM  
457 REGISTRATION.—No county health department and no other person in  
458 this state shall conduct or hold themselves out to the public as  
459 conducting a testing program for acquired immune deficiency  
460 syndrome or human immunodeficiency virus status without first  
461 registering with the Department of Health, reregistering each  
462 year, complying with all other applicable provisions of state





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463 law, and meeting the following requirements:

464 (c) The program shall have all laboratory procedures  
465 performed in a laboratory appropriately certified by the Centers  
466 for Medicare and Medicaid Services under the federal Clinical  
467 Laboratory Improvement Amendments and the federal rules adopted  
468 thereunder licensed under the provisions of chapter 483.

469 Section 9. Paragraph (f) of subsection (4) of section  
470 381.0405, Florida Statutes, is amended to read:

471 381.0405 Office of Rural Health.—

472 (4) COORDINATION.—The office shall:

473 (f) Assume responsibility for state coordination of the  
474 Rural Hospital Transition Grant Program, ~~the Essential Access~~  
475 ~~Community Hospital Program,~~ and other federal rural health care  
476 programs.

477 Section 10. Paragraph (a) of subsection (2) of section  
478 383.14, Florida Statutes, is amended to read:

479 383.14 Screening for metabolic disorders, other hereditary  
480 and congenital disorders, and environmental risk factors.—

481 (2) RULES.—

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

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

487 2. Be tested for any condition included on the federal  
488 Recommended Uniform Screening Panel which the council advises  
489 the department should be included under the state's screening  
490 program. After the council recommends that a condition be  
491 included, the department shall submit a legislative budget



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492 request to seek an appropriation to add testing of the condition  
493 to the newborn screening program. The department shall expand  
494 statewide screening of newborns to include screening for such  
495 conditions within 18 months after the council renders such  
496 advice, if a test approved by the United States Food and Drug  
497 Administration or a test offered by an alternative vendor ~~which~~  
498 ~~is compatible with the clinical standards established under part~~  
499 ~~I of chapter 483~~ is available. If such a test is not available  
500 within 18 months after the council makes its recommendation, the  
501 department shall implement such screening as soon as a test  
502 offered by the United States Food and Drug Administration or by  
503 an alternative vendor is available; and

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

507 Section 11. Section 383.30, Florida Statutes, is amended to  
508 read:

509 383.30 Birth Center Licensure Act; short title.—Sections  
510 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as  
511 the "Birth Center Licensure Act."

512 Section 12. Section 383.301, Florida Statutes, is amended  
513 to read:

514 383.301 Licensure and regulation of birth centers;  
515 legislative intent.—It is the intent of the Legislature to  
516 provide for the protection of public health and safety in the  
517 establishment, maintenance, and operation of birth centers by  
518 providing for licensure of birth centers and for the  
519 development, establishment, and enforcement of minimum standards  
520 with respect to birth centers. The requirements of part II of



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521 chapter 408 shall apply to the provision of services that  
522 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~  
523 and part II of chapter 408 and to entities licensed by or  
524 applying for such licensure from the Agency for Health Care  
525 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A  
526 license issued by the agency is required in order to operate a  
527 birth center in this state.

528 Section 13. Section 383.302, Florida Statutes, is amended  
529 to read:

530 383.302 Definitions of terms used in ss. 383.30-383.332  
531 ~~383.30-383.335~~.—As used in ss. 383.30-383.332 ~~383.30-383.335~~,  
532 the term:

533 (1) "Agency" means the Agency for Health Care  
534 Administration.

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

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

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

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

548 (b) Has hospital obstetrical privileges.

549 (5) "Governing body" means any individual, group,



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550 corporation, or institution which is responsible for the overall  
551 operation and maintenance of a birth center.

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

555 (7) "Licensed facility" means a facility licensed in  
556 accordance with s. 383.305.

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

561 (9) "Person" means any individual, firm, partnership,  
562 corporation, company, association, institution, or joint stock  
563 association and means any legal successor of any of the  
564 foregoing.

565 (10) "Premises" means those buildings, beds, and facilities  
566 located at the main address of the licensee and all other  
567 buildings, beds, and facilities for the provision of maternity  
568 care located in such reasonable proximity to the main address of  
569 the licensee as to appear to the public to be under the dominion  
570 and control of the licensee.

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

573 383.305 Licensure; fees.—

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

578 Section 15. Subsection (1) of section 383.309, Florida



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579 Statutes, is amended to read:

580 383.309 Minimum standards for birth centers; rules and  
581 enforcement.—

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

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

589 (b) Infection control, housekeeping, sanitary conditions,  
590 disaster plan, and medical record procedures that will  
591 adequately protect patient care and provide safety are  
592 established and implemented.

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

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

597 383.313 Performance of laboratory and surgical services;  
598 use of anesthetic and chemical agents.—

599 (1) LABORATORY SERVICES.—A birth center may collect  
600 specimens for those tests that are requested under protocol. A  
601 birth center must obtain and continuously maintain certification  
602 by the Centers for Medicare and Medicaid Services under the  
603 federal Clinical Laboratory Improvement Amendments and the  
604 federal rules adopted thereunder in order to ~~may perform simple~~  
605 laboratory tests specified, ~~as defined~~ by rule of the agency,  
606 and which are appropriate to meet the needs of the patient ~~is~~  
607 ~~exempt from the requirements of chapter 483, provided no more~~



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608 ~~than five physicians are employed by the birth center and~~  
609 ~~testing is conducted exclusively in connection with the~~  
610 ~~diagnosis and treatment of clients of the birth center.~~

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

613 383.33 Administrative penalties; moratorium on admissions.—

614 (1) In addition to the requirements of part II of chapter  
615 408, the agency may impose an administrative fine not to exceed  
616 \$500 per violation per day for the violation of any provision of  
617 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or  
618 applicable rules.

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

622 (a) The severity of the violation, including the  
623 probability that death or serious harm to the health or safety  
624 of any person will result or has resulted; the severity of the  
625 actual or potential harm; and the extent to which ~~the provisions~~  
626 ~~of~~ ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or  
627 applicable rules were violated.

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

629 Section 19. Section 384.31, Florida Statutes, is amended to  
630 read:

631 384.31 Testing of pregnant women; duty of the attendant.—  
632 Every person, including every physician licensed under chapter  
633 458 or chapter 459 or midwife licensed under part I of chapter  
634 464 or chapter 467, attending a pregnant woman for conditions  
635 relating to pregnancy during the period of gestation and  
636 delivery shall cause the woman to be tested for sexually



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637 transmissible diseases, including HIV, as specified by  
638 department rule. Testing shall be performed by a laboratory  
639 appropriately certified by the Centers for Medicare and Medicaid  
640 Services under the federal Clinical Laboratory Improvement  
641 Amendments and the federal rules adopted thereunder ~~approved~~ for  
642 such purposes ~~under part I of chapter 483~~. The woman shall be  
643 informed of the tests that will be conducted and of her right to  
644 refuse testing. If a woman objects to testing, a written  
645 statement of objection, signed by the woman, shall be placed in  
646 the woman's medical record and no testing shall occur.

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

649 385.211 Refractory and intractable epilepsy treatment and  
650 research at recognized medical centers.—

651 (2) Notwithstanding chapter 893, medical centers recognized  
652 pursuant to s. 381.925, or an academic medical research  
653 institution legally affiliated with a licensed children's  
654 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~  
655 that contracts with the Department of Health, may conduct  
656 research on cannabidiol and low-THC cannabis. This research may  
657 include, but is not limited to, the agricultural development,  
658 production, clinical research, and use of liquid medical  
659 derivatives of cannabidiol and low-THC cannabis for the  
660 treatment for refractory or intractable epilepsy. The authority  
661 for recognized medical centers to conduct this research is  
662 derived from 21 C.F.R. parts 312 and 316. Current state or  
663 privately obtained research funds may be used to support the  
664 activities described in this section.

665 Section 21. Subsection (7) of section 394.4787, Florida



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666 Statutes, is amended to read:

667 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and  
668 394.4789.—As used in this section and ss. 394.4786, 394.4788,  
669 and 394.4789:

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

673 Section 22. Section 395.001, Florida Statutes, is amended  
674 to read:

675 395.001 Legislative intent.—It is the intent of the  
676 Legislature to provide for the protection of public health and  
677 safety in the establishment, construction, maintenance, and  
678 operation of hospitals and ~~ambulatory surgical centers, and~~  
679 ~~mobile surgical facilities~~ by providing for licensure of same  
680 and for the development, establishment, and enforcement of  
681 minimum standards with respect thereto.

682 Section 23. Present subsections (22) through (33) of  
683 section 395.002, Florida Statutes, are redesignated as  
684 subsections (21) through (32), respectively, and subsections (3)  
685 and (16) of that section and present subsections (21) and (23)  
686 of that section are amended, to read:

687 395.002 Definitions.—As used in this chapter:

688 (3) "Ambulatory surgical center" ~~or "mobile surgical~~  
689 ~~facility"~~ means a facility the primary purpose of which is to  
690 provide elective surgical care, in which the patient is admitted  
691 to and discharged from such facility within the same working day  
692 and is not permitted to stay overnight, and which is not part of  
693 a hospital. However, a facility existing for the primary purpose  
694 of performing terminations of pregnancy, an office maintained by





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695 a physician for the practice of medicine, or an office  
696 maintained for the practice of dentistry may ~~shall~~ not be  
697 construed to be an ambulatory surgical center, provided that any  
698 facility or office which is certified or seeks certification as  
699 a Medicare ambulatory surgical center shall be licensed as an  
700 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~  
701 ~~or vehicle in which a physician maintains an office and~~  
702 ~~practices surgery, and which can appear to the public to be a~~  
703 ~~mobile office because the structure or vehicle operates at more~~  
704 ~~than one address, shall be construed to be a mobile surgical~~  
705 ~~facility.~~

706 (16) "Licensed facility" means a hospital or, ambulatory  
707 surgical center, ~~or mobile surgical facility~~ licensed in  
708 accordance with this chapter.

709 ~~(21) "Mobile surgical facility" is a mobile facility in~~  
710 ~~which licensed health care professionals provide elective~~  
711 ~~surgical care under contract with the Department of Corrections~~  
712 ~~or a private correctional facility operating pursuant to chapter~~  
713 ~~957 and in which inmate patients are admitted to and discharged~~  
714 ~~from said facility within the same working day and are not~~  
715 ~~permitted to stay overnight. However, mobile surgical facilities~~  
716 ~~may only provide health care services to the inmate patients of~~  
717 ~~the Department of Corrections, or inmate patients of a private~~  
718 ~~correctional facility operating pursuant to chapter 957, and not~~  
719 ~~to the general public.~~

720 ~~(22)~~ ~~(23)~~ "Premises" means those buildings, beds, and  
721 equipment located at the address of the licensed facility and  
722 all other buildings, beds, and equipment for the provision of  
723 hospital or, ambulatory surgical, ~~or mobile surgical~~ care



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724 located in such reasonable proximity to the address of the  
725 licensed facility as to appear to the public to be under the  
726 dominion and control of the licensee. For any licensee that is a  
727 teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,  
728 reasonable proximity includes any buildings, beds, services,  
729 programs, and equipment under the dominion and control of the  
730 licensee that are located at a site with a main address that is  
731 within 1 mile of the main address of the licensed facility; and  
732 all such buildings, beds, and equipment may, at the request of a  
733 licensee or applicant, be included on the facility license as a  
734 single premises.

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

738 395.003 Licensure; denial, suspension, and revocation.—

739 (1) (a) The requirements of part II of chapter 408 apply to  
740 the provision of services that require licensure pursuant to ss.  
741 395.001-395.1065 and part II of chapter 408 and to entities  
742 licensed by or applying for such licensure from the Agency for  
743 Health Care Administration pursuant to ss. 395.001-395.1065. A  
744 license issued by the agency is required in order to operate a  
745 hospital or ambulatory surgical center, ~~or mobile surgical~~  
746 ~~facility~~ in this state.

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

752 2. This part does not apply to veterinary hospitals or to



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753 commercial business establishments using the word "hospital," or  
754 "ambulatory surgical center," or ~~"mobile surgical facility"~~ as a  
755 part of a trade name if no treatment of human beings is  
756 performed on the premises of such establishments.

757 (2) (b) The agency shall, at the request of a licensee that  
758 is a teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,  
759 issue a single license to a licensee for facilities that have  
760 been previously licensed as separate premises, provided such  
761 separately licensed facilities, taken together, constitute the  
762 same premises as defined in s. 395.002 ~~s. 395.002(23)~~. Such  
763 license for the single premises shall include all of the beds,  
764 services, and programs that were previously included on the  
765 licenses for the separate premises. The granting of a single  
766 license under this paragraph may ~~shall~~ not in any manner reduce  
767 the number of beds, services, or programs operated by the  
768 licensee.

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

771 395.009 Minimum standards for clinical laboratory test  
772 results and diagnostic X-ray results; prerequisite for issuance  
773 or renewal of license.—

774 (1) As a requirement for issuance or renewal of its  
775 license, each licensed facility shall require that all clinical  
776 laboratory tests performed by or for the licensed facility be  
777 performed by a clinical laboratory appropriately certified by  
778 the Centers for Medicare and Medicaid Services under the federal  
779 Clinical Laboratory Improvement Amendments and the federal rules  
780 adopted thereunder ~~licensed under the provisions of chapter 483.~~

781 Section 26. Section 395.0091, Florida Statutes, is created



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782 to read:

783 395.0091 Alternate-site testing.—The agency, in  
784 consultation with the Board of Clinical Laboratory Personnel,  
785 shall adopt by rule the criteria for alternate-site testing to  
786 be performed under the supervision of a clinical laboratory  
787 director. At a minimum, the criteria must address hospital  
788 internal needs assessment; a protocol for implementation,  
789 including the identification of tests to be performed and who  
790 will perform them; selection of the method of testing to be used  
791 for alternate-site testing; minimum training and education  
792 requirements for those who will perform alternate-site testing,  
793 such as documented training, licensure, certification, or other  
794 medical professional background not limited to laboratory  
795 professionals; documented inservice training and initial and  
796 ongoing competency validation; an appropriate internal and  
797 external quality control protocol; an internal mechanism for the  
798 central laboratory to identify and track alternate-site testing;  
799 and recordkeeping requirements. Alternate-site testing locations  
800 must register when the hospital applies to renew its license.  
801 For purposes of this section, the term "alternate-site testing"  
802 includes any laboratory testing done under the administrative  
803 control of a hospital, but performed out of the physical or  
804 administrative confines of the central laboratory.

805 Section 27. Paragraph (f) of subsection (1) of section  
806 395.0161, Florida Statutes, is amended to read:

807 395.0161 Licensure inspection.—

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



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

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

818 395.0163 Construction inspections; plan submission and  
819 approval; fees.—

820 ~~(3) In addition to the requirements of s. 408.811, the~~  
821 ~~agency shall inspect a mobile surgical facility at initial~~  
822 ~~licensure and at each time the facility establishes a new~~  
823 ~~location, prior to admission of patients. However, such~~  
824 ~~inspections shall not be required when a mobile surgical~~  
825 ~~facility is moved temporarily to a location where medical~~  
826 ~~treatment will not be provided.~~

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

830 395.0197 Internal risk management program.—

831 (2) The internal risk management program is the  
832 responsibility of the governing board of the health care  
833 facility. Each licensed facility shall hire a risk manager,  
834 ~~licensed under s. 395.10974,~~ who is responsible for  
835 implementation and oversight of the such facility's internal  
836 risk management program and who demonstrates competence, through  
837 education or experience, in all of the following areas:

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

839 (b) Applicable federal, state, and local health and safety



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840 laws and rules.

841 (c) General risk management administration.

842 (d) Patient care.

843 (e) Medical care.

844 (f) Personal and social care.

845 (g) Accident prevention.

846 (h) Departmental organization and management.

847 (i) Community interrelationships.

848 (j) Medical terminology as required by this section. A risk

849 manager must not be made responsible for more than four internal

850 risk management programs in separate licensed facilities, unless

851 the facilities are under one corporate ownership or the risk

852 management programs are in rural hospitals.

853 (6) (c) The report submitted to the agency must ~~shall~~ also

854 contain the name ~~and license number~~ of the risk manager of the

855 licensed facility, a copy of its policy and procedures which

856 govern the measures taken by the facility and its risk manager

857 to reduce the risk of injuries and adverse incidents, and the

858 results of such measures. The annual report is confidential and

859 is not available to the public pursuant to s. 119.07(1) or any

860 other law providing access to public records. The annual report

861 is not discoverable or admissible in any civil or administrative

862 action, except in disciplinary proceedings by the agency or the

863 appropriate regulatory board. The annual report is not available

864 to the public as part of the record of investigation for and

865 prosecution in disciplinary proceedings made available to the

866 public by the agency or the appropriate regulatory board.

867 However, the agency or the appropriate regulatory board shall

868 make available, upon written request by a health care



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869 professional against whom probable cause has been found, any  
870 such records which form the basis of the determination of  
871 probable cause.

872 (16) There shall be no monetary liability on the part of,  
873 and no cause of action for damages shall arise against, any risk  
874 manager, ~~licensed under s. 395.10974,~~ for the implementation and  
875 oversight of the internal risk management program in a facility  
876 licensed under this chapter or chapter 390 as required by this  
877 section, for any act or proceeding undertaken or performed  
878 within the scope of the functions of such internal risk  
879 management program if the risk manager acts without intentional  
880 fraud.

881 (17) A privilege against civil liability is hereby granted  
882 to any ~~licensed~~ risk manager or licensed facility with regard to  
883 information furnished pursuant to this chapter, unless the  
884 ~~licensed~~ risk manager or facility acted in bad faith or with  
885 malice in providing such information.

886 Section 30. Section 395.1046, Florida Statutes, is  
887 repealed.

888 Section 31. Subsections (2) and (3) of section 395.1055,  
889 Florida Statutes, are amended, and paragraph (i) is added to  
890 subsection (1), to read:

891 395.1055 Rules and enforcement.—

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

895 (i) All hospitals providing organ transplantation, neonatal  
896 intensive care services, inpatient psychiatric services,  
897 inpatient substance abuse services, or comprehensive medical



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898 rehabilitation meet the minimum licensure requirements adopted  
899 by the agency. Such licensure requirements must include quality  
900 of care, nurse staffing, physician staffing, physical plant,  
901 equipment, emergency transportation, and data reporting  
902 standards.

903 (2) Separate standards may be provided for general and  
904 specialty hospitals, ambulatory surgical centers, ~~mobile~~  
905 ~~surgical facilities,~~ and statutory rural hospitals as defined in  
906 s. 395.602.

907 (3) The agency shall adopt rules with respect to the care  
908 and treatment of patients residing in distinct part nursing  
909 units of hospitals which are certified for participation in  
910 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social  
911 Security Act skilled nursing facility program. Such rules shall  
912 take into account the types of patients treated in hospital  
913 skilled nursing units, including typical patient acuity levels  
914 and the average length of stay in such units, and shall be  
915 limited to the appropriate portions of the Omnibus Budget  
916 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
917 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
918 Programs), Subtitle C (Nursing Home Reform), as amended. The  
919 agency shall require level 2 background screening as specified  
920 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for  
921 personnel of distinct part nursing units.

922 Section 32. Section 395.10971, Florida Statutes, is  
923 repealed.

924 Section 33. Section 395.10972, Florida Statutes, is  
925 repealed.

926 Section 34. Section 395.10973, Florida Statutes, is amended





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927 to read:

928 395.10973 Powers and duties of the agency.—It is the  
929 function of the agency to:

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

933 ~~(2) Develop, impose, and enforce specific standards within~~  
934 ~~the scope of the general qualifications established by this part~~  
935 ~~which must be met by individuals in order to receive licenses as~~  
936 ~~health care risk managers. These standards shall be designed to~~  
937 ~~ensure that health care risk managers are individuals of good~~  
938 ~~character and otherwise suitable and, by training or experience~~  
939 ~~in the field of health care risk management, qualified in~~  
940 ~~accordance with the provisions of this part to serve as health~~  
941 ~~care risk managers, within statutory requirements.~~

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

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

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

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

953 (2)~~(7)~~ Develop a model risk management program for health  
954 care facilities which will satisfy the requirements of s.  
955 395.0197.



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956        ~~(3)-(8)~~ Enforce the special-occupancy provisions of the  
957 Florida Building Code which apply to hospitals, intermediate  
958 residential treatment facilities, and ambulatory surgical  
959 centers in conducting any inspection authorized by this chapter  
960 and part II of chapter 408.

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

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

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

967        395.602 Rural hospitals.—

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

969        ~~(a) "Emergency care hospital" means a medical facility~~  
970 ~~which provides:~~

971        ~~1. Emergency medical treatment; and~~

972        ~~2. Inpatient care to ill or injured persons prior to their~~  
973 ~~transportation to another hospital or provides inpatient medical~~  
974 ~~care to persons needing care for a period of up to 96 hours. The~~  
975 ~~96-hour limitation on inpatient care does not apply to respite,~~  
976 ~~skilled nursing, hospice, or other nonacute care patients.~~

977        ~~(b) "Essential access community hospital" means any~~  
978 ~~facility which:~~

979        ~~1. Has at least 100 beds;~~

980        ~~2. Is located more than 35 miles from any other essential~~  
981 ~~access community hospital, rural referral center, or urban~~  
982 ~~hospital meeting criteria for classification as a regional~~  
983 ~~referral center;~~

984        ~~3. Is part of a network that includes rural primary care~~



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985 ~~hospitals;~~  
986       ~~4. Provides emergency and medical backup services to rural~~  
987 ~~primary care hospitals in its rural health network;~~  
988       ~~5. Extends staff privileges to rural primary care hospital~~  
989 ~~physicians in its network; and~~  
990       ~~6. Accepts patients transferred from rural primary care~~  
991 ~~hospitals in its network.~~  
992       ~~(c) "Inactive rural hospital bed" means a licensed acute~~  
993 ~~care hospital bed, as defined in s. 395.002(13), that is~~  
994 ~~inactive in that it cannot be occupied by acute care inpatients.~~  
995       ~~(a)(d)~~ "Rural area health education center" means an area  
996 health education center (AHEC), as authorized by Pub. L. No. 94-  
997 484, which provides services in a county with a population  
998 density of up to ~~no greater than~~ 100 persons per square mile.  
999       ~~(b)(e)~~ "Rural hospital" means an acute care hospital  
1000 licensed under this chapter, having 100 or fewer licensed beds  
1001 and an emergency room, which is:  
1002       1. The sole provider within a county with a population  
1003 density of up to 100 persons per square mile;  
1004       2. An acute care hospital, in a county with a population  
1005 density of up to 100 persons per square mile, which is at least  
1006 30 minutes of travel time, on normally traveled roads under  
1007 normal traffic conditions, from any other acute care hospital  
1008 within the same county;  
1009       3. A hospital supported by a tax district or subdistrict  
1010 whose boundaries encompass a population of up to 100 persons per  
1011 square mile;  
1012       4. A hospital classified as a sole community hospital under  
1013 42 C.F.R. s. 412.92 which has up to 175, ~~regardless of the~~



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1014 ~~number of~~ licensed beds;

1015           5. A hospital with a service area that has a population of  
1016 up to 100 persons per square mile. As used in this subparagraph,  
1017 the term "service area" means the fewest number of zip codes  
1018 that account for 75 percent of the hospital's discharges for the  
1019 most recent 5-year period, based on information available from  
1020 the hospital inpatient discharge database in the Florida Center  
1021 for Health Information and Transparency at the agency; or

1022           6. A hospital designated as a critical access hospital, as  
1023 defined in s. 408.07.

1024  
1025 Population densities used in this paragraph must be based upon  
1026 the most recently completed United States census. A hospital  
1027 that received funds under s. 409.9116 for a quarter beginning no  
1028 later than July 1, 2002, is deemed to have been and shall  
1029 continue to be a rural hospital from that date through June 30,  
1030 2021, if the hospital continues to have up to 100 licensed beds  
1031 and an emergency room. An acute care hospital that has not  
1032 previously been designated as a rural hospital and that meets  
1033 the criteria of this paragraph shall be granted such designation  
1034 upon application, including supporting documentation, to the  
1035 agency. A hospital that was licensed as a rural hospital during  
1036 the 2010-2011 or 2011-2012 fiscal year shall continue to be a  
1037 rural hospital from the date of designation through June 30,  
1038 2021, if the hospital continues to have up to 100 licensed beds  
1039 and an emergency room.

1040           ~~(f) "Rural primary care hospital" means any facility~~  
1041 ~~meeting the criteria in paragraph (c) or s. 395.605 which~~  
1042 ~~provides:~~



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1043 ~~1. Twenty-four hour emergency medical care;~~  
1044 ~~2. Temporary inpatient care for periods of 72 hours or less~~  
1045 ~~to patients requiring stabilization before discharge or transfer~~  
1046 ~~to another hospital. The 72-hour limitation does not apply to~~  
1047 ~~respite, skilled nursing, hospice, or other nonacute care~~  
1048 ~~patients; and~~

1049 ~~3. Has no more than six licensed acute care inpatient beds.~~

1050 ~~(c)(g)~~ "Swing-bed" means a bed which can be used  
1051 interchangeably as either a hospital, skilled nursing facility  
1052 (SNF), or intermediate care facility (ICF) bed pursuant to 42  
1053 C.F.R. parts 405, 435, 440, 442, and 447.

1054 Section 38. Section 395.603, Florida Statutes, is amended  
1055 to read:

1056 395.603 ~~Deactivation of general hospital beds; Rural~~  
1057 ~~hospital impact statement.-~~

1058 ~~(1) The agency shall establish, by rule, a process by which~~  
1059 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~  
1060 ~~as a rural primary care hospital or as an emergency care~~  
1061 ~~hospital, or becomes a certified rural health clinic as defined~~  
1062 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~  
1063 ~~a county health department, community health center, or other~~  
1064 ~~similar outpatient program that provides preventive and curative~~  
1065 ~~services, may deactivate general hospital beds. Rural primary~~  
1066 ~~care hospitals and emergency care hospitals shall maintain the~~  
1067 ~~number of actively licensed general hospital beds necessary for~~  
1068 ~~the facility to be certified for Medicare reimbursement.~~  
1069 ~~Hospitals that discontinue inpatient care to become rural health~~  
1070 ~~care clinics or primary care programs shall deactivate all~~  
1071 ~~licensed general hospital beds. All hospitals, clinics, and~~



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1072 ~~programs with inactive beds shall provide 24-hour emergency~~  
1073 ~~medical care by staffing an emergency room. Providers with~~  
1074 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~  
1075 ~~The agency shall specify in rule requirements for making 24-hour~~  
1076 ~~emergency care available. Inactive general hospital beds shall~~  
1077 ~~be included in the acute care bed inventory, maintained by the~~  
1078 ~~agency for certificate of need purposes, for 10 years from the~~  
1079 ~~date of deactivation of the beds. After 10 years have elapsed,~~  
1080 ~~inactive beds shall be excluded from the inventory. The agency~~  
1081 ~~shall, at the request of the licensee, reactivate the inactive~~  
1082 ~~general beds upon a showing by the licensee that licensure~~  
1083 ~~requirements for the inactive general beds are met.~~

1084 ~~(2)~~ In formulating and implementing policies and rules that  
1085 may have significant impact on the ability of rural hospitals to  
1086 continue to provide health care services in rural communities,  
1087 the agency, the department, or the respective regulatory board  
1088 adopting policies or rules regarding the licensure or  
1089 certification of health care professionals shall provide a rural  
1090 hospital impact statement. The rural hospital impact statement  
1091 shall assess the proposed action in light of the following  
1092 questions:

1093 (1) ~~(a)~~ Do the health personnel affected by the proposed  
1094 action currently practice in rural hospitals or are they likely  
1095 to in the near future?

1096 (2) ~~(b)~~ What are the current numbers of the affected health  
1097 personnel in this state, their geographic distribution, and the  
1098 number practicing in rural hospitals?

1099 (3) ~~(c)~~ What are the functions presently performed by the  
1100 affected health personnel, and are such functions presently



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1101 performed in rural hospitals?

1102 (4)~~(d)~~ What impact will the proposed action have on the  
1103 ability of rural hospitals to recruit the affected personnel to  
1104 practice in their facilities?

1105 (5)~~(e)~~ What impact will the proposed action have on the  
1106 limited financial resources of rural hospitals through increased  
1107 salaries and benefits necessary to recruit or retain such health  
1108 personnel?

1109 (6)~~(f)~~ Is there a less stringent requirement which could  
1110 apply to practice in rural hospitals?

1111 (7)~~(g)~~ Will this action create staffing shortages, which  
1112 could result in a loss to the public of health care services in  
1113 rural hospitals or result in closure of any rural hospitals?

1114 Section 39. Section 395.604, Florida Statutes, is repealed.

1115 Section 40. Section 395.605, Florida Statutes, is repealed.

1116 Section 41. Paragraph (c) of subsection (1) of section  
1117 395.701, Florida Statutes, is amended to read:

1118 395.701 Annual assessments on net operating revenues for  
1119 inpatient and outpatient services to fund public medical  
1120 assistance; administrative fines for failure to pay assessments  
1121 when due; exemption.—

1122 (1) For the purposes of this section, the term:

1123 (c) "Hospital" means a health care institution as defined  
1124 in s. 395.002(12), but does not include any hospital operated by  
1125 a state ~~the agency or the Department of Corrections.~~

1126 Section 42. Paragraph (b) of subsection (2) of section  
1127 395.7015, Florida Statutes, is amended to read:

1128 395.7015 Annual assessment on health care entities.—

1129 (2) There is imposed an annual assessment against certain



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1130 health care entities as described in this section:

1131 (b) For the purpose of this section, "health care entities"  
1132 include the following:

1133 1. Ambulatory surgical centers and mobile surgical  
1134 facilities licensed under s. 395.003. This subsection shall only  
1135 apply to mobile surgical facilities operating under contracts  
1136 entered into on or after July 1, 1998.

1137 2. Clinical laboratories licensed under s. 483.091,  
1138 excluding any hospital laboratory defined under s. 483.041(6),  
1139 any clinical laboratory operated by the state or a political  
1140 subdivision of the state, any clinical laboratory which  
1141 qualifies as an exempt organization under s. 501(c)(3) of the  
1142 Internal Revenue Code of 1986, as amended, and which receives 70  
1143 percent or more of its gross revenues from services to charity  
1144 patients or Medicaid patients, and any blood, plasma, or tissue  
1145 bank procuring, storing, or distributing blood, plasma, or  
1146 tissue either for future manufacture or research or distributed  
1147 on a nonprofit basis, and further excluding any clinical  
1148 laboratory which is wholly owned and operated by 6 or fewer  
1149 physicians who are licensed pursuant to chapter 458 or chapter  
1150 459 and who practice in the same group practice, and at which no  
1151 clinical laboratory work is performed for patients referred by  
1152 any health care provider who is not a member of the same group.

1153 2.3. Diagnostic-imaging centers that are freestanding  
1154 outpatient facilities that provide specialized services for the  
1155 identification or determination of a disease through examination  
1156 and also provide sophisticated radiological services, and in  
1157 which services are rendered by a physician licensed by the Board  
1158 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by





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1159 an osteopathic physician licensed by the Board of Osteopathic  
1160 Medicine under s. 459.0055 or s. 459.0075. For purposes of this  
1161 paragraph, "sophisticated radiological services" means the  
1162 following: magnetic resonance imaging; nuclear medicine;  
1163 angiography; arteriography; computed tomography; positron  
1164 emission tomography; digital vascular imaging; bronchography;  
1165 lymphangiography; splenography; ultrasound, excluding ultrasound  
1166 providers that are part of a private physician's office practice  
1167 or when ultrasound is provided by two or more physicians  
1168 licensed under chapter 458 or chapter 459 who are members of the  
1169 same professional association and who practice in the same  
1170 medical specialties; and such other sophisticated radiological  
1171 services, excluding mammography, as adopted in rule by the  
1172 board.

1173 Section 43. Subsection (1) of section 400.0625, Florida  
1174 Statutes, is amended to read:

1175 400.0625 Minimum standards for clinical laboratory test  
1176 results and diagnostic X-ray results.-

1177 (1) Each nursing home, as a requirement for issuance or  
1178 renewal of its license, shall require that all clinical  
1179 laboratory tests performed for the nursing home be performed by  
1180 a ~~clinical~~ laboratory appropriately certified by the Centers for  
1181 Medicare and Medicaid Services under the federal Clinical  
1182 Laboratory Improvement Amendments and the federal rules adopted  
1183 thereunder ~~licensed under the provisions of chapter 483~~, except  
1184 for such self-testing procedures as are approved by the agency  
1185 by rule. ~~Results of clinical laboratory tests performed prior to~~  
1186 ~~admission which meet the minimum standards provided in s.~~  
1187 ~~483.181(3) shall be accepted in lieu of routine examinations~~



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1188 ~~required upon admission and clinical laboratory tests which may~~  
1189 ~~be ordered by a physician for residents of the nursing home.~~

1190 Section 44. Paragraph (a) of subsection (2) of section  
1191 400.191, Florida Statutes, is amended to read:

1192 400.191 Availability, distribution, and posting of reports  
1193 and records.—

1194 (2) The agency shall publish the Nursing Home Guide  
1195 quarterly in electronic form to assist consumers and their  
1196 families in comparing and evaluating nursing home facilities.

1197 (a) The agency shall provide an Internet site which shall  
1198 include at least the following information either directly or  
1199 indirectly through a link to another established site or sites  
1200 of the agency's choosing:

1201 1. A section entitled "Have you considered programs that  
1202 provide alternatives to nursing home care?" which shall be the  
1203 first section of the Nursing Home Guide and which shall  
1204 prominently display information about available alternatives to  
1205 nursing homes and how to obtain additional information regarding  
1206 these alternatives. The Nursing Home Guide shall explain that  
1207 this state offers alternative programs that permit qualified  
1208 elderly persons to stay in their homes instead of being placed  
1209 in nursing homes and shall encourage interested persons to call  
1210 the Comprehensive Assessment Review and Evaluation for Long-Term  
1211 Care Services (CARES) Program to inquire if they qualify. The  
1212 Nursing Home Guide shall list available home and community-based  
1213 programs which shall clearly state the services that are  
1214 provided and indicate whether nursing home services are included  
1215 if needed.

1216 2. A list by name and address of all nursing home



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1217 facilities in this state, including any prior name by which a  
1218 facility was known during the previous 24-month period.

1219 3. Whether such nursing home facilities are proprietary or  
1220 nonproprietary.

1221 4. The current owner of the facility's license and the year  
1222 that that entity became the owner of the license.

1223 5. The name of the owner or owners of each facility and  
1224 whether the facility is affiliated with a company or other  
1225 organization owning or managing more than one nursing facility  
1226 in this state.

1227 6. The total number of beds in each facility and the most  
1228 recently available occupancy levels.

1229 7. The number of private and semiprivate rooms in each  
1230 facility.

1231 8. The religious affiliation, if any, of each facility.

1232 9. The languages spoken by the administrator and staff of  
1233 each facility.

1234 10. Whether or not each facility accepts Medicare or  
1235 Medicaid recipients or insurance, health maintenance  
1236 organization, Veterans Administration, CHAMPUS program, or  
1237 workers' compensation coverage.

1238 11. Recreational and other programs available at each  
1239 facility.

1240 12. Special care units or programs offered at each  
1241 facility.

1242 13. Whether the facility is a part of a retirement  
1243 community that offers other services pursuant to part III of  
1244 this chapter or part I or part III of chapter 429.

1245 14. Survey and deficiency information, including all



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1246 federal and state recertification, licensure, revisit, and  
1247 complaint survey information, for each facility ~~for the past 30~~  
1248 ~~months~~. For noncertified nursing homes, state survey and  
1249 deficiency information, including licensure, revisit, and  
1250 complaint survey information ~~for the past 30 months~~ shall be  
1251 provided.

1252 Section 45. Subsection (1) and paragraphs (b), (e), and (f)  
1253 of subsection (4) of section 400.464, Florida Statutes, are  
1254 amended, and subsection (6) is added to that section, to read:

1255 400.464 Home health agencies to be licensed; expiration of  
1256 license; exemptions; unlawful acts; penalties.-

1257 (1) The requirements of part II of chapter 408 apply to the  
1258 provision of services that require licensure pursuant to this  
1259 part and part II of chapter 408 and entities licensed or  
1260 registered by or applying for such licensure or registration  
1261 from the Agency for Health Care Administration pursuant to this  
1262 part. A license issued by the agency is required in order to  
1263 operate a home health agency in this state. A license issued on  
1264 or after July 1, 2018, must specify the home health services the  
1265 organization is authorized to perform and indicate whether such  
1266 specified services are considered skilled care. The provision or  
1267 advertising of services that require licensure pursuant to this  
1268 part without such services being specified on the face of the  
1269 license issued on or after July 1, 2018, constitutes unlicensed  
1270 activity as prohibited under s. 408.812.

1271 (4) (b) The operation or maintenance of an unlicensed home  
1272 health agency or the performance of any home health services in  
1273 violation of this part is declared a nuisance, inimical to the  
1274 public health, welfare, and safety. The agency or any state



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1275 attorney may, in addition to other remedies provided in this  
1276 part, bring an action for an injunction to restrain such  
1277 violation, or to enjoin the future operation or maintenance of  
1278 the home health agency or the provision of home health services  
1279 in violation of this part or part II of chapter 408, until  
1280 compliance with this part or the rules adopted under this part  
1281 has been demonstrated to the satisfaction of the agency.

1282 (e) Any person who owns, operates, or maintains an  
1283 unlicensed home health agency and who, ~~within 10 working days~~  
1284 after receiving notification from the agency, fails to cease  
1285 operation and apply for a license under this part commits a  
1286 misdemeanor of the second degree, punishable as provided in s.  
1287 775.082 or s. 775.083. Each day of continued operation is a  
1288 separate offense.

1289 (f) Any home health agency that fails to cease operation  
1290 after agency notification may be fined in accordance with s.  
1291 408.812 \$500 for each day of noncompliance.

1292 (6) Any person, entity, or organization providing home  
1293 health services which is exempt from licensure under subsection  
1294 (5) may voluntarily apply for a certificate of exemption from  
1295 licensure under its exempt status with the agency on a form that  
1296 specifies its name or names and addresses, a statement of the  
1297 reasons why it is exempt from licensure as a home health agency,  
1298 and other information deemed necessary by the agency. A  
1299 certificate of exemption is valid for a period of not more than  
1300 2 years and is not transferable. The agency may charge an  
1301 applicant \$100 for a certificate of exemption or charge the  
1302 actual cost of processing the certificate.

1303 Section 46. Subsections (6) through (9) of section 400.471,



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1304 Florida Statutes, are redesignated as subsections (5) through  
1305 (8), respectively, and present subsections (2), (6), and (9) of  
1306 that section are amended, to read:

1307 400.471 Application for license; fee.-

1308 (2) In addition to the requirements of part II of chapter  
1309 408, the initial applicant, the applicant for a change of  
1310 ownership, and the applicant for the addition of skilled care  
1311 services must file with the application satisfactory proof that  
1312 the home health agency is in compliance with this part and  
1313 applicable rules, including:

1314 (a) A listing of services to be provided, either directly  
1315 by the applicant or through contractual arrangements with  
1316 existing providers.

1317 (b) The number and discipline of professional staff to be  
1318 employed.

1319 ~~(c) Completion of questions concerning volume data on the~~  
1320 ~~renewal application as determined by rule.~~

1321 ~~(c)-(d)~~ (c) A business plan, signed by the applicant, which  
1322 details the home health agency's methods to obtain patients and  
1323 its plan to recruit and maintain staff.

1324 ~~(d)-(e)~~ (d) Evidence of contingency funding as required under s.  
1325 408.8065 ~~equal to 1 month's average operating expenses during~~  
1326 ~~the first year of operation.~~

1327 ~~(e)-(f)~~ (e) A balance sheet, income and expense statement, and  
1328 statement of cash flows for the first 2 years of operation which  
1329 provide evidence of having sufficient assets, credit, and  
1330 projected revenues to cover liabilities and expenses. The  
1331 applicant has demonstrated financial ability to operate if the  
1332 applicant's assets, credit, and projected revenues meet or



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1333 exceed projected liabilities and expenses. An applicant may not  
1334 project an operating margin of 15 percent or greater for any  
1335 month in the first year of operation. All documents required  
1336 under this paragraph must be prepared in accordance with  
1337 generally accepted accounting principles and compiled and signed  
1338 by a certified public accountant.

1339 (f)~~(g)~~ All other ownership interests in health care  
1340 entities for each controlling interest, as defined in part II of  
1341 chapter 408.

1342 (g)~~(h)~~ In the case of an application for initial licensure,  
1343 an application for a change of ownership, or an application for  
1344 the addition of skilled care services, documentation of  
1345 accreditation, or an application for accreditation, from an  
1346 accrediting organization that is recognized by the agency as  
1347 having standards comparable to those required by this part and  
1348 part II of chapter 408. A home health agency that ~~is not~~  
1349 ~~Medicare or Medicaid certified and~~ does not provide skilled care  
1350 is exempt from this paragraph. Notwithstanding s. 408.806, an  
1351 initial applicant that has applied for accreditation must  
1352 provide proof of accreditation that is not conditional or  
1353 provisional and a survey demonstrating compliance with the  
1354 requirements of this part, part II of chapter 408, and  
1355 applicable rules from an accrediting organization that is  
1356 recognized by the agency as having standards comparable to those  
1357 required by this part and part II of chapter 408 within 120 days  
1358 after the date of the agency's receipt of the application for  
1359 licensure ~~or the application shall be withdrawn from further~~  
1360 ~~consideration.~~ Such accreditation must be continuously  
1361 maintained by the home health agency to maintain licensure. The



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1362 agency shall accept, in lieu of its own periodic licensure  
1363 survey, the submission of the survey of an accrediting  
1364 organization that is recognized by the agency if the  
1365 accreditation of the licensed home health agency is not  
1366 provisional and if the licensed home health agency authorizes  
1367 releases of, and the agency receives the report of, the  
1368 accrediting organization.

1369 ~~(6) The agency may not issue a license designated as~~  
1370 ~~certified to a home health agency that fails to satisfy the~~  
1371 ~~requirements of a Medicare certification survey from the agency.~~

1372 (8)~~(9)~~ The agency may not issue a renewal license for a  
1373 home health agency in any county having at least one licensed  
1374 home health agency and that has more than one home health agency  
1375 per 5,000 persons, as indicated by the most recent population  
1376 estimates published by the Legislature's Office of Economic and  
1377 Demographic Research, if the applicant or any controlling  
1378 interest has been administratively sanctioned by the agency  
1379 during the 2 years prior to the submission of the licensure  
1380 renewal application for one or more of the following acts:

1381 (a) An intentional or negligent act that materially affects  
1382 the health or safety of a client of the provider;

1383 (b) Knowingly providing home health services in an  
1384 unlicensed assisted living facility or unlicensed adult family-  
1385 care home, unless the home health agency or employee reports the  
1386 unlicensed facility or home to the agency within 72 hours after  
1387 providing the services;

1388 (c) Preparing or maintaining fraudulent patient records,  
1389 such as, but not limited to, charting ahead, recording vital  
1390 signs or symptoms which were not personally obtained or observed





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1391 by the home health agency's staff at the time indicated,  
1392 borrowing patients or patient records from other home health  
1393 agencies to pass a survey or inspection, or falsifying  
1394 signatures;

1395 (d) Failing to provide at least one service directly to a  
1396 patient for a period of 60 days;

1397 (e) Demonstrating a pattern of falsifying documents  
1398 relating to the training of home health aides or certified  
1399 nursing assistants or demonstrating a pattern of falsifying  
1400 health statements for staff who provide direct care to patients.  
1401 A pattern may be demonstrated by a showing of at least three  
1402 fraudulent entries or documents;

1403 (f) Demonstrating a pattern of billing any payor for  
1404 services not provided. A pattern may be demonstrated by a  
1405 showing of at least three billings for services not provided  
1406 within a 12-month period;

1407 (g) Demonstrating a pattern of failing to provide a service  
1408 specified in the home health agency's written agreement with a  
1409 patient or the patient's legal representative, or the plan of  
1410 care for that patient, except ~~unless a reduction in service is~~  
1411 ~~mandated by Medicare, Medicaid, or a state program~~ or as  
1412 provided in s. 400.492(3). A pattern may be demonstrated by a  
1413 showing of at least three incidents, regardless of the patient  
1414 or service, in which the home health agency did not provide a  
1415 service specified in a written agreement or plan of care during  
1416 a 3-month period;

1417 (h) Giving remuneration to a case manager, discharge  
1418 planner, facility-based staff member, or third-party vendor who  
1419 is involved in the discharge planning process of a facility



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1420 licensed under chapter 395, chapter 429, or this chapter from  
1421 whom the home health agency receives referrals or gives  
1422 remuneration as prohibited in s. 400.474(6)(a);

1423 (i) Giving cash, or its equivalent, to a Medicare or  
1424 Medicaid beneficiary;

1425 (j) Demonstrating a pattern of billing the Medicaid program  
1426 for services to Medicaid recipients which are medically  
1427 unnecessary as determined by a final order. A pattern may be  
1428 demonstrated by a showing of at least two such medically  
1429 unnecessary services within one Medicaid program integrity audit  
1430 period;

1431 (k) Providing services to residents in an assisted living  
1432 facility for which the home health agency does not receive fair  
1433 market value remuneration; or

1434 (l) Providing staffing to an assisted living facility for  
1435 which the home health agency does not receive fair market value  
1436 remuneration.

1437 Section 47. Subsection (5) of section 400.474, Florida  
1438 Statutes, is amended to read:

1439 400.474 Administrative penalties.—

1440 (5) The agency shall impose a fine of \$5,000 against a home  
1441 health agency that demonstrates a pattern of failing to provide  
1442 a service specified in the home health agency's written  
1443 agreement with a patient or the patient's legal representative,  
1444 or the plan of care for that patient, except ~~unless a reduction~~  
1445 ~~in service is mandated by Medicare, Medicaid, or a state program~~  
1446 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated  
1447 by a showing of at least three incidences, regardless of the  
1448 patient or service, where the home health agency did not provide



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1449 a service specified in a written agreement or plan of care  
1450 during a 3-month period. The agency shall impose the fine for  
1451 each occurrence. The agency may also impose additional  
1452 administrative fines under s. 400.484 for the direct or indirect  
1453 harm to a patient, or deny, revoke, or suspend the license of  
1454 the home health agency for a pattern of failing to provide a  
1455 service specified in the home health agency's written agreement  
1456 with a patient or the plan of care for that patient.

1457 Section 48. Paragraph (c) of subsection (2) of section  
1458 400.476, Florida Statutes, is amended to read:

1459 400.476 Staffing requirements; notifications; limitations  
1460 on staffing services.—

1461 (2) DIRECTOR OF NURSING.—

1462 (c) A home health agency that provides skilled nursing care  
1463 must ~~is not Medicare or Medicaid certified and does not provide~~  
1464 ~~skilled care or provides only physical, occupational, or speech~~  
1465 ~~therapy is not required to have a director of nursing and is~~  
1466 ~~exempt from paragraph (b).~~

1467 Section 49. Section 400.484, Florida Statutes, is amended  
1468 to read:

1469 400.484 Right of inspection; violations ~~deficiencies~~;  
1470 fines.—

1471 (1) In addition to the requirements of s. 408.811, the  
1472 agency may make such inspections and investigations as are  
1473 necessary in order to determine the state of compliance with  
1474 this part, part II of chapter 408, and applicable rules.

1475 (2) The agency shall impose fines for various classes of  
1476 violations ~~deficiencies~~ in accordance with the following  
1477 schedule:



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1478           (a) Class I violations are as provided in s. 408.813 A  
1479 ~~class I deficiency is any act, omission, or practice that~~  
1480 ~~results in a patient's death, disablement, or permanent injury,~~  
1481 ~~or places a patient at imminent risk of death, disablement, or~~  
1482 ~~permanent injury.~~ Upon finding a class I violation deficiency,  
1483 the agency shall impose an administrative fine in the amount of  
1484 \$15,000 for each occurrence and each day that the violation  
1485 ~~deficiency~~ exists.

1486           (b) Class II violations are as provided in s. 408.813 A  
1487 ~~class II deficiency is any act, omission, or practice that has a~~  
1488 ~~direct adverse effect on the health, safety, or security of a~~  
1489 ~~patient.~~ Upon finding a class II violation deficiency, the  
1490 agency shall impose an administrative fine in the amount of  
1491 \$5,000 for each occurrence and each day that the violation  
1492 ~~deficiency~~ exists.

1493           (c) Class III violations are as provided in s. 408.813 A  
1494 ~~class III deficiency is any act, omission, or practice that has~~  
1495 ~~an indirect, adverse effect on the health, safety, or security~~  
1496 ~~of a patient.~~ Upon finding an uncorrected or repeated class III  
1497 violation deficiency, the agency shall impose an administrative  
1498 fine not to exceed \$1,000 for each occurrence and each day that  
1499 the uncorrected or repeated violation deficiency exists.

1500           (d) Class IV violations are as provided in s. 408.813 A  
1501 ~~class IV deficiency is any act, omission, or practice related to~~  
1502 ~~required reports, forms, or documents which does not have the~~  
1503 ~~potential of negatively affecting patients.~~ These violations are  
1504 of a type that the agency determines do not threaten the health,  
1505 safety, or security of patients. Upon finding an uncorrected or  
1506 repeated class IV violation deficiency, the agency shall impose



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1507 an administrative fine not to exceed \$500 for each occurrence  
1508 and each day that the uncorrected or repeated violation  
1509 ~~deficiency~~ exists.

1510 (3) In addition to any other penalties imposed pursuant to  
1511 this section or part, the agency may assess costs related to an  
1512 investigation that results in a successful prosecution,  
1513 excluding costs associated with an attorney's time.

1514 Section 50. Subsection (4) of section 400.497, Florida  
1515 Statutes, is amended to read:

1516 400.497 Rules establishing minimum standards.—The agency  
1517 shall adopt, publish, and enforce rules to implement part II of  
1518 chapter 408 and this part, including, as applicable, ss. 400.506  
1519 and 400.509, which must provide reasonable and fair minimum  
1520 standards relating to:

1521 (4) Licensure application and renewal and certificates of  
1522 exemption.

1523 Section 51. Subsection (5), paragraph (e) of subsection  
1524 (6), paragraph (a) of subsection (15), and subsection (19) of  
1525 section 400.506, Florida Statutes, are amended to read:

1526 400.506 Licensure of nurse registries; requirements;  
1527 penalties.—

1528 (5) (a) In addition to the requirements of s. 408.812, any  
1529 person who owns, operates, or maintains an unlicensed nurse  
1530 registry and who, ~~within 10 working days~~ after receiving  
1531 notification from the agency, fails to cease operation and apply  
1532 for a license under this part commits a misdemeanor of the  
1533 second degree, punishable as provided in s. 775.082 or s.  
1534 775.083. Each day of continued operation is a separate offense.

1535 (b) If a nurse registry fails to cease operation after



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1536 agency notification, the agency may impose a fine pursuant to s.  
1537 408.812 ~~of \$500 for each day of noncompliance.~~

1538 (6)

1539 (e) Upon referral of a registered nurse, licensed practical  
1540 nurse, certified nursing assistant, companion or homemaker, or  
1541 home health aide for contract in a private residence or  
1542 facility, the nurse registry shall advise the patient, the  
1543 patient's family, or any other person acting on behalf of the  
1544 patient, at the time of the contract for services, that the  
1545 caregiver referred by the nurse registry is an independent  
1546 contractor and that ~~the it is not the obligation of a nurse~~  
1547 registry may not ~~to~~ monitor, supervise, manage, or train a  
1548 caregiver referred for contract under this chapter.

1549 (15) (a) The agency may deny, suspend, or revoke the license  
1550 of a nurse registry and shall impose a fine of \$5,000 against a  
1551 nurse registry that:

1552 1. Provides services to residents in an assisted living  
1553 facility for which the nurse registry does not receive fair  
1554 market value remuneration.

1555 2. Provides staffing to an assisted living facility for  
1556 which the nurse registry does not receive fair market value  
1557 remuneration.

1558 3. Fails to provide the agency, upon request, with copies  
1559 of all contracts with assisted living facilities which were  
1560 executed within the last 5 years.

1561 ~~4. Gives remuneration to a case manager, discharge planner,~~  
1562 ~~facility-based staff member, or third-party vendor who is~~  
1563 ~~involved in the discharge planning process of a facility~~  
1564 ~~licensed under chapter 395 or this chapter and from whom the~~



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1565 ~~nurse registry receives referrals. A nurse registry is exempt~~  
1566 ~~from this subparagraph if it does not bill the Florida Medicaid~~  
1567 ~~program or the Medicare program or share a controlling interest~~  
1568 ~~with any entity licensed, registered, or certified under part II~~  
1569 ~~of chapter 408 that bills the Florida Medicaid program or the~~  
1570 ~~Medicare program.~~

1571 ~~5. Gives remuneration to a physician, a member of the~~  
1572 ~~physician's office staff, or an immediate family member of the~~  
1573 ~~physician, and the nurse registry received a patient referral in~~  
1574 ~~the last 12 months from that physician or the physician's office~~  
1575 ~~staff. A nurse registry is exempt from this subparagraph if it~~  
1576 ~~does not bill the Florida Medicaid program or the Medicare~~  
1577 ~~program or share a controlling interest with any entity~~  
1578 ~~licensed, registered, or certified under part II of chapter 408~~  
1579 ~~that bills the Florida Medicaid program or the Medicare program.~~

1580 ~~(19) It is not the obligation of A nurse registry may not~~  
1581 ~~to monitor, supervise, manage, or train a registered nurse,~~  
1582 ~~licensed practical nurse, certified nursing assistant, companion~~  
1583 ~~or homemaker, or home health aide referred for contract under~~  
1584 ~~this chapter. In the event of a violation of this chapter or a~~  
1585 ~~violation of any other law of this state by a referred~~  
1586 ~~registered nurse, licensed practical nurse, certified nursing~~  
1587 ~~assistant, companion or homemaker, or home health aide, or a~~  
1588 ~~deficiency in credentials which comes to the attention of the~~  
1589 ~~nurse registry, the nurse registry shall advise the patient to~~  
1590 ~~terminate the referred person's contract, providing the reason~~  
1591 ~~for the suggested termination; cease referring the person to~~  
1592 ~~other patients or facilities; and, if practice violations are~~  
1593 ~~involved, notify the licensing board. This section does not~~



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1594 affect or negate any other obligations imposed on a nurse  
1595 registry under chapter 408.

1596 Section 52. Subsection (1) of section 400.606, Florida  
1597 Statutes, is amended to read:

1598 400.606 License; application; renewal; conditional license  
1599 or permit; certificate of need.—

1600 (1) In addition to the requirements of part II of chapter  
1601 408, the initial application and change of ownership application  
1602 must be accompanied by a plan for the delivery of home,  
1603 residential, and homelike inpatient hospice services to  
1604 terminally ill persons and their families. Such plan must  
1605 contain, but need not be limited to:

1606 (a) The estimated average number of terminally ill persons  
1607 to be served monthly.

1608 (b) The geographic area in which hospice services will be  
1609 available.

1610 (c) A listing of services which are or will be provided,  
1611 either directly by the applicant or through contractual  
1612 arrangements with existing providers.

1613 (d) Provisions for the implementation of hospice home care  
1614 within 3 months after licensure.

1615 (e) Provisions for the implementation of hospice homelike  
1616 inpatient care within 12 months after licensure.

1617 (f) The number and disciplines of professional staff to be  
1618 employed.

1619 (g) The name and qualifications of any existing or  
1620 potential contractee.

1621 (h) A plan for attracting and training volunteers.

1622





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1623 ~~If the applicant is an existing licensed health care provider,~~  
1624 ~~the application must be accompanied by a copy of the most recent~~  
1625 ~~profit-loss statement and, if applicable, the most recent~~  
1626 ~~licensure inspection report.~~

1627 Section 53. Subsection (6) of section 400.925, Florida  
1628 Statutes, is amended to read:

1629 400.925 Definitions.—As used in this part, the term:

1630 (6) "Home medical equipment" includes any product as  
1631 defined by the Food and Drug Administration's Federal Food,  
1632 Drug, and Cosmetic Act, any products reimbursed under the  
1633 Medicare Part B Durable Medical Equipment benefits, or any  
1634 products reimbursed under the Florida Medicaid durable medical  
1635 equipment program. Home medical equipment includes:

1636 (a) Oxygen and related respiratory equipment; manual,  
1637 ~~motorized, or customized wheelchairs and related seating and~~  
1638 ~~positioning, but does not include prosthetics or orthotics or~~  
1639 ~~any splints, braces, or aids custom fabricated by a licensed~~  
1640 ~~health care practitioner;~~

1641 (b) Motorized scooters;

1642 (c) Personal transfer systems; and

1643 (d) Specialty beds, for use by a person with a medical  
1644 need; and

1645 (e) Manual, motorized, or customized wheelchairs and  
1646 related seating and positioning, but does not include  
1647 prosthetics or orthotics or any splints, braces, or aids custom  
1648 fabricated by a licensed health care practitioner.

1649 Section 54. Subsection (4) of section 400.931, Florida  
1650 Statutes, is amended to read:

1651 400.931 Application for license; fee.—



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1652 (4) When a change of the general manager of a home medical  
1653 equipment provider occurs, the licensee must notify the agency  
1654 of the change within the timeframes established in part II of  
1655 chapter 408 and applicable rules ~~45 days~~.

1656 Section 55. Subsection (2) of section 400.933, Florida  
1657 Statutes, is amended to read:

1658 400.933 Licensure inspections and investigations.—

1659 (2) The agency shall accept, in lieu of its own periodic  
1660 inspections for licensure, submission of the following:

1661 (a) The survey or inspection of an accrediting  
1662 organization, provided the accreditation of the licensed home  
1663 medical equipment provider is not provisional and provided the  
1664 licensed home medical equipment provider authorizes release of,  
1665 and the agency receives the report of, the accrediting  
1666 organization; or

1667 (b) A copy of a valid medical oxygen retail establishment  
1668 permit issued by the Department of Business and Professional  
1669 Regulation Health, pursuant to chapter 499.

1670 Section 56. Subsection (2) of section 400.980, Florida  
1671 Statutes, is amended to read:

1672 400.980 Health care services pools.—

1673 (2) The requirements of part II of chapter 408 apply to the  
1674 provision of services that require licensure or registration  
1675 pursuant to this part and part II of chapter 408 and to entities  
1676 registered by or applying for such registration from the agency  
1677 pursuant to this part. Registration or a license issued by the  
1678 agency is required for the operation of a health care services  
1679 pool in this state. In accordance with s. 408.805, an applicant  
1680 or licensee shall pay a fee for each license application



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1681 submitted using this part, part II of chapter 408, and  
1682 applicable rules. The agency shall adopt rules and provide forms  
1683 required for such registration and shall impose a registration  
1684 fee in an amount sufficient to cover the cost of administering  
1685 this part and part II of chapter 408. In addition to the  
1686 requirements in part II of chapter 408, the registrant must  
1687 provide the agency with any change of information contained on  
1688 the original registration application within the timeframes  
1689 established in this part, part II of chapter 408, and applicable  
1690 rules ~~14 days prior to the change.~~

1691 Section 57. Paragraphs (a) through (d) of subsection (4) of  
1692 section 400.9905, Florida Statutes, are amended to read:

1693 400.9905 Definitions.—

1694 (4) "Clinic" means an entity where health care services are  
1695 provided to individuals and which tenders charges for  
1696 reimbursement for such services, including a mobile clinic and a  
1697 portable equipment provider. As used in this part, the term does  
1698 not include and the licensure requirements of this part do not  
1699 apply to:

1700 (a) Entities licensed or registered by the state under  
1701 chapter 395; entities licensed or registered by the state and  
1702 providing only health care services within the scope of services  
1703 authorized under their respective licenses under ss. 383.30-  
1704 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,  
1705 this chapter except part X, chapter 429, chapter 463, chapter  
1706 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter  
1707 484, or chapter 651; end-stage renal disease providers  
1708 authorized under 42 C.F.R. part 405, subpart U; providers  
1709 certified under 42 C.F.R. part 485, subpart B or subpart H; or



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1710 any entity that provides neonatal or pediatric hospital-based  
1711 health care services or other health care services by licensed  
1712 practitioners solely within a hospital licensed under chapter  
1713 395.

1714 (b) Entities that own, directly or indirectly, entities  
1715 licensed or registered by the state pursuant to chapter 395;  
1716 entities that own, directly or indirectly, entities licensed or  
1717 registered by the state and providing only health care services  
1718 within the scope of services authorized pursuant to their  
1719 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,  
1720 chapter 390, chapter 394, chapter 397, this chapter except part  
1721 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
1722 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-  
1723 stage renal disease providers authorized under 42 C.F.R. part  
1724 405, subpart U; providers certified under 42 C.F.R. part 485,  
1725 subpart B or subpart H; or any entity that provides neonatal or  
1726 pediatric hospital-based health care services by licensed  
1727 practitioners solely within a hospital licensed under chapter  
1728 395.

1729 (c) Entities that are owned, directly or indirectly, by an  
1730 entity licensed or registered by the state pursuant to chapter  
1731 395; entities that are owned, directly or indirectly, by an  
1732 entity licensed or registered by the state and providing only  
1733 health care services within the scope of services authorized  
1734 pursuant to their respective licenses under ss. 383.30-383.332  
1735 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this  
1736 chapter except part X, chapter 429, chapter 463, chapter 465,  
1737 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or  
1738 chapter 651; end-stage renal disease providers authorized under



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1739 42 C.F.R. part 405, subpart U; providers certified under 42  
1740 C.F.R. part 485, subpart B or subpart H; or any entity that  
1741 provides neonatal or pediatric hospital-based health care  
1742 services by licensed practitioners solely within a hospital  
1743 under chapter 395.

1744 (d) Entities that are under common ownership, directly or  
1745 indirectly, with an entity licensed or registered by the state  
1746 pursuant to chapter 395; entities that are under common  
1747 ownership, directly or indirectly, with an entity licensed or  
1748 registered by the state and providing only health care services  
1749 within the scope of services authorized pursuant to their  
1750 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,  
1751 chapter 390, chapter 394, chapter 397, this chapter except part  
1752 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
1753 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-  
1754 stage renal disease providers authorized under 42 C.F.R. part  
1755 405, subpart U; providers certified under 42 C.F.R. part 485,  
1756 subpart B or subpart H; or any entity that provides neonatal or  
1757 pediatric hospital-based health care services by licensed  
1758 practitioners solely within a hospital licensed under chapter  
1759 395.

1760  
1761 Notwithstanding this subsection, an entity shall be deemed a  
1762 clinic and must be licensed under this part in order to receive  
1763 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
1764 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1765 Section 58. Subsection (6) of section 400.9935, Florida  
1766 Statutes, is amended to read:

1767 400.9935 Clinic responsibilities.-



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1768           (6) Any person or entity providing health care services  
1769 which is not a clinic, as defined under s. 400.9905, may  
1770 voluntarily apply for a certificate of exemption from licensure  
1771 under its exempt status with the agency on a form that sets  
1772 forth its name or names and addresses, a statement of the  
1773 reasons why it cannot be defined as a clinic, and other  
1774 information deemed necessary by the agency. An exemption may be  
1775 valid for up to 2 years and is not transferable. The agency may  
1776 charge an applicant for a certificate of exemption in an amount  
1777 equal to \$100 or the actual cost of processing the certificate,  
1778 whichever is less. An entity seeking a certificate of exemption  
1779 must publish and maintain a schedule of charges for the medical  
1780 services offered to patients. The schedule must include the  
1781 prices charged to an uninsured person paying for such services  
1782 by cash, check, credit card, or debit card. The schedule must be  
1783 posted in a conspicuous place in the reception area of the  
1784 entity and must include, but is not limited to, the 50 services  
1785 most frequently provided by the entity. The schedule may group  
1786 services by three price levels, listing services in each price  
1787 level. The posting must be at least 15 square feet in size. As a  
1788 condition precedent to receiving a certificate of exemption, an  
1789 applicant must provide to the agency documentation of compliance  
1790 with these requirements.

1791           Section 59. Paragraph (a) of subsection (2) of section  
1792 408.033, Florida Statutes, is amended to read:

1793           408.033 Local and state health planning.—

1794           (2) FUNDING.—

1795           (a) The Legislature intends that the cost of local health  
1796 councils be borne by assessments on selected health care



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1797 facilities subject to facility licensure by the Agency for  
1798 Health Care Administration, including abortion clinics, assisted  
1799 living facilities, ambulatory surgical centers, birth birthing  
1800 centers, ~~clinical laboratories except community nonprofit blood~~  
1801 ~~banks and clinical laboratories operated by practitioners for~~  
1802 ~~exclusive use regulated under s. 483.035,~~ home health agencies,  
1803 hospices, hospitals, intermediate care facilities for the  
1804 developmentally disabled, nursing homes, health care clinics,  
1805 and multiphasic testing centers and by assessments on  
1806 organizations subject to certification by the agency pursuant to  
1807 chapter 641, part III, including health maintenance  
1808 organizations and prepaid health clinics. Fees assessed may be  
1809 collected prospectively at the time of licensure renewal and  
1810 prorated for the licensure period.

1811 Section 60. Present paragraphs (f) through (l) of  
1812 subsection (3) of section 408.036, Florida Statutes, are  
1813 redesignated as paragraphs (e) through (k), respectively,  
1814 present paragraphs (o) through (t) of that subsection are  
1815 redesignated as paragraphs (l) through (q), respectively, and  
1816 present paragraphs (e), (m), (n), and (p) of that subsection are  
1817 amended, to read:

1818 408.036 Projects subject to review; exemptions.—

1819 (3) EXEMPTIONS.—Upon request, the following projects are  
1820 subject to exemption from the provisions of subsection (1):

1821 ~~(e) For mobile surgical facilities and related health care~~  
1822 ~~services provided under contract with the Department of~~  
1823 ~~Corrections or a private correctional facility operating~~  
1824 ~~pursuant to chapter 957.~~

1825 ~~(m)1. For the provision of adult open-heart services in a~~



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1826 ~~hospital located within the boundaries of a health service~~  
1827 ~~planning district, as defined in s. 408.032(5), which has~~  
1828 ~~experienced an annual net out-migration of at least 600 open-~~  
1829 ~~heart surgery cases for 3 consecutive years according to the~~  
1830 ~~most recent data reported to the agency, and the district's~~  
1831 ~~population per licensed and operational open-heart programs~~  
1832 ~~exceeds the state average of population per licensed and~~  
1833 ~~operational open-heart programs by at least 25 percent. All~~  
1834 ~~hospitals within a health service planning district which meet~~  
1835 ~~the criteria reference in sub-subparagraphs 2.a. h. shall be~~  
1836 ~~eligible for this exemption on July 1, 2004, and shall receive~~  
1837 ~~the exemption upon filing for it and subject to the following:~~

1838       ~~a. A hospital that has received a notice of intent to grant~~  
1839 ~~a certificate of need or a final order of the agency granting a~~  
1840 ~~certificate of need for the establishment of an open-heart-~~  
1841 ~~surgery program is entitled to receive a letter of exemption for~~  
1842 ~~the establishment of an adult open-heart-surgery program upon~~  
1843 ~~filing a request for exemption and complying with the criteria~~  
1844 ~~enumerated in sub-subparagraphs 2.a. h., and is entitled to~~  
1845 ~~immediately commence operation of the program.~~

1846       ~~b. An otherwise eligible hospital that has not received a~~  
1847 ~~notice of intent to grant a certificate of need or a final order~~  
1848 ~~of the agency granting a certificate of need for the~~  
1849 ~~establishment of an open-heart-surgery program is entitled to~~  
1850 ~~immediately receive a letter of exemption for the establishment~~  
1851 ~~of an adult open-heart-surgery program upon filing a request for~~  
1852 ~~exemption and complying with the criteria enumerated in sub-~~  
1853 ~~paragraphs 2.a. h., but is not entitled to commence operation~~  
1854 ~~of its program until December 31, 2006.~~





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1855           ~~2. A hospital shall be exempt from the certificate of need~~  
1856 ~~review for the establishment of an open heart surgery program~~  
1857 ~~when the application for exemption submitted under this~~  
1858 ~~paragraph complies with the following criteria:~~

1859           ~~a. The applicant must certify that it will meet and~~  
1860 ~~continuously maintain the minimum licensure requirements adopted~~  
1861 ~~by the agency governing adult open heart programs, including the~~  
1862 ~~most current guidelines of the American College of Cardiology~~  
1863 ~~and American Heart Association Guidelines for Adult Open Heart~~  
1864 ~~Programs.~~

1865           ~~b. The applicant must certify that it will maintain~~  
1866 ~~sufficient appropriate equipment and health personnel to ensure~~  
1867 ~~quality and safety.~~

1868           ~~c. The applicant must certify that it will maintain~~  
1869 ~~appropriate times of operation and protocols to ensure~~  
1870 ~~availability and appropriate referrals in the event of~~  
1871 ~~emergencies.~~

1872           ~~d. The applicant can demonstrate that it has discharged at~~  
1873 ~~least 300 inpatients with a principal diagnosis of ischemic~~  
1874 ~~heart disease for the most recent 12-month period as reported to~~  
1875 ~~the agency.~~

1876           ~~e. The applicant is a general acute care hospital that is~~  
1877 ~~in operation for 3 years or more.~~

1878           ~~f. The applicant is performing more than 300 diagnostic~~  
1879 ~~cardiac catheterization procedures per year, combined inpatient~~  
1880 ~~and outpatient.~~

1881           ~~g. The applicant's payor mix at a minimum reflects the~~  
1882 ~~community average for Medicaid, charity care, and self-pay~~  
1883 ~~patients or the applicant must certify that it will provide a~~



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1884 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~  
1885 ~~open-heart-surgery patients.~~

1886 ~~h. If the applicant fails to meet the established criteria~~  
1887 ~~for open-heart programs or fails to reach 300 surgeries per year~~  
1888 ~~by the end of its third year of operation, it must show cause~~  
1889 ~~why its exemption should not be revoked.~~

1890 ~~3. By December 31, 2004, and annually thereafter, the~~  
1891 ~~agency shall submit a report to the Legislature providing~~  
1892 ~~information concerning the number of requests for exemption it~~  
1893 ~~has received under this paragraph during the calendar year and~~  
1894 ~~the number of exemptions it has granted or denied during the~~  
1895 ~~calendar year.~~

1896 ~~(n) For the provision of percutaneous coronary intervention~~  
1897 ~~for patients presenting with emergency myocardial infarctions in~~  
1898 ~~a hospital without an approved adult open-heart-surgery program.~~  
1899 ~~In addition to any other documentation required by the agency, a~~  
1900 ~~request for an exemption submitted under this paragraph must~~  
1901 ~~comply with the following:~~

1902 ~~1. The applicant must certify that it will meet and~~  
1903 ~~continuously maintain the requirements adopted by the agency for~~  
1904 ~~the provision of these services. These licensure requirements~~  
1905 ~~shall be adopted by rule and must be consistent with the~~  
1906 ~~guidelines published by the American College of Cardiology and~~  
1907 ~~the American Heart Association for the provision of percutaneous~~  
1908 ~~coronary interventions in hospitals without adult open-heart~~  
1909 ~~services. At a minimum, the rules must require the following:~~

1910 ~~a. Cardiologists must be experienced interventionalists who~~  
1911 ~~have performed a minimum of 75 interventions within the previous~~  
1912 ~~12 months.~~



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1913           ~~b. The hospital must provide a minimum of 36 emergency~~  
1914 ~~interventions annually in order to continue to provide the~~  
1915 ~~service.~~

1916           ~~e. The hospital must offer sufficient physician, nursing,~~  
1917 ~~and laboratory staff to provide the services 24 hours a day, 7~~  
1918 ~~days a week.~~

1919           ~~d. Nursing and technical staff must have demonstrated~~  
1920 ~~experience in handling acutely ill patients requiring~~  
1921 ~~intervention based on previous experience in dedicated~~  
1922 ~~interventional laboratories or surgical centers.~~

1923           ~~e. Cardiac care nursing staff must be adept in hemodynamic~~  
1924 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

1925           ~~f. Formalized written transfer agreements must be developed~~  
1926 ~~with a hospital with an adult open-heart-surgery program, and~~  
1927 ~~written transport protocols must be in place to ensure safe and~~  
1928 ~~efficient transfer of a patient within 60 minutes. Transfer and~~  
1929 ~~transport agreements must be reviewed and tested, with~~  
1930 ~~appropriate documentation maintained at least every 3 months.~~  
1931 ~~However, a hospital located more than 100 road miles from the~~  
1932 ~~closest Level II adult cardiovascular services program does not~~  
1933 ~~need to meet the 60-minute transfer time protocol if the~~  
1934 ~~hospital demonstrates that it has a formalized, written transfer~~  
1935 ~~agreement with a hospital that has a Level II program. The~~  
1936 ~~agreement must include written transport protocols that ensure~~  
1937 ~~the safe and efficient transfer of a patient, taking into~~  
1938 ~~consideration the patient's clinical and physical~~  
1939 ~~characteristics, road and weather conditions, and viability of~~  
1940 ~~ground and air ambulance service to transfer the patient.~~

1941           ~~g. Hospitals implementing the service must first undertake~~



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1942 ~~a training program of 3 to 6 months' duration, which includes~~  
1943 ~~establishing standards and testing logistics, creating quality~~  
1944 ~~assessment and error management practices, and formalizing~~  
1945 ~~patient-selection criteria.~~

1946 ~~2. The applicant must certify that it will use at all times~~  
1947 ~~the patient-selection criteria for the performance of primary~~  
1948 ~~angioplasty at hospitals without adult open-heart surgery~~  
1949 ~~programs issued by the American College of Cardiology and the~~  
1950 ~~American Heart Association. At a minimum, these criteria would~~  
1951 ~~provide for the following:~~

1952 ~~a. Avoidance of interventions in hemodynamically stable~~  
1953 ~~patients who have identified symptoms or medical histories.~~

1954 ~~b. Transfer of patients who have a history of coronary~~  
1955 ~~disease and clinical presentation of hemodynamic instability.~~

1956 ~~3. The applicant must agree to submit a quarterly report to~~  
1957 ~~the agency detailing patient characteristics, treatment, and~~  
1958 ~~outcomes for all patients receiving emergency percutaneous~~  
1959 ~~coronary interventions pursuant to this paragraph. This report~~  
1960 ~~must be submitted within 15 days after the close of each~~  
1961 ~~calendar quarter.~~

1962 ~~4. The exemption provided by this paragraph does not apply~~  
1963 ~~unless the agency determines that the hospital has taken all~~  
1964 ~~necessary steps to be in compliance with all requirements of~~  
1965 ~~this paragraph, including the training program required under~~  
1966 ~~sub-subparagraph 1.g.~~

1967 ~~5. Failure of the hospital to continuously comply with the~~  
1968 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~  
1969 ~~and 3. will result in the immediate expiration of this~~  
1970 ~~exemption.~~



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1971 ~~6. Failure of the hospital to meet the volume requirements~~  
1972 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~  
1973 ~~program begins offering the service will result in the immediate~~  
1974 ~~expiration of the exemption.~~

1975  
1976 ~~If the exemption for this service expires under subparagraph 5.~~  
1977 ~~or subparagraph 6., the agency may not grant another exemption~~  
1978 ~~for this service to the same hospital for 2 years and then only~~  
1979 ~~upon a showing that the hospital will remain in compliance with~~  
1980 ~~the requirements of this paragraph through a demonstration of~~  
1981 ~~corrections to the deficiencies that caused expiration of the~~  
1982 ~~exemption. Compliance with the requirements of this paragraph~~  
1983 ~~includes compliance with the rules adopted pursuant to this~~  
1984 ~~paragraph.~~

1985 ~~(m) (p)~~ For replacement of a licensed nursing home on the  
1986 same site, or within 5 miles of the same site if within the same  
1987 subdistrict, if the number of licensed beds does not increase  
1988 except as permitted under paragraph (e) ~~(f)~~.

1989 Section 61. Paragraph (b) of subsection (3) of section  
1990 408.0361, Florida Statutes, is amended to read:

1991 408.0361 Cardiovascular services and burn unit licensure.-

1992 (3) In establishing rules for adult cardiovascular  
1993 services, the agency shall include provisions that allow for:

1994 (b)1. For a hospital seeking a Level I program,  
1995 demonstration that, for the most recent 12-month period as  
1996 reported to the agency, it has provided a minimum of 300 adult  
1997 inpatient and outpatient diagnostic cardiac catheterizations or,  
1998 for the most recent 12-month period, has discharged or  
1999 transferred at least 300 patients ~~inpatients~~ with the principal



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2000 diagnosis of ischemic heart disease and that it has a  
2001 formalized, written transfer agreement with a hospital that has  
2002 a Level II program, including written transport protocols to  
2003 ensure safe and efficient transfer of a patient within 60  
2004 minutes.

2005 2.a. A hospital located more than 100 road miles from the  
2006 closest Level II adult cardiovascular services program does not  
2007 need to meet the diagnostic cardiac catheterization volume and  
2008 ischemic heart disease diagnosis volume requirements in  
2009 subparagraph 1., if the hospital demonstrates that it has, for  
2010 the most recent 12-month period as reported to the agency,  
2011 provided a minimum of 100 adult inpatient and outpatient  
2012 diagnostic cardiac catheterizations or that, for the most recent  
2013 12-month period, it has discharged or transferred at least 300  
2014 patients with the principal diagnosis of ischemic heart disease.

2015 b. ~~However,~~ A hospital located more than 100 road miles  
2016 from the closest Level II adult cardiovascular services program  
2017 does not need to meet the 60-minute transfer time protocol  
2018 requirement in subparagraph 1., if the hospital demonstrates  
2019 that it has a formalized, written transfer agreement with a  
2020 hospital that has a Level II program. The agreement must include  
2021 written transport protocols to ensure the safe and efficient  
2022 transfer of a patient, taking into consideration the patient's  
2023 clinical and physical characteristics, road and weather  
2024 conditions, and viability of ground and air ambulance service to  
2025 transfer the patient.

2026 3. At a minimum, the rules for adult cardiovascular  
2027 services must require nursing and technical staff to have  
2028 demonstrated experience in handling acutely ill patients



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2029 requiring intervention, based on the staff member's previous  
2030 experience in dedicated cardiac interventional laboratories or  
2031 surgical centers. If a staff member's previous experience is in  
2032 a dedicated cardiac interventional laboratory at a hospital that  
2033 does not have an approved adult open-heart-surgery program, the  
2034 staff member's previous experience qualifies only if, at the  
2035 time the staff member acquired his or her experience, the  
2036 dedicated cardiac interventional laboratory:

2037 a. Had an annual volume of 500 or more percutaneous cardiac  
2038 intervention procedures;

2039 b. Achieved a demonstrated success rate of 95 percent or  
2040 greater for percutaneous cardiac intervention procedures;

2041 c. Experienced a complication rate of less than 5 percent  
2042 for percutaneous cardiac intervention procedures; and

2043 d. Performed diverse cardiac procedures, including, but not  
2044 limited to, balloon angioplasty and stenting, rotational  
2045 atherectomy, cutting balloon atheroma remodeling, and procedures  
2046 relating to left ventricular support capability.

2047 Section 62. Subsection (4) of section 408.061, Florida  
2048 Statutes, is amended to read:

2049 408.061 Data collection; uniform systems of financial  
2050 reporting; information relating to physician charges;  
2051 confidential information; immunity.—

2052 (4) Within 120 days after the end of its fiscal year, each  
2053 health care facility, excluding continuing care facilities,  
2054 hospitals operated by state agencies, and nursing homes as those  
2055 terms are defined in s. 408.07 ~~s. 408.07(14) and (37)~~, shall  
2056 file with the agency, on forms adopted by the agency and based  
2057 on the uniform system of financial reporting, its actual



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2058 financial experience for that fiscal year, including  
2059 expenditures, revenues, and statistical measures. Such data may  
2060 be based on internal financial reports which are certified to be  
2061 complete and accurate by the provider. However, hospitals'  
2062 actual financial experience shall be their audited actual  
2063 experience. Every nursing home shall submit to the agency, in a  
2064 format designated by the agency, a statistical profile of the  
2065 nursing home residents. The agency, in conjunction with the  
2066 Department of Elderly Affairs and the Department of Health,  
2067 shall review these statistical profiles and develop  
2068 recommendations for the types of residents who might more  
2069 appropriately be placed in their homes or other noninstitutional  
2070 settings.

2071 Section 63. Subsection (11) of section 408.07, Florida  
2072 Statutes, is amended to read:

2073 408.07 Definitions.—As used in this chapter, with the  
2074 exception of ss. 408.031-408.045, the term:

2075 ~~(11) "Clinical laboratory" means a facility licensed under~~  
2076 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~  
2077 ~~483.041(6); any clinical laboratory operated by the state or a~~  
2078 ~~political subdivision of the state; any blood or tissue bank~~  
2079 ~~where the majority of revenues are received from the sale of~~  
2080 ~~blood or tissue and where blood, plasma, or tissue is procured~~  
2081 ~~from volunteer donors and donated, processed, stored, or~~  
2082 ~~distributed on a nonprofit basis; and any clinical laboratory~~  
2083 ~~which is wholly owned and operated by physicians who are~~  
2084 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~  
2085 ~~in the same group practice, and at which no clinical laboratory~~  
2086 ~~work is performed for patients referred by any health care~~





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2087 ~~provider who is not a member of that same group practice.~~

2088 Section 64. Subsection (4) of section 408.20, Florida  
2089 Statutes, is amended to read:

2090 408.20 Assessments; Health Care Trust Fund.—

2091 (4) Hospitals operated by a state agency ~~the Department of~~  
2092 ~~Children and Families, the Department of Health, or the~~  
2093 ~~Department of Corrections~~ are exempt from the assessments  
2094 required under this section.

2095 Section 65. Section 408.7056, Florida Statutes, is  
2096 repealed.

2097 Section 66. Subsections (10), (11), and (27) of section  
2098 408.802, Florida Statutes, are amended to read:

2099 408.802 Applicability.—The provisions of this part apply to  
2100 the provision of services that require licensure as defined in  
2101 this part and to the following entities licensed, registered, or  
2102 certified by the agency, as described in chapters 112, 383, 390,  
2103 394, 395, 400, 429, 440, 483, and 765:

2104 ~~(10) Mobile surgical facilities, as provided under part I~~  
2105 ~~of chapter 395.~~

2106 ~~(11) Health care risk managers, as provided under part I of~~  
2107 ~~chapter 395.~~

2108 ~~(27) Clinical laboratories, as provided under part I of~~  
2109 ~~chapter 483.~~

2110 Section 67. Subsections (12) and (13) of section 408.803,  
2111 Florida Statutes, are redesignated as subsections (13) and (14),  
2112 respectively, and a new subsection (12) is added to that  
2113 section, to read:

2114 408.803 Definitions.—As used in this part, the term:

2115 (12) "Relative" means an individual who is the father,



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2116 mother, stepfather, stepmother, son, daughter, brother, sister,  
2117 grandmother, grandfather, great-grandmother, great-grandfather,  
2118 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
2119 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
2120 daughter-in-law, brother-in-law, sister-in-law, stepson,  
2121 stepdaughter, stepbrother, stepsister, half-brother, or half-  
2122 sister of a patient or client.

2123 Section 68. Paragraph (c) of subsection (7) of section  
2124 408.806, Florida Statutes, is amended, and subsection (9) is  
2125 added to that section, to read:

2126 408.806 License application process.—

2127 (7) (c) If an inspection is required by the authorizing  
2128 statute for a license application other than an initial  
2129 application, the inspection must be unannounced. This paragraph  
2130 does not apply to inspections required pursuant to ss. 383.324,  
2131 395.0161(4) and, 429.67(6), ~~and 483.061(2)~~.

2132 (9) A licensee that holds a license for multiple providers  
2133 licensed by the agency may request that all related license  
2134 expiration dates be aligned. Upon such request, the agency may  
2135 issue a license for an abbreviated licensure period with a  
2136 prorated licensure fee.

2137 Section 69. Paragraphs (d) and (e) of subsection (1) of  
2138 section 408.809, Florida Statutes, are amended to read:

2139 408.809 Background screening; prohibited offenses.—

2140 (1) Level 2 background screening pursuant to chapter 435  
2141 must be conducted through the agency on each of the following  
2142 persons, who are considered employees for the purposes of  
2143 conducting screening under chapter 435:

2144 (d) Any person who is a controlling interest ~~if the agency~~



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2145 ~~has reason to believe that such person has been convicted of any~~  
2146 ~~offense prohibited by s. 435.04. For each controlling interest~~  
2147 ~~who has been convicted of any such offense, the licensee shall~~  
2148 ~~submit to the agency a description and explanation of the~~  
2149 ~~conviction at the time of license application.~~

2150 (e) Any person, as required by authorizing statutes,  
2151 seeking employment with a licensee or provider who is expected  
2152 to, or whose responsibilities may require him or her to, provide  
2153 personal care or services directly to clients or have access to  
2154 client funds, personal property, or living areas; and any  
2155 person, as required by authorizing statutes, contracting with a  
2156 licensee or provider whose responsibilities require him or her  
2157 to provide personal care or personal services directly to  
2158 clients, or contracting with a licensee or provider to work 20  
2159 hours a week or more who will have access to client funds,  
2160 personal property, or living areas. Evidence of contractor  
2161 screening may be retained by the contractor's employer or the  
2162 licensee.

2163 Section 70. Subsection (8) of section 408.810, Florida  
2164 Statutes, is amended, and subsections (11), (12), and (13) are  
2165 added to that section, to read:

2166 408.810 Minimum licensure requirements.—In addition to the  
2167 licensure requirements specified in this part, authorizing  
2168 statutes, and applicable rules, each applicant and licensee must  
2169 comply with the requirements of this section in order to obtain  
2170 and maintain a license.

2171 (8) Upon application for initial licensure or change of  
2172 ownership licensure, the applicant shall furnish satisfactory  
2173 proof of the applicant's financial ability to operate in



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2174 accordance with the requirements of this part, authorizing  
2175 statutes, and applicable rules. The agency shall establish  
2176 standards for this purpose, including information concerning the  
2177 applicant's controlling interests. The agency shall also  
2178 establish documentation requirements, to be completed by each  
2179 applicant, that show anticipated provider revenues and  
2180 expenditures, the basis for financing the anticipated cash-flow  
2181 requirements of the provider, and an applicant's access to  
2182 contingency financing. A current certificate of authority,  
2183 pursuant to chapter 651, may be provided as proof of financial  
2184 ability to operate. The agency may require a licensee to provide  
2185 proof of financial ability to operate at any time if there is  
2186 evidence of financial instability, including, but not limited  
2187 to, unpaid expenses necessary for the basic operations of the  
2188 provider. An applicant applying for change of ownership  
2189 licensure is exempt from furnishing proof of financial ability  
2190 to operate if the provider has been licensed for at least 5  
2191 years, and:

2192 (a) The ownership change is a result of a corporate  
2193 reorganization under which the controlling interest is unchanged  
2194 and the applicant submits organizational charts that represent  
2195 the current and proposed structure of the reorganized  
2196 corporation; or

2197 (b) The ownership change is due solely to the death of a  
2198 person holding a controlling interest, and the surviving  
2199 controlling interests continue to hold at least 51 percent of  
2200 ownership after the change of ownership.

2201 (11) The agency may adopt rules that govern the  
2202 circumstances under which a controlling interest, an



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2203 administrator, an employee, or a contractor, or a representative  
2204 thereof, who is not a relative of the client may act as an agent  
2205 of the client in authorizing consent for medical treatment,  
2206 assignment of benefits, and release of information. Such rules  
2207 may include requirements related to disclosure, bonding,  
2208 restrictions, and client protections.

2209 (12) The licensee shall ensure that no person holds any  
2210 ownership interest, either directly or indirectly, regardless of  
2211 ownership structure, who:

2212 (a) Has a disqualifying offense pursuant to s. 408.809; or

2213 (b) Holds or has held any ownership interest, either  
2214 directly or indirectly, regardless of ownership structure, in a  
2215 provider that had a license revoked or an application denied  
2216 pursuant to s. 408.815.

2217 (13) If the licensee is a publicly traded corporation or is  
2218 wholly owned, directly or indirectly, by a publicly traded  
2219 corporation, subsection (12) does not apply to those persons  
2220 whose sole relationship with the corporation is as a shareholder  
2221 of publicly traded shares. As used in this subsection, a  
2222 "publicly traded corporation" is a corporation that issues  
2223 securities traded on an exchange registered with the United  
2224 States Securities and Exchange Commission as a national  
2225 securities exchange.

2226 Section 71. Section 408.812, Florida Statutes, is amended  
2227 to read:

2228 408.812 Unlicensed activity.—

2229 (1) A person or entity may not offer or advertise services  
2230 that require licensure as defined by this part, authorizing  
2231 statutes, or applicable rules to the public without obtaining a



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2232 valid license from the agency. A licenseholder may not advertise  
2233 or hold out to the public that he or she holds a license for  
2234 other than that for which he or she actually holds the license.

2235 (2) The operation or maintenance of an unlicensed provider  
2236 or the performance of any services that require licensure  
2237 without proper licensure is a violation of this part and  
2238 authorizing statutes. Unlicensed activity constitutes harm that  
2239 materially affects the health, safety, and welfare of clients,  
2240 and constitutes abuse and neglect, as defined in s. 415.102. The  
2241 agency or any state attorney may, in addition to other remedies  
2242 provided in this part, bring an action for an injunction to  
2243 restrain such violation, or to enjoin the future operation or  
2244 maintenance of the unlicensed provider or the performance of any  
2245 services in violation of this part and authorizing statutes,  
2246 until compliance with this part, authorizing statutes, and  
2247 agency rules has been demonstrated to the satisfaction of the  
2248 agency.

2249 (3) It is unlawful for any person or entity to own,  
2250 operate, or maintain an unlicensed provider. If after receiving  
2251 notification from the agency, such person or entity fails to  
2252 cease operation ~~and apply for a license under this part and~~  
2253 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject  
2254 to penalties as prescribed by authorizing statutes and  
2255 applicable rules. Each day of ~~continued~~ operation is a separate  
2256 offense.

2257 (4) Any person or entity that fails to cease operation  
2258 after agency notification may be fined \$1,000 for each day of  
2259 noncompliance.

2260 (5) When a controlling interest or licensee has an interest



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2261 in more than one provider and fails to license a provider  
2262 rendering services that require licensure, the agency may revoke  
2263 all licenses, ~~and~~ impose actions under s. 408.814, and  
2264 regardless of correction, impose a fine of \$1,000 per day,  
2265 unless otherwise specified by authorizing statutes, against each  
2266 licensee until such time as the appropriate license is obtained  
2267 or the unlicensed activity ceases ~~for the unlicensed operation.~~

2268 (6) In addition to granting injunctive relief pursuant to  
2269 subsection (2), if the agency determines that a person or entity  
2270 is operating or maintaining a provider without obtaining a  
2271 license and determines that a condition exists that poses a  
2272 threat to the health, safety, or welfare of a client of the  
2273 provider, the person or entity is subject to the same actions  
2274 and fines imposed against a licensee as specified in this part,  
2275 authorizing statutes, and agency rules.

2276 (7) Any person aware of the operation of an unlicensed  
2277 provider must report that provider to the agency.

2278 Section 72. Subsections (10), (11) and (26) of section  
2279 408.820, Florida Statutes, are amended, and subsections (12)  
2280 through (25) and (27) and (28) are redesignated as subsections  
2281 (10) through (23) and (24) and (25), respectively, to read:

2282 408.820 Exemptions.—Except as prescribed in authorizing  
2283 statutes, the following exemptions shall apply to specified  
2284 requirements of this part:

2285 ~~(10) Mobile surgical facilities, as provided under part I~~  
2286 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

2287 ~~(11) Health care risk managers, as provided under part I of~~  
2288 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~  
2289 ~~and 408.811.~~



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2290 ~~(26) Clinical laboratories, as provided under part I of~~  
2291 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

2292 Section 73. Subsection (7) of section 409.905, Florida  
2293 Statutes, is amended to read:

2294 409.905 Mandatory Medicaid services.—The agency may make  
2295 payments for the following services, which are required of the  
2296 state by Title XIX of the Social Security Act, furnished by  
2297 Medicaid providers to recipients who are determined to be  
2298 eligible on the dates on which the services were provided. Any  
2299 service under this section shall be provided only when medically  
2300 necessary and in accordance with state and federal law.

2301 Mandatory services rendered by providers in mobile units to  
2302 Medicaid recipients may be restricted by the agency. Nothing in  
2303 this section shall be construed to prevent or limit the agency  
2304 from adjusting fees, reimbursement rates, lengths of stay,  
2305 number of visits, number of services, or any other adjustments  
2306 necessary to comply with the availability of moneys and any  
2307 limitations or directions provided for in the General  
2308 Appropriations Act or chapter 216.

2309 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay  
2310 for medically necessary diagnostic laboratory procedures ordered  
2311 by a licensed physician or other licensed practitioner of the  
2312 healing arts which are provided for a recipient in a laboratory  
2313 that meets the requirements for Medicare participation and is  
2314 appropriately certified by the Centers for Medicare and Medicaid  
2315 Services under the federal Clinical Laboratory Improvement  
2316 Amendments and the federal rules adopted thereunder licensed  
2317 under chapter 483, if required.

2318 Section 74. Subsection (10) of section 409.907, Florida





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2319 Statutes, is amended to read:

2320           409.907 Medicaid provider agreements.—The agency may make  
2321 payments for medical assistance and related services rendered to  
2322 Medicaid recipients only to an individual or entity who has a  
2323 provider agreement in effect with the agency, who is performing  
2324 services or supplying goods in accordance with federal, state,  
2325 and local law, and who agrees that no person shall, on the  
2326 grounds of handicap, race, color, or national origin, or for any  
2327 other reason, be subjected to discrimination under any program  
2328 or activity for which the provider receives payment from the  
2329 agency.

2330           (10) The agency may consider whether the provider, or any  
2331 officer, director, agent, managing employee, or affiliated  
2332 person, or any partner or shareholder having an ownership  
2333 interest equal to 5 percent or greater in the provider if the  
2334 provider is a corporation, partnership, or other business  
2335 entity, has:

2336           (a) Made a false representation or omission of any material  
2337 fact in making the application, including the submission of an  
2338 application that conceals the controlling or ownership interest  
2339 of any officer, director, agent, managing employee, affiliated  
2340 person, or partner or shareholder who may not be eligible to  
2341 participate;

2342           (b) Been or is currently excluded, suspended, terminated  
2343 from, or has involuntarily withdrawn from participation in,  
2344 Florida's Medicaid program or any other state's Medicaid  
2345 program, or from participation in any other governmental or  
2346 private health care or health insurance program;

2347           ~~(c) Been convicted of a criminal offense relating to the~~



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2348 ~~delivery of any goods or services under Medicaid or Medicare or~~  
2349 ~~any other public or private health care or health insurance~~  
2350 ~~program including the performance of management or~~  
2351 ~~administrative services relating to the delivery of goods or~~  
2352 ~~services under any such program;~~

2353 ~~(d) Been convicted under federal or state law of a criminal~~  
2354 ~~offense related to the neglect or abuse of a patient in~~  
2355 ~~connection with the delivery of any health care goods or~~  
2356 ~~services;~~

2357 ~~(e) Been convicted under federal or state law of a criminal~~  
2358 ~~offense relating to the unlawful manufacture, distribution,~~  
2359 ~~prescription, or dispensing of a controlled substance;~~

2360 ~~(f) Been convicted of any criminal offense relating to~~  
2361 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~  
2362 ~~or other financial misconduct;~~

2363 ~~(g) Been convicted under federal or state law of a crime~~  
2364 ~~punishable by imprisonment of a year or more which involves~~  
2365 ~~moral turpitude;~~

2366 ~~(h) Been convicted in connection with the interference or~~  
2367 ~~obstruction of any investigation into any criminal offense~~  
2368 ~~listed in this subsection;~~

2369 ~~(i) Been found to have violated federal or state laws,~~  
2370 ~~rules, or regulations governing Florida's Medicaid program or~~  
2371 ~~any other state's Medicaid program, the Medicare program, or any~~  
2372 ~~other publicly funded federal or state health care or health~~  
2373 ~~insurance program, and been sanctioned accordingly;~~

2374 ~~(c) (j)~~ (c) Been previously found by a licensing, certifying, or  
2375 professional standards board or agency to have violated the  
2376 standards or conditions relating to licensure or certification



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2377 or the quality of services provided; or

2378        (d)~~(\*)~~ Failed to pay any fine or overpayment properly  
2379 assessed under the Medicaid program in which no appeal is  
2380 pending or after resolution of the proceeding by stipulation or  
2381 agreement, unless the agency has issued a specific letter of  
2382 forgiveness or has approved a repayment schedule to which the  
2383 provider agrees to adhere.

2384        Section 75. Subsection (6) of section 409.9116, Florida  
2385 Statutes, is amended to read:

2386        409.9116 Disproportionate share/financial assistance  
2387 program for rural hospitals.—In addition to the payments made  
2388 under s. 409.911, the Agency for Health Care Administration  
2389 shall administer a federally matched disproportionate share  
2390 program and a state-funded financial assistance program for  
2391 statutory rural hospitals. The agency shall make  
2392 disproportionate share payments to statutory rural hospitals  
2393 that qualify for such payments and financial assistance payments  
2394 to statutory rural hospitals that do not qualify for  
2395 disproportionate share payments. The disproportionate share  
2396 program payments shall be limited by and conform with federal  
2397 requirements. Funds shall be distributed quarterly in each  
2398 fiscal year for which an appropriation is made. Notwithstanding  
2399 the provisions of s. 409.915, counties are exempt from  
2400 contributing toward the cost of this special reimbursement for  
2401 hospitals serving a disproportionate share of low-income  
2402 patients.

2403        (6) This section applies only to hospitals that were  
2404 defined as statutory rural hospitals, or their successor-in-  
2405 interest hospital, prior to January 1, 2001. Any additional



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2406 hospital that is defined as a statutory rural hospital, or its  
2407 successor-in-interest hospital, on or after January 1, 2001, is  
2408 not eligible for programs under this section unless additional  
2409 funds are appropriated each fiscal year specifically to the  
2410 rural hospital disproportionate share and financial assistance  
2411 programs in an amount necessary to prevent any hospital, or its  
2412 successor-in-interest hospital, eligible for the programs prior  
2413 to January 1, 2001, from incurring a reduction in payments  
2414 because of the eligibility of an additional hospital to  
2415 participate in the programs. A hospital, or its successor-in-  
2416 interest hospital, which received funds pursuant to this section  
2417 before January 1, 2001, and which qualifies under s.  
2418 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the  
2419 programs under this section and is not required to seek  
2420 additional appropriations under this subsection.

2421 Section 76. Paragraphs (a) and (b) of subsection (1) of  
2422 section 409.975, Florida Statutes, are amended to read:

2423 409.975 Managed care plan accountability.—In addition to  
2424 the requirements of s. 409.967, plans and providers  
2425 participating in the managed medical assistance program shall  
2426 comply with the requirements of this section.

2427 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
2428 maintain provider networks that meet the medical needs of their  
2429 enrollees in accordance with standards established pursuant to  
2430 s. 409.967(2)(c). Except as provided in this section, managed  
2431 care plans may limit the providers in their networks based on  
2432 credentials, quality indicators, and price.

2433 (a) Plans must include all providers in the region that are  
2434 classified by the agency as essential Medicaid providers, unless



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2435 the agency approves, in writing, an alternative arrangement for  
2436 securing the types of services offered by the essential  
2437 providers. Providers are essential for serving Medicaid  
2438 enrollees if they offer services that are not available from any  
2439 other provider within a reasonable access standard, or if they  
2440 provided a substantial share of the total units of a particular  
2441 service used by Medicaid patients within the region during the  
2442 last 3 years and the combined capacity of other service  
2443 providers in the region is insufficient to meet the total needs  
2444 of the Medicaid patients. The agency may not classify physicians  
2445 and other practitioners as essential providers. The agency, at a  
2446 minimum, shall determine which providers in the following  
2447 categories are essential Medicaid providers:

- 2448 1. Federally qualified health centers.
- 2449 2. Statutory teaching hospitals as defined in s. 408.07(44)  
2450 ~~s. 408.07(45)~~.
- 2451 3. Hospitals that are trauma centers as defined in s.  
2452 395.4001(14).
- 2453 4. Hospitals located at least 25 miles from any other  
2454 hospital with similar services.

2455  
2456 Managed care plans that have not contracted with all essential  
2457 providers in the region as of the first date of recipient  
2458 enrollment, or with whom an essential provider has terminated  
2459 its contract, must negotiate in good faith with such essential  
2460 providers for 1 year or until an agreement is reached, whichever  
2461 is first. Payments for services rendered by a nonparticipating  
2462 essential provider shall be made at the applicable Medicaid rate  
2463 as of the first day of the contract between the agency and the



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2464 plan. A rate schedule for all essential providers shall be  
2465 attached to the contract between the agency and the plan. After  
2466 1 year, managed care plans that are unable to contract with  
2467 essential providers shall notify the agency and propose an  
2468 alternative arrangement for securing the essential services for  
2469 Medicaid enrollees. The arrangement must rely on contracts with  
2470 other participating providers, regardless of whether those  
2471 providers are located within the same region as the  
2472 nonparticipating essential service provider. If the alternative  
2473 arrangement is approved by the agency, payments to  
2474 nonparticipating essential providers after the date of the  
2475 agency's approval shall equal 90 percent of the applicable  
2476 Medicaid rate. Except for payment for emergency services, if the  
2477 alternative arrangement is not approved by the agency, payment  
2478 to nonparticipating essential providers shall equal 110 percent  
2479 of the applicable Medicaid rate.

2480 (b) Certain providers are statewide resources and essential  
2481 providers for all managed care plans in all regions. All managed  
2482 care plans must include these essential providers in their  
2483 networks. Statewide essential providers include:

- 2484 1. Faculty plans of Florida medical schools.
- 2485 2. Regional perinatal intensive care centers as defined in  
2486 s. 383.16(2).
- 2487 3. Hospitals licensed as specialty children's hospitals as  
2488 defined in s. 395.002(27) ~~s. 395.002(28)~~.
- 2489 4. Accredited and integrated systems serving medically  
2490 complex children which comprise separately licensed, but  
2491 commonly owned, health care providers delivering at least the  
2492 following services: medical group home, in-home and outpatient



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2493 nursing care and therapies, pharmacy services, durable medical  
2494 equipment, and Prescribed Pediatric Extended Care.

2495  
2496 Managed care plans that have not contracted with all statewide  
2497 essential providers in all regions as of the first date of  
2498 recipient enrollment must continue to negotiate in good faith.  
2499 Payments to physicians on the faculty of nonparticipating  
2500 Florida medical schools shall be made at the applicable Medicaid  
2501 rate. Payments for services rendered by regional perinatal  
2502 intensive care centers shall be made at the applicable Medicaid  
2503 rate as of the first day of the contract between the agency and  
2504 the plan. Except for payments for emergency services, payments  
2505 to nonparticipating specialty children's hospitals shall equal  
2506 the highest rate established by contract between that provider  
2507 and any other Medicaid managed care plan.

2508 Section 77. Subsections (5) and (17) of section 429.02,  
2509 Florida Statutes, are amended to read:

2510 429.02 Definitions.—When used in this part, the term:

2511 (5) "Assisted living facility" means any building or  
2512 buildings, section or distinct part of a building, private home,  
2513 boarding home, home for the aged, or other residential facility,  
2514 regardless of whether operated for profit ~~or not~~, which  
2515 ~~undertakes~~ through its ownership or management provides ~~to~~  
2516 ~~provide~~ housing, meals, and one or more personal services for a  
2517 period exceeding 24 hours to one or more adults who are not  
2518 relatives of the owner or administrator.

2519 (17) "Personal services" means direct physical assistance  
2520 with or supervision of the activities of daily living, and the  
2521 self-administration of medication, or ~~and~~ other similar services



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2522 which the department may define by rule. The term may ~~“Personal~~  
2523 ~~services” shall~~ not be construed to mean the provision of  
2524 medical, nursing, dental, or mental health services.

2525 Section 78. Paragraphs (b) and (d) of subsection (2) of  
2526 section 429.04, Florida Statutes, are amended, and subsection  
2527 (3) is added that section, to read:

2528 429.04 Facilities to be licensed; exemptions.-

2529 (2) The following are exempt from licensure under this  
2530 part:

2531 (b) Any facility or part of a facility licensed by the  
2532 Agency for Persons with Disabilities under chapter 393, a mental  
2533 health facility licensed under ~~or~~ chapter 394, a hospital  
2534 licensed under chapter 395, a nursing home licensed under part  
2535 II of chapter 400, an inpatient hospice licensed under part IV  
2536 of chapter 400, a home for special services licensed under part  
2537 V of chapter 400, an intermediate care facility licensed under  
2538 part VIII of chapter 400, or a transitional living facility  
2539 licensed under part XI of chapter 400.

2540 (d) Any person who provides housing, meals, and one or more  
2541 personal services on a 24-hour basis in the person's own home to  
2542 not more than two adults who do not receive optional state  
2543 supplementation. The person who provides the housing, meals, and  
2544 personal services must own or rent the home and must have  
2545 established the home as his or her permanent residence. For  
2546 purposes of this paragraph, any person holding a homestead  
2547 exemption at an address other than that at which the person  
2548 asserts this exemption is presumed to not have established  
2549 permanent residence ~~reside therein.~~ This exemption does not  
2550 apply to a person or entity that previously held a license





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2551 issued by the agency which was revoked or for which renewal was  
2552 denied by final order of the agency, or when the person or  
2553 entity voluntarily relinquished the license during agency  
2554 enforcement proceedings.

2555 (3) Upon agency investigation of unlicensed activity, any  
2556 person or entity that claims that it is exempt under this  
2557 section must provide documentation substantiating entitlement to  
2558 the exemption.

2559 Section 79. Paragraphs (b) and (d) of subsection (1) of  
2560 section 429.08, Florida Statutes, are amended to read:

2561 429.08 Unlicensed facilities; referral of person for  
2562 residency to unlicensed facility; penalties.—

2563 (1) (b) ~~Except as provided under paragraph (d),~~ Any person  
2564 who owns, rents, or otherwise maintains a building or property  
2565 used as operates, or maintains an unlicensed assisted living  
2566 facility commits a felony of the third degree, punishable as  
2567 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
2568 continued operation is a separate offense.

2569 (d) In addition to the requirements of s. 408.812, any  
2570 person who owns, operates, or maintains an unlicensed assisted  
2571 living facility after receiving notice from the agency due to a  
2572 change in this part or a modification in rule within 6 months  
2573 after the effective date of such change and who, within 10  
2574 working days after receiving notification from the agency, fails  
2575 to cease operation or apply for a license under this part  
2576 commits a felony of the third degree, punishable as provided in  
2577 s. 775.082, s. 775.083, or s. 775.084. Each day of continued  
2578 operation is a separate offense.

2579 Section 80. Section 429.176, Florida Statutes, is amended



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2580 to read:

2581 429.176 Notice of change of administrator.—If, during the  
2582 period for which a license is issued, the owner changes  
2583 administrators, the owner must notify the agency of the change  
2584 within 10 days and provide documentation within 90 days that the  
2585 new administrator has completed the applicable core educational  
2586 requirements under s. 429.52. A facility may not be operated for  
2587 more than 120 consecutive days without an administrator who has  
2588 completed the core educational requirements.

2589 Section 81. Subsection(7) of section 429.19, Florida  
2590 Statutes, is amended to read:

2591 429.19 Violations; imposition of administrative fines;  
2592 grounds.—

2593 (7) In addition to any administrative fines imposed, the  
2594 agency may assess a survey fee, equal to the lesser of one half  
2595 of the facility's biennial license and bed fee or \$500, to cover  
2596 the cost of conducting initial complaint investigations that  
2597 result in the finding of a violation that was the subject of the  
2598 complaint or monitoring visits conducted ~~under s. 429.28(3)(e)~~  
2599 to verify the correction of the violations.

2600 Section 82. Subsection (2) of section 429.24, Florida  
2601 Statutes, is amended to read:

2602 429.24 Contracts.—

2603 (2) Each contract must contain express provisions  
2604 specifically setting forth the services and accommodations to be  
2605 provided by the facility; the rates or charges; provision for at  
2606 least 30 days' written notice of a rate increase; the rights,  
2607 duties, and obligations of the residents, other than those  
2608 specified in s. 429.28; and other matters that the parties deem



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2609 appropriate. A new service or accommodation added to, or  
2610 implemented in, a resident's contract for which the resident was  
2611 not previously charged does not require a 30-day written notice  
2612 of a rate increase. Whenever money is deposited or advanced by a  
2613 resident in a contract as security for performance of the  
2614 contract agreement or as advance rent for other than the next  
2615 immediate rental period:

2616 (a) Such funds shall be deposited in a banking institution  
2617 in this state that is located, if possible, in the same  
2618 community in which the facility is located; shall be kept  
2619 separate from the funds and property of the facility; may not be  
2620 represented as part of the assets of the facility on financial  
2621 statements; and shall be used, or otherwise expended, only for  
2622 the account of the resident.

2623 (b) The licensee shall, within 30 days of receipt of  
2624 advance rent or a security deposit, notify the resident or  
2625 residents in writing of the manner in which the licensee is  
2626 holding the advance rent or security deposit and state the name  
2627 and address of the depository where the moneys are being held.  
2628 The licensee shall notify residents of the facility's policy on  
2629 advance deposits.

2630 Section 83. Paragraphs (e) and (j) of subsection (1) and  
2631 paragraphs (c), (d), and (e) of subsection (3) of section  
2632 429.28, Florida Statutes, are amended to read:

2633 429.28 Resident bill of rights.-

2634 (1) No resident of a facility shall be deprived of any  
2635 civil or legal rights, benefits, or privileges guaranteed by  
2636 law, the Constitution of the State of Florida, or the  
2637 Constitution of the United States as a resident of a facility.



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2638 Every resident of a facility shall have the right to:

2639 (e) Freedom to participate in and benefit from community  
2640 services and activities and to pursue ~~achieve~~ the highest  
2641 possible level of independence, autonomy, and interaction within  
2642 the community.

2643 (j) Assistance with obtaining access to adequate and  
2644 appropriate health care. For purposes of this paragraph, the  
2645 term "adequate and appropriate health care" means the management  
2646 of medications, assistance in making appointments for health  
2647 care services, the provision of or arrangement of transportation  
2648 to health care appointments, and the performance of health care  
2649 services in accordance with s. 429.255 which are consistent with  
2650 established and recognized standards within the community.

2651 ~~(3)(c) During any calendar year in which no survey is~~  
2652 ~~conducted, the agency shall conduct at least one monitoring~~  
2653 ~~visit of each facility cited in the previous year for a class I~~  
2654 ~~or class II violation, or more than three uncorrected class III~~  
2655 ~~violations.~~

2656 ~~(d) The agency may conduct periodic followup inspections as~~  
2657 ~~necessary to monitor the compliance of facilities with a history~~  
2658 ~~of any class I, class II, or class III violations that threaten~~  
2659 ~~the health, safety, or security of residents.~~

2660 ~~(e) The agency may conduct complaint investigations as~~  
2661 ~~warranted to investigate any allegations of noncompliance with~~  
2662 ~~requirements required under this part or rules adopted under~~  
2663 ~~this part.~~

2664 Section 84. Subsection (1) of section 429.294, Florida  
2665 Statutes, is amended to read:

2666 429.294 Availability of facility records for investigation



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2667 of resident's rights violations and defenses; penalty.-

2668 (1) Failure to provide complete copies of a resident's  
2669 records, including, but not limited to, all medical records and  
2670 the resident's chart, within the control or possession of the  
2671 facility ~~within 10 days,~~ in accordance with ~~the provisions of s.~~  
2672 400.145, shall constitute evidence of failure of that party to  
2673 comply with good faith discovery requirements and shall waive  
2674 the good faith certificate and presuit notice requirements under  
2675 this part by the requesting party.

2676 Section 85. Subsection (2) of section 429.34, Florida  
2677 Statutes, is amended to read:

2678 429.34 Right of entry and inspection.-

2679 (2) (a) In addition to the requirements of s. 408.811, the  
2680 agency may inspect and investigate facilities as necessary to  
2681 determine compliance with this part, part II of chapter 408, and  
2682 rules adopted thereunder. ~~The agency shall inspect each licensed~~  
2683 ~~assisted living facility at least once every 24 months to~~  
2684 ~~determine compliance with this chapter and related rules.~~ If an  
2685 assisted living facility is cited for a class I violation or  
2686 three or more class II violations arising from separate surveys  
2687 within a 60-day period or due to unrelated circumstances during  
2688 the same survey, the agency must conduct an additional licensure  
2689 inspection within 6 months.

2690 (b) During any calendar year in which a survey is not  
2691 conducted, the agency may conduct monitoring visits of each  
2692 facility cited in the previous year for a class I or class II  
2693 violation or for more than three uncorrected class III  
2694 violations.

2695 Section 86. Subsection (4) of section 429.52, Florida



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2696 Statutes, is amended to read:

2697       429.52 Staff training and educational programs; core  
2698 educational requirement.—

2699       (4) Effective January 1, 2004, a new facility administrator  
2700 must complete the required training and education, including the  
2701 competency test, within 90 days after date of employment ~~a~~  
2702 ~~reasonable time after being employed~~ as an administrator, ~~as~~  
2703 ~~determined by the department~~. Failure to do so is a violation of  
2704 this part and subjects the violator to an administrative fine as  
2705 prescribed in s. 429.19. Administrators licensed in accordance  
2706 with part II of chapter 468 are exempt from this requirement.  
2707 Other licensed professionals may be exempted, as determined by  
2708 the department by rule.

2709       Section 87. Subsection (3) of section 435.04, Florida  
2710 Statutes, is amended, and subsection (4) is added to that  
2711 section, to read:

2712       435.04 Level 2 screening standards.—

2713       (3) The security background investigations under this  
2714 section must ensure that no person subject to this section has  
2715 been arrested for and is awaiting final disposition of, been  
2716 found guilty of, regardless of adjudication, or entered a plea  
2717 of nolo contendere or guilty to, any offense that constitutes  
2718 domestic violence as defined in s. 741.28, whether such act was  
2719 committed in this state or in another jurisdiction.

2720       (4) For the purpose of screening applicability to  
2721 participate in the Medicaid program, the security background  
2722 investigations under this section must ensure that a person  
2723 subject to screening under this section has not been arrested  
2724 for and is not awaiting final disposition of; has not been found



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2725 guilty of, regardless of adjudication, or entered a plea of nolo  
2726 contendere or guilty to; and has not been adjudicated delinquent  
2727 and the record sealed or expunged for, any of the following  
2728 offenses:

2729 (a) Violation of a federal law or a law in any state which  
2730 creates a criminal offense relating to:

2731 1. The delivery of any goods or services under Medicaid or  
2732 Medicare or any other public or private health care or health  
2733 insurance program, including the performance of management or  
2734 administrative services relating to the delivery of goods or  
2735 services under any such program;

2736 2. Neglect or abuse of a patient in connection with the  
2737 delivery of any health care good or service;

2738 3. Unlawful manufacture, distribution, prescription, or  
2739 dispensing of a controlled substance;

2740 4. Fraud, theft, embezzlement, breach of fiduciary  
2741 responsibility, or other financial misconduct; or

2742 5. Moral turpitude, if punishable by imprisonment of a year  
2743 or more.

2744 6. Interference with or obstruction of an investigation  
2745 into any criminal offense identified in this subsection.

2746 (b) Violation of the following state laws or laws of  
2747 another jurisdiction:

2748 1. Section 817.569, criminal use of a public record or  
2749 information contained in a public record;

2750 2. Section 838.016, unlawful compensation or reward for  
2751 official behavior;

2752 3. Section 838.021, corruption by threat against a public  
2753 servant;



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- 2754        4. Section 838.022, official misconduct;  
2755        5. Section 838.22, bid tampering;  
2756        6. Section 839.13, falsifying records;  
2757        7. Section 839.26, misuse of confidential information; or  
2758        (c) Violation of a federal or state law, rule, or  
2759        regulation governing the Florida Medicaid program or any other  
2760        state Medicaid program, the Medicare program, or any other  
2761        publicly funded federal or state health care or health insurance  
2762        program.

2763            Section 88. Subsection (4) of section 456.001, Florida  
2764        Statutes, is amended to read:

2765            456.001 Definitions.—As used in this chapter, the term:

2766            (4) "Health care practitioner" means any person licensed  
2767        under chapter 457; chapter 458; chapter 459; chapter 460;  
2768        chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
2769        chapter 466; chapter 467; part I, part II, part III, part V,  
2770        part X, part XIII, or part XIV of chapter 468; chapter 478;  
2771        chapter 480; part II or part III ~~or part IV~~ of chapter 483;  
2772        chapter 484; chapter 486; chapter 490; or chapter 491.

2773            Section 89. Subsection (3) of section 456.054, Florida  
2774        Statutes, is redesignated as subsection (4), and a new  
2775        subsection (3) is added to that section, to read:

2776            456.054 Kickbacks prohibited.—

2777            (3) (a) It is unlawful for any person or any entity to pay  
2778        or receive, directly or indirectly, a commission, bonus,  
2779        kickback, or rebate from, or to engage in any form of a split-  
2780        fee arrangement with, a dialysis facility, health care  
2781        practitioner, surgeon, person, or entity for referring patients  
2782        to a clinical laboratory as defined in s. 483.803.





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2783           (b) It is unlawful for any clinical laboratory to:  
2784           1. Provide personnel to perform any functions or duties in  
2785 a health care practitioner's office or dialysis facility for any  
2786 purpose, including for the collection or handling of specimens,  
2787 directly or indirectly through an employee, contractor,  
2788 independent staffing company, lease agreement, or otherwise,  
2789 unless the laboratory and the practitioner's office, or dialysis  
2790 facility, are wholly owned and operated by the same entity.

2791           2. Lease space within any part of a health care  
2792 practitioner's office or dialysis facility for any purpose,  
2793 including for the purpose of establishing a collection station  
2794 where materials or specimens are collected or drawn from  
2795 patients.

2796           Section 90. Paragraphs (h) and (i) of subsection (2) of  
2797 section 456.057, Florida Statutes, are amended to read:

2798           456.057 Ownership and control of patient records; report or  
2799 copies of records to be furnished; disclosure of information.-

2800           (2) As used in this section, the terms "records owner,"  
2801 "health care practitioner," and "health care practitioner's  
2802 employer" do not include any of the following persons or  
2803 entities; furthermore, the following persons or entities are not  
2804 authorized to acquire or own medical records, but are authorized  
2805 under the confidentiality and disclosure requirements of this  
2806 section to maintain those documents required by the part or  
2807 chapter under which they are licensed or regulated:

2808           (h) Clinical laboratory personnel licensed under part II  
2809 ~~III~~ of chapter 483.

2810           (i) Medical physicists licensed under part III ~~IV~~ of  
2811 chapter 483.



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2812 Section 91. Paragraph (j) of subsection (1) of section  
2813 456.076, Florida Statutes, is amended to read:

2814 456.076 Impaired practitioner programs.—

2815 (1) As used in this section, the term:

2816 (j) "Practitioner" means a person licensed, registered,  
2817 certified, or regulated by the department under part III of  
2818 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;  
2819 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
2820 chapter 466; chapter 467; part I, part II, part III, part V,  
2821 part X, part XIII, or part XIV of chapter 468; chapter 478;  
2822 chapter 480; part II or part III ~~or part IV~~ of chapter 483;  
2823 chapter 484; chapter 486; chapter 490; or chapter 491; or an  
2824 applicant for a license, registration, or certification under  
2825 the same laws.

2826 Section 92. Subsection (2) of section 458.307, Florida  
2827 Statutes, is amended to read:

2828 458.307 Board of Medicine.—

2829 (2) Twelve members of the board must be licensed physicians  
2830 in good standing in this state who are residents of the state  
2831 and who have been engaged in the active practice or teaching of  
2832 medicine for at least 4 years immediately preceding their  
2833 appointment. One of the physicians must be on the full-time  
2834 faculty of a medical school in this state, and one of the  
2835 physicians must be in private practice and on the full-time  
2836 staff of a statutory teaching hospital in this state as defined  
2837 in s. 408.07. At least one of the physicians must be a graduate  
2838 of a foreign medical school. The remaining three members must be  
2839 residents of the state who are not, and never have been,  
2840 licensed health care practitioners. One member must be a health



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2841 care risk manager ~~licensed under s. 395.10974~~. At least one  
2842 member of the board must be 60 years of age or older.

2843 Section 93. Subsection (1) of section 458.345, Florida  
2844 Statutes, is amended to read:

2845 458.345 Registration of resident physicians, interns, and  
2846 fellows; list of hospital employees; prescribing of medicinal  
2847 drugs; penalty.—

2848 (1) Any person desiring to practice as a resident  
2849 physician, assistant resident physician, house physician,  
2850 intern, or fellow in fellowship training which leads to  
2851 subspecialty board certification in this state, or any person  
2852 desiring to practice as a resident physician, assistant resident  
2853 physician, house physician, intern, or fellow in fellowship  
2854 training in a teaching hospital in this state as defined in s.  
2855 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a  
2856 valid, active license issued under this chapter shall apply to  
2857 the department to be registered and shall remit a fee not to  
2858 exceed \$300 as set by the board. The department shall register  
2859 any applicant the board certifies has met the following  
2860 requirements:

2861 (a) Is at least 21 years of age.

2862 (b) Has not committed any act or offense within or without  
2863 the state which would constitute the basis for refusal to  
2864 certify an application for licensure pursuant to s. 458.331.

2865 (c) Is a graduate of a medical school or college as  
2866 specified in s. 458.311(1)(f).

2867 Section 94. Subsection (1) of s. 459.021, Florida Statutes,  
2868 is amended to read:

2869 459.021 Registration of resident physicians, interns, and



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2870 fellows; list of hospital employees; penalty.-

2871 (1) Any person who holds a degree of Doctor of Osteopathic  
2872 Medicine from a college of osteopathic medicine recognized and  
2873 approved by the American Osteopathic Association who desires to  
2874 practice as a resident physician, intern, or fellow in  
2875 fellowship training which leads to subspecialty board  
2876 certification in this state, or any person desiring to practice  
2877 as a resident physician, intern, or fellow in fellowship  
2878 training in a teaching hospital in this state as defined in s.  
2879 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an  
2880 active license issued under this chapter shall apply to the  
2881 department to be registered, on an application provided by the  
2882 department, before commencing such a training program and shall  
2883 remit a fee not to exceed \$300 as set by the board.

2884 Section 95. Part I of chapter 483, Florida Statutes,  
2885 consisting of sections 483.011, 483.021, 483.031, 483.035,  
2886 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,  
2887 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,  
2888 is repealed.

2889 Section 96. Section 483.294, Florida Statutes, is amended  
2890 to read:

2891 483.294 Inspection of centers.-In accordance with s.  
2892 408.811, the agency shall, ~~at least once annually,~~ inspect the  
2893 premises and operations of all centers subject to licensure  
2894 under this part.

2895 Section 97. Subsections (3) and (5) of section 483.801,  
2896 Florida Statutes, are amended, and subsection (6) is added to  
2897 that section, to read:

2898 483.801 Exemptions.-This part applies to all clinical



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2899 laboratories and clinical laboratory personnel within this  
2900 state, except:

2901 (3) Persons engaged in testing performed by laboratories  
2902 that are wholly owned and operated by one or more practitioners  
2903 licensed under chapter 458, chapter 459, chapter 460, chapter  
2904 461, chapter 462, chapter 463, or chapter 466 who practice in  
2905 the same group practice, and in which no clinical laboratory  
2906 work is performed for patients referred by any health care  
2907 provider who is not a member of that group practice regulated  
2908 under s. 483.035(1) or exempt from regulation under s.  
2909 483.031(2).

2910 (5) Advanced registered nurse practitioners licensed under  
2911 part I of chapter 464 who perform provider-performed microscopy  
2912 procedures (PPMP) in a an-exclusive-use laboratory setting  
2913 pursuant to subsection (3).

2914 (6) Persons performing laboratory testing within a  
2915 physician office practice for patients referred by a health care  
2916 provider who is a member of the same physician office practice,  
2917 if the laboratory or entity operating the laboratory within a  
2918 physician office practice is under common ownership, directly or  
2919 indirectly, with an entity licensed pursuant to chapter 395.

2920 Section 98. Subsections (2), (3), and (4) of section  
2921 483.803, Florida Statutes, are amended to read:

2922 483.803 Definitions.—As used in this part, the term:

2923 (2) "Clinical laboratory" means the physical location in  
2924 which one or more of the following services are performed to  
2925 provide information or materials for use in the diagnosis,  
2926 prevention, or treatment of a disease or the identification or  
2927 assessment of a medical or physical condition:



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2928        (a) Clinical laboratory services, which entail the  
2929 examination of fluids or other materials taken from the human  
2930 body.

2931        (b) Anatomic laboratory services, which entail the  
2932 examination of tissue taken from the human body.

2933        (c) Cytology laboratory services, which entail the  
2934 examination of cells from individual tissues or fluid taken from  
2935 the human body ~~a clinical laboratory as defined in s. 483.041.~~

2936        (3) "Clinical laboratory examination" means a procedure  
2937 performed to deliver the services identified in subsection (2),  
2938 including the oversight or interpretation of such services  
2939 ~~clinical laboratory examination as defined in s. 483.041.~~

2940        (4) "Clinical laboratory personnel" includes a clinical  
2941 laboratory director, supervisor, technologist, blood gas  
2942 analyst, or technician who performs or is responsible for  
2943 laboratory test procedures, but the term does not include  
2944 trainees, persons who perform screening for blood banks or  
2945 plasmapheresis centers, phlebotomists, or persons employed by a  
2946 clinical laboratory to perform manual pretesting duties or  
2947 clerical, personnel, or other administrative responsibilities,  
2948 ~~or persons engaged in testing performed by laboratories~~  
2949 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~  
2950 ~~483.031(2).~~

2951        Section 99. Section 483.813, Florida Statutes, is amended  
2952 to read:

2953        483.813 Clinical laboratory personnel license.—A person may  
2954 not conduct a clinical laboratory examination or report the  
2955 results of such examination unless such person is licensed under  
2956 this part to perform such procedures. However, this provision



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2957 does not apply to any practitioner of the healing arts  
2958 authorized to practice in this state ~~or to persons engaged in~~  
2959 ~~testing performed by laboratories regulated under s. 483.035(1)~~  
2960 ~~or exempt from regulation under s. 483.031(2)~~. The department  
2961 may grant a temporary license to any candidate it deems properly  
2962 qualified, for a period not to exceed 1 year.

2963 Section 100. Subsection (2) of section 483.823, Florida  
2964 Statutes, is amended to read:

2965 483.823 Qualifications of clinical laboratory personnel.—

2966 (2) Personnel qualifications may require appropriate  
2967 education, training, or experience or the passing of an  
2968 examination in appropriate subjects or any combination of these,  
2969 but a ~~ne~~ practitioner of the healing arts licensed to practice  
2970 in this state is not required to obtain any license ~~under this~~  
2971 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~  
2972 ~~required for clinical laboratory licensure.~~

2973 Section 101. Paragraph (c) of subsection (7), and  
2974 subsections (8) and (9) of section 491.003, Florida Statutes,  
2975 are amended to read:

2976 491.003 Definitions.—As used in this chapter:

2977 (7) The "practice of clinical social work" is defined as  
2978 the use of scientific and applied knowledge, theories, and  
2979 methods for the purpose of describing, preventing, evaluating,  
2980 and treating individual, couple, marital, family, or group  
2981 behavior, based on the person-in-situation perspective of  
2982 psychosocial development, normal and abnormal behavior,  
2983 psychopathology, unconscious motivation, interpersonal  
2984 relationships, environmental stress, differential assessment,  
2985 differential planning, and data gathering. The purpose of such



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2986 services is the prevention and treatment of undesired behavior  
2987 and enhancement of mental health. The practice of clinical  
2988 social work includes methods of a psychological nature used to  
2989 evaluate, assess, diagnose, treat, and prevent emotional and  
2990 mental disorders and dysfunctions (whether cognitive, affective,  
2991 or behavioral), sexual dysfunction, behavioral disorders,  
2992 alcoholism, and substance abuse. The practice of clinical social  
2993 work includes, but is not limited to, psychotherapy,  
2994 hypnotherapy, and sex therapy. The practice of clinical social  
2995 work also includes counseling, behavior modification,  
2996 consultation, client-centered advocacy, crisis intervention, and  
2997 the provision of needed information and education to clients,  
2998 when using methods of a psychological nature to evaluate,  
2999 assess, diagnose, treat, and prevent emotional and mental  
3000 disorders and dysfunctions (whether cognitive, affective, or  
3001 behavioral), sexual dysfunction, behavioral disorders,  
3002 alcoholism, or substance abuse. The practice of clinical social  
3003 work may also include clinical research into more effective  
3004 psychotherapeutic modalities for the treatment and prevention of  
3005 such conditions.

3006 (c) The terms "diagnose" and "treat," as used in this  
3007 chapter, when considered in isolation or in conjunction with ~~any~~  
3008 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed  
3009 to permit the performance of any act which clinical social  
3010 workers are not educated and trained to perform, including, but  
3011 not limited to, admitting persons to hospitals for treatment of  
3012 the foregoing conditions, treating persons in hospitals without  
3013 medical supervision, prescribing medicinal drugs as defined in  
3014 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~





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3015 ~~to chapter 483~~, or radiological procedures, or use of  
3016 electroconvulsive therapy. In addition, this definition ~~shall~~  
3017 may not be construed to permit any person licensed,  
3018 provisionally licensed, registered, or certified pursuant to  
3019 this chapter to describe or label any test, report, or procedure  
3020 as "psychological," except to relate specifically to the  
3021 definition of practice authorized in this subsection.

3022       (8) The term "practice of marriage and family therapy"  
3023 means ~~is defined as~~ the use of scientific and applied marriage  
3024 and family theories, methods, and procedures for the purpose of  
3025 describing, evaluating, and modifying marital, family, and  
3026 individual behavior, within the context of marital and family  
3027 systems, including the context of marital formation and  
3028 dissolution, and is based on marriage and family systems theory,  
3029 marriage and family development, human development, normal and  
3030 abnormal behavior, psychopathology, human sexuality,  
3031 psychotherapeutic and marriage and family therapy theories and  
3032 techniques. The practice of marriage and family therapy includes  
3033 methods of a psychological nature used to evaluate, assess,  
3034 diagnose, treat, and prevent emotional and mental disorders or  
3035 dysfunctions (whether cognitive, affective, or behavioral),  
3036 sexual dysfunction, behavioral disorders, alcoholism, and  
3037 substance abuse. The practice of marriage and family therapy  
3038 includes, but is not limited to, marriage and family therapy,  
3039 psychotherapy, including behavioral family therapy,  
3040 hypnotherapy, and sex therapy. The practice of marriage and  
3041 family therapy also includes counseling, behavior modification,  
3042 consultation, client-centered advocacy, crisis intervention, and  
3043 the provision of needed information and education to clients,



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3044 when using methods of a psychological nature to evaluate,  
3045 assess, diagnose, treat, and prevent emotional and mental  
3046 disorders and dysfunctions (whether cognitive, affective, or  
3047 behavioral), sexual dysfunction, behavioral disorders,  
3048 alcoholism, or substance abuse. The practice of marriage and  
3049 family therapy may also include clinical research into more  
3050 effective psychotherapeutic modalities for the treatment and  
3051 prevention of such conditions.

3052 (a) Marriage and family therapy may be rendered to  
3053 individuals, including individuals affected by termination of  
3054 marriage, to couples, whether married or unmarried, to families,  
3055 or to groups.

3056 (b) The use of specific methods, techniques, or modalities  
3057 within the practice of marriage and family therapy is restricted  
3058 to marriage and family therapists appropriately trained in the  
3059 use of such methods, techniques, or modalities.

3060 (c) The terms "diagnose" and "treat," as used in this  
3061 chapter, when considered in isolation or in conjunction with ~~any~~  
3062 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed  
3063 to permit the performance of any act that ~~which~~ marriage and  
3064 family therapists are not educated and trained to perform,  
3065 including, but not limited to, admitting persons to hospitals  
3066 for treatment of the foregoing conditions, treating persons in  
3067 hospitals without medical supervision, prescribing medicinal  
3068 drugs as defined in chapter 465, authorizing clinical laboratory  
3069 procedures ~~pursuant to chapter 483,~~ or radiological procedures,  
3070 or the use of electroconvulsive therapy. In addition, this  
3071 definition may ~~shall~~ not be construed to permit any person  
3072 licensed, provisionally licensed, registered, or certified



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3073 pursuant to this chapter to describe or label any test, report,  
3074 or procedure as "psychological," except to relate specifically  
3075 to the definition of practice authorized in this subsection.

3076 (d) The definition of "marriage and family therapy"  
3077 contained in this subsection includes all services offered  
3078 directly to the general public or through organizations, whether  
3079 public or private, and applies whether payment is requested or  
3080 received for services rendered.

3081 (9) The term "practice of mental health counseling" means  
3082 ~~is defined as~~ the use of scientific and applied behavioral  
3083 science theories, methods, and techniques for the purpose of  
3084 describing, preventing, and treating undesired behavior and  
3085 enhancing mental health and human development and is based on  
3086 the person-in-situation perspectives derived from research and  
3087 theory in personality, family, group, and organizational  
3088 dynamics and development, career planning, cultural diversity,  
3089 human growth and development, human sexuality, normal and  
3090 abnormal behavior, psychopathology, psychotherapy, and  
3091 rehabilitation. The practice of mental health counseling  
3092 includes methods of a psychological nature used to evaluate,  
3093 assess, diagnose, and treat emotional and mental dysfunctions or  
3094 disorders, ~~(whether cognitive, affective, or behavioral),~~  
3095 ~~behavioral disorders,~~ interpersonal relationships, sexual  
3096 dysfunction, alcoholism, and substance abuse. The practice of  
3097 mental health counseling includes, but is not limited to,  
3098 psychotherapy, hypnotherapy, and sex therapy. The practice of  
3099 mental health counseling also includes counseling, behavior  
3100 modification, consultation, client-centered advocacy, crisis  
3101 intervention, and the provision of needed information and



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3102 education to clients, when using methods of a psychological  
3103 nature to evaluate, assess, diagnose, treat, and prevent  
3104 emotional and mental disorders and dysfunctions (whether  
3105 cognitive, affective, or behavioral), behavioral disorders,  
3106 sexual dysfunction, alcoholism, or substance abuse. The practice  
3107 of mental health counseling may also include clinical research  
3108 into more effective psychotherapeutic modalities for the  
3109 treatment and prevention of such conditions.

3110 (a) Mental health counseling may be rendered to  
3111 individuals, including individuals affected by the termination  
3112 of marriage, and to couples, families, groups, organizations,  
3113 and communities.

3114 (b) The use of specific methods, techniques, or modalities  
3115 within the practice of mental health counseling is restricted to  
3116 mental health counselors appropriately trained in the use of  
3117 such methods, techniques, or modalities.

3118 (c) The terms "diagnose" and "treat," as used in this  
3119 chapter, when considered in isolation or in conjunction with any  
3120 provision of the rules of the board, may ~~shall~~ not be construed  
3121 to permit the performance of any act that ~~which~~ mental health  
3122 counselors are not educated and trained to perform, including,  
3123 but not limited to, admitting persons to hospitals for treatment  
3124 of the foregoing conditions, treating persons in hospitals  
3125 without medical supervision, prescribing medicinal drugs as  
3126 defined in chapter 465, authorizing clinical laboratory  
3127 procedures ~~pursuant to chapter 483,~~ or radiological procedures,  
3128 or the use of electroconvulsive therapy. In addition, this  
3129 definition may ~~shall~~ not be construed to permit any person  
3130 licensed, provisionally licensed, registered, or certified



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3131 pursuant to this chapter to describe or label any test, report,  
3132 or procedure as "psychological," except to relate specifically  
3133 to the definition of practice authorized in this subsection.

3134 (d) The definition of "mental health counseling" contained  
3135 in this subsection includes all services offered directly to the  
3136 general public or through organizations, whether public or  
3137 private, and applies whether payment is requested or received  
3138 for services rendered.

3139 Section 102. Paragraph (h) of subsection (4) of section  
3140 627.351, Florida Statutes, is amended to read:

3141 627.351 Insurance risk apportionment plans.—

3142 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

3143 (h) As used in this subsection:

3144 1. "Health care provider" means hospitals licensed under  
3145 chapter 395; physicians licensed under chapter 458; osteopathic  
3146 physicians licensed under chapter 459; podiatric physicians  
3147 licensed under chapter 461; dentists licensed under chapter 466;  
3148 chiropractic physicians licensed under chapter 460; naturopaths  
3149 licensed under chapter 462; nurses licensed under part I of  
3150 chapter 464; midwives licensed under chapter 467; ~~clinical~~  
3151 ~~laboratories registered under chapter 483~~; physician assistants  
3152 licensed under chapter 458 or chapter 459; physical therapists  
3153 and physical therapist assistants licensed under chapter 486;  
3154 health maintenance organizations certificated under part I of  
3155 chapter 641; ambulatory surgical centers licensed under chapter  
3156 395; other medical facilities as defined in subparagraph 2.;  
3157 blood banks, plasma centers, industrial clinics, and renal  
3158 dialysis facilities; or professional associations, partnerships,  
3159 corporations, joint ventures, or other associations for



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3160 professional activity by health care providers.

3161         2. "Other medical facility" means a facility the primary  
3162 purpose of which is to provide human medical diagnostic services  
3163 or a facility providing nonsurgical human medical treatment, to  
3164 which facility the patient is admitted and from which facility  
3165 the patient is discharged within the same working day, and which  
3166 facility is not part of a hospital. However, a facility existing  
3167 for the primary purpose of performing terminations of pregnancy  
3168 or an office maintained by a physician or dentist for the  
3169 practice of medicine may ~~shall~~ not be construed to be an "other  
3170 medical facility."

3171         3. "Health care facility" means any hospital licensed under  
3172 chapter 395, health maintenance organization certificated under  
3173 part I of chapter 641, ambulatory surgical center licensed under  
3174 chapter 395, or other medical facility as defined in  
3175 subparagraph 2.

3176         Section 103. Paragraph (h) of subsection (1) of section  
3177 627.602, Florida Statutes, is amended to read:

3178         627.602 Scope, format of policy.-

3179         (1) Each health insurance policy delivered or issued for  
3180 delivery to any person in this state must comply with all  
3181 applicable provisions of this code and all of the following  
3182 requirements:

3183         (h) Section 641.312 and the provisions of the Employee  
3184 Retirement Income Security Act of 1974, as implemented by 29  
3185 C.F.R. s. 2560.503-1, relating to internal grievances. This  
3186 paragraph does not apply ~~to a health insurance policy that is~~  
3187 ~~subject to the Subscriber Assistance Program under s. 408.7056~~  
3188 ~~or~~ to the types of benefits or coverages provided under s.



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3189 627.6513(1)-(14) issued in any market.

3190 Section 104. Subsection (1) of section 627.6406, Florida  
3191 Statutes, is amended to read:

3192 627.6406 Maternity care.—

3193 (1) Any policy of health insurance which ~~that~~ provides  
3194 coverage for maternity care must also cover the services of  
3195 certified nurse-midwives and midwives licensed pursuant to  
3196 chapter 467, and the services of birth centers licensed under  
3197 ss. 383.30-383.332 ~~383.30-383.335~~.

3198 Section 105. Paragraphs (b) and (e) of subsection (1) of  
3199 section 627.64194, Florida Statutes, are amended to read:

3200 627.64194 Coverage requirements for services provided by  
3201 nonparticipating providers; payment collection limitations.—

3202 (1) As used in this section, the term:

3203 (b) "Facility" means a licensed facility as defined in s.  
3204 395.002(16) and an urgent care center as defined in s. 395.002  
3205 ~~s. 395.002(30)~~.

3206 (e) "Nonparticipating provider" means a provider who is not  
3207 a preferred provider as defined in s. 627.6471 or a provider who  
3208 is not an exclusive provider as defined in s. 627.6472. For  
3209 purposes of covered emergency services under this section, a  
3210 facility licensed under chapter 395 or an urgent care center  
3211 defined in s. 395.002 ~~s. 395.002(30)~~ is a nonparticipating  
3212 provider if the facility has not contracted with an insurer to  
3213 provide emergency services to its insureds at a specified rate.

3214 Section 106. Section 627.6513, Florida Statutes, is amended  
3215 to read:

3216 627.6513 Scope.—Section 641.312 and the provisions of the  
3217 Employee Retirement Income Security Act of 1974, as implemented



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3218 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,  
3219 apply to all group health insurance policies issued under this  
3220 part. This section does not apply to ~~a group health insurance~~  
3221 ~~policy that is subject to the Subscriber Assistance Program in~~  
3222 ~~s. 408.7056 or to:~~

- 3223 (1) Coverage only for accident insurance, or disability  
3224 income insurance, or any combination thereof.
- 3225 (2) Coverage issued as a supplement to liability insurance.
- 3226 (3) Liability insurance, including general liability  
3227 insurance and automobile liability insurance.
- 3228 (4) Workers' compensation or similar insurance.
- 3229 (5) Automobile medical payment insurance.
- 3230 (6) Credit-only insurance.
- 3231 (7) Coverage for onsite medical clinics, including prepaid  
3232 health clinics under part II of chapter 641.
- 3233 (8) Other similar insurance coverage, specified in rules  
3234 adopted by the commission, under which benefits for medical care  
3235 are secondary or incidental to other insurance benefits. To the  
3236 extent possible, such rules must be consistent with regulations  
3237 adopted by the United States Department of Health and Human  
3238 Services.
- 3239 (9) Limited scope dental or vision benefits, if offered  
3240 separately.
- 3241 (10) Benefits for long-term care, nursing home care, home  
3242 health care, or community-based care, or any combination  
3243 thereof, if offered separately.
- 3244 (11) Other similar, limited benefits, if offered  
3245 separately, as specified in rules adopted by the commission.
- 3246 (12) Coverage only for a specified disease or illness, if





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3247 offered as independent, noncoordinated benefits.

3248 (13) Hospital indemnity or other fixed indemnity insurance,  
3249 if offered as independent, noncoordinated benefits.

3250 (14) Benefits provided through a Medicare supplemental  
3251 health insurance policy, as defined under s. 1882(g)(1) of the  
3252 Social Security Act, coverage supplemental to the coverage  
3253 provided under 10 U.S.C. chapter 55, and similar supplemental  
3254 coverage provided to coverage under a group health plan, which  
3255 are offered as a separate insurance policy and as independent,  
3256 noncoordinated benefits.

3257 Section 107. Subsection (1) of section 627.6574, Florida  
3258 Statutes, is amended to read:

3259 627.6574 Maternity care.—

3260 (1) Any group, blanket, or franchise policy of health  
3261 insurance which ~~that~~ provides coverage for maternity care must  
3262 also cover the services of certified nurse-midwives and midwives  
3263 licensed pursuant to chapter 467, and the services of birth  
3264 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

3265 Section 108. Paragraph (j) of subsection (1) of section  
3266 641.185, Florida Statutes, is amended to read:

3267 641.185 Health maintenance organization subscriber  
3268 protections.—

3269 (1) With respect to the provisions of this part and part  
3270 III, the principles expressed in the following statements ~~shall~~  
3271 serve as standards to be followed by the commission, the office,  
3272 the department, and the Agency for Health Care Administration in  
3273 exercising their powers and duties, in exercising administrative  
3274 discretion, in administrative interpretations of the law, in  
3275 enforcing its provisions, and in adopting rules:



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3276 ~~(j) A health maintenance organization should receive timely~~  
3277 ~~and, if necessary, urgent review by an independent state~~  
3278 ~~external review organization for unresolved grievances and~~  
3279 ~~appeals pursuant to s. 408.7056.~~

3280 Section 109. Paragraph (a) of subsection (18) of section  
3281 641.31, Florida Statutes, is amended to read:

3282 641.31 Health maintenance contracts.—

3283 (18) (a) Health maintenance contracts that provide coverage,  
3284 benefits, or services for maternity care must provide, as an  
3285 option to the subscriber, the services of nurse-midwives and  
3286 midwives licensed pursuant to chapter 467, and the services of  
3287 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~  
3288 ~~383.335~~, if such services are available within the service area.

3289 Section 110. Section 641.312, Florida Statutes, is amended  
3290 to read:

3291 641.312 Scope.—The Office of Insurance Regulation may adopt  
3292 rules to administer ~~the provisions of~~ the National Association  
3293 of Insurance Commissioners' Uniform Health Carrier External  
3294 Review Model Act, issued by the National Association of  
3295 Insurance Commissioners and dated April 2010. This section does  
3296 not apply to ~~a health maintenance contract that is subject to~~  
3297 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~  
3298 types of benefits or coverages provided under s. 627.6513(1)-  
3299 (14) issued in any market.

3300 Section 111. Subsection (4) of section 641.3154, Florida  
3301 Statutes, is amended to read:

3302 641.3154 Organization liability; provider billing  
3303 prohibited.—

3304 (4) A provider or any representative of a provider,



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3305 regardless of whether the provider is under contract with the  
3306 health maintenance organization, may not collect or attempt to  
3307 collect money from, maintain any action at law against, or  
3308 report to a credit agency a subscriber of an organization for  
3309 payment of services for which the organization is liable, if the  
3310 provider in good faith knows or should know that the  
3311 organization is liable. This prohibition applies during the  
3312 pendency of any claim for payment made by the provider to the  
3313 organization for payment of the services and any legal  
3314 proceedings or dispute resolution process to determine whether  
3315 the organization is liable for the services if the provider is  
3316 informed that such proceedings are taking place. It is presumed  
3317 that a provider does not know and should not know that an  
3318 organization is liable unless:

3319 (a) The provider is informed by the organization that it  
3320 accepts liability;

3321 (b) A court of competent jurisdiction determines that the  
3322 organization is liable; or

3323 ~~(c) The office or agency makes a final determination that~~  
3324 ~~the organization is required to pay for such services subsequent~~  
3325 ~~to a recommendation made by the Subscriber Assistance Panel~~  
3326 ~~pursuant to s. 408.7056; or~~

3327 (c) ~~(d)~~ The agency issues a final order that the  
3328 organization is required to pay for such services subsequent to  
3329 a recommendation made by a resolution organization pursuant to  
3330 s. 408.7057.

3331 Section 112. Paragraph (c) of subsection (5) of section  
3332 641.51, Florida Statutes, is amended to read:

3333 641.51 Quality assurance program; second medical opinion



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3334 requirement.-

3335 (5) (c) For second opinions provided by contract physicians  
3336 the organization is prohibited from charging a fee to the  
3337 subscriber in an amount in excess of the subscriber fees  
3338 established by contract for referral contract physicians. The  
3339 organization shall pay the amount of all charges, which are  
3340 usual, reasonable, and customary in the community, for second  
3341 opinion services performed by a physician not under contract  
3342 with the organization, but may require the subscriber to be  
3343 responsible for up to 40 percent of such amount. The  
3344 organization may require that any tests deemed necessary by a  
3345 noncontract physician shall be conducted by the organization.  
3346 The organization may deny reimbursement rights granted under  
3347 this section in the event the subscriber seeks in excess of  
3348 three such referrals per year if such subsequent referral costs  
3349 are deemed by the organization to be evidence that the  
3350 subscriber has unreasonably overutilized the second opinion  
3351 privilege. A subscriber ~~thus~~ denied reimbursement under this  
3352 section has ~~shall have~~ recourse to grievance procedures as  
3353 specified in ss. ~~408.7056~~, 641.495~~7~~ and 641.511. The  
3354 organization's physician's professional judgment concerning the  
3355 treatment of a subscriber derived after review of a second  
3356 opinion is ~~shall be~~ controlling as to the treatment obligations  
3357 of the health maintenance organization. Treatment not authorized  
3358 by the health maintenance organization is ~~shall be~~ at the  
3359 subscriber's expense.

3360 Section 113. Subsection (1), paragraph (e) of subsection  
3361 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of  
3362 subsection (6), and subsections (7) through (12) of section



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3363 641.511, Florida Statutes, are amended to read:

3364 641.511 Subscriber grievance reporting and resolution  
3365 requirements.—

3366 (1) Every organization must have a grievance procedure  
3367 available to its subscribers for the purpose of addressing  
3368 complaints and grievances. Every organization must notify its  
3369 subscribers that a subscriber must submit a grievance within 1  
3370 year after the date of occurrence of the action that initiated  
3371 the grievance, ~~and may submit the grievance for review to the~~  
3372 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~  
3373 ~~after receiving a final disposition of the grievance through the~~  
3374 ~~organization's grievance process.~~ An organization shall maintain  
3375 records of all grievances and shall report annually to the  
3376 agency the total number of grievances handled, a categorization  
3377 of the cases underlying the grievances, and the final  
3378 disposition of the grievances.

3379 (3) Each organization's grievance procedure, as required  
3380 under subsection (1), must include, at a minimum:

3381 (e) A notice that a subscriber may voluntarily pursue  
3382 binding arbitration in accordance with the terms of the contract  
3383 if offered by the organization, after completing the  
3384 organization's grievance procedure ~~and as an alternative to the~~  
3385 ~~Subscriber Assistance Program.~~ Such notice shall include an  
3386 explanation that the subscriber may incur some costs if the  
3387 subscriber pursues binding arbitration, depending upon the terms  
3388 of the subscriber's contract.

3389 (4) ~~(d) In any case when the review process does not resolve~~  
3390 ~~a difference of opinion between the organization and the~~  
3391 ~~subscriber or the provider acting on behalf of the subscriber,~~



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3392 ~~the subscriber or the provider acting on behalf of the~~  
3393 ~~subscriber may submit a written grievance to the Subscriber~~  
3394 ~~Assistance Program.~~

3395 ~~(6)(g) In any case when the expedited review process does~~  
3396 ~~not resolve a difference of opinion between the organization and~~  
3397 ~~the subscriber or the provider acting on behalf of the~~  
3398 ~~subscriber, the subscriber or the provider acting on behalf of~~  
3399 ~~the subscriber may submit a written grievance to the Subscriber~~  
3400 ~~Assistance Program.~~

3401 ~~(g)(h) An organization shall not provide an expedited~~  
3402 ~~retrospective review of an adverse determination.~~

3403 ~~(7) Each organization shall send to the agency a copy of~~  
3404 ~~its quarterly grievance reports submitted to the office pursuant~~  
3405 ~~to s. 408.7056(12).~~

3406 ~~(7)(8) The agency shall investigate all reports of~~  
3407 ~~unresolved quality of care grievances received from:~~

3408 ~~(a) annual and quarterly grievance reports submitted by the~~  
3409 ~~organization to the office.~~

3410 ~~(b) Review requests of subscribers whose grievances remain~~  
3411 ~~unresolved after the subscriber has followed the full grievance~~  
3412 ~~procedure of the organization.~~

3413 ~~(9)(a) The agency shall advise subscribers with grievances~~  
3414 ~~to follow their organization's formal grievance process for~~  
3415 ~~resolution prior to review by the Subscriber Assistance Program.~~  
3416 ~~The subscriber may, however, submit a copy of the grievance to~~  
3417 ~~the agency at any time during the process.~~

3418 ~~(b) Requiring completion of the organization's grievance~~  
3419 ~~process before the Subscriber Assistance Program panel's review~~  
3420 ~~does not preclude the agency from investigating any complaint or~~



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3421 ~~grievance before the organization makes its final determination.~~

3422 ~~(10) Each organization must notify the subscriber in a~~  
3423 ~~final decision letter that the subscriber may request review of~~  
3424 ~~the organization's decision concerning the grievance by the~~  
3425 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~  
3426 ~~the grievance is not resolved to the satisfaction of the~~  
3427 ~~subscriber. The final decision letter must inform the subscriber~~  
3428 ~~that the request for review must be made within 365 days after~~  
3429 ~~receipt of the final decision letter, must explain how to~~  
3430 ~~initiate such a review, and must include the addresses and toll-~~  
3431 ~~free telephone numbers of the agency and the Subscriber~~  
3432 ~~Assistance Program.~~

3433 ~~(8)~~ (8) ~~(11)~~ Each organization, as part of its contract with any  
3434 provider, must require the provider to post a consumer  
3435 assistance notice prominently displayed in the reception area of  
3436 the provider and clearly noticeable by all patients. The  
3437 consumer assistance notice must state the addresses and toll-  
3438 free telephone numbers of the Agency for Health Care  
3439 Administration, ~~the Subscriber Assistance Program,~~ and the  
3440 Department of Financial Services. The consumer assistance notice  
3441 must also clearly state that the address and toll-free telephone  
3442 number of the organization's grievance department shall be  
3443 provided upon request. The agency may adopt rules to implement  
3444 this section.

3445 ~~(9)~~ (9) ~~(12)~~ The agency may impose administrative sanction, in  
3446 accordance with s. 641.52, against an organization for  
3447 noncompliance with this section.

3448 Section 114. Subsection (1) of section 641.515, Florida  
3449 Statutes, is amended to read:



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3450 641.515 Investigation by the agency.-

3451 (1) The agency shall investigate further any quality of  
3452 care issue contained in recommendations and reports submitted  
3453 pursuant to s. ss. 408.7056 and 641.511. The agency shall also  
3454 investigate further any information that indicates that the  
3455 organization does not meet accreditation standards or the  
3456 standards of the review organization performing the external  
3457 quality assurance assessment pursuant to reports submitted under  
3458 s. 641.512. Every organization shall submit its books and  
3459 records and take other appropriate action as may be necessary to  
3460 facilitate an examination. The agency shall have access to the  
3461 organization's medical records of individuals and records of  
3462 employed and contracted physicians, with the consent of the  
3463 subscriber or by court order, as necessary to administer ~~carry~~  
3464 ~~out the provisions of this part.~~

3465 Section 115. Subsection (2) of section 641.55, Florida  
3466 Statutes, is amended to read:

3467 641.55 Internal risk management program.-

3468 (2) The risk management program shall be the responsibility  
3469 of the governing authority or board of the organization. Every  
3470 organization which has an annual premium volume of \$10 million  
3471 or more and which directly provides health care in a building  
3472 owned or leased by the organization shall hire a risk manager,  
3473 ~~certified under ss. 395.10971-395.10975~~, who is ~~shall be~~  
3474 responsible for implementation of the organization's risk  
3475 management program required by this section. A part-time risk  
3476 manager may ~~shall~~ not be responsible for risk management  
3477 programs in more than four organizations or facilities. Every  
3478 organization that ~~which~~ does not directly provide health care in





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3479 a building owned or leased by the organization and every  
3480 organization with an annual premium volume of less than \$10  
3481 million shall designate an officer or employee of the  
3482 organization to serve as the risk manager.

3483

3484 The gross data compiled under this section or s. 395.0197 shall  
3485 be furnished by the agency upon request to organizations to be  
3486 utilized for risk management purposes. The agency shall adopt  
3487 rules necessary to administer ~~carry out the provisions of~~ this  
3488 section.

3489 Section 116. Section 641.60, Florida Statutes, is repealed.

3490 Section 117. Section 641.65, Florida Statutes, is repealed.

3491 Section 118. Section 641.67, Florida Statutes, is repealed.

3492 Section 119. Section 641.68, Florida Statutes, is repealed.

3493 Section 120. Section 641.70, Florida Statutes, is repealed.

3494 Section 121. Section 641.75, Florida Statutes, is repealed.

3495 Section 122. Paragraph (b) of subsection (6) of section  
3496 766.118, Florida Statutes, is amended to read:

3497 766.118 Determination of noneconomic damages.—

3498 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A  
3499 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID  
3500 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with  
3501 respect to a cause of action for personal injury or wrongful  
3502 death arising from medical negligence of a practitioner  
3503 committed in the course of providing medical services and  
3504 medical care to a Medicaid recipient, regardless of the number  
3505 of such practitioner defendants providing the services and care,  
3506 noneconomic damages may not exceed \$300,000 per claimant, unless  
3507 the claimant pleads and proves, by clear and convincing



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3508 evidence, that the practitioner acted in a wrongful manner. A  
3509 practitioner providing medical services and medical care to a  
3510 Medicaid recipient is not liable for more than \$200,000 in  
3511 noneconomic damages, regardless of the number of claimants,  
3512 unless the claimant pleads and proves, by clear and convincing  
3513 evidence, that the practitioner acted in a wrongful manner. The  
3514 fact that a claimant proves that a practitioner acted in a  
3515 wrongful manner does not preclude the application of the  
3516 limitation on noneconomic damages prescribed elsewhere in this  
3517 section. For purposes of this subsection:

3518 (b) The term "practitioner," in addition to the meaning  
3519 prescribed in subsection (1), includes any hospital or  
3520 ambulatory surgical center, ~~or mobile surgical facility~~ as  
3521 defined and licensed under chapter 395.

3522 Section 123. Subsection (4) of section 766.202, Florida  
3523 Statutes, is amended to read:

3524 766.202 Definitions; ss. 766.201-766.212.—As used in ss.  
3525 766.201-766.212, the term:

3526 (4) "Health care provider" means any hospital or  
3527 ambulatory surgical center, ~~or mobile surgical facility~~ as  
3528 defined and licensed under chapter 395; a birth center licensed  
3529 under chapter 383; any person licensed under chapter 458,  
3530 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
3531 part I of chapter 464, chapter 466, chapter 467, part XIV of  
3532 chapter 468, or chapter 486; ~~a clinical lab licensed under~~  
3533 ~~chapter 483~~; a health maintenance organization certificated  
3534 under part I of chapter 641; a blood bank; a plasma center; an  
3535 industrial clinic; a renal dialysis facility; or a professional  
3536 association partnership, corporation, joint venture, or other



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3537 association for professional activity by health care providers.

3538 Section 124. Section 945.36, Florida Statutes, is amended  
3539 to read:

3540 945.36 ~~Exemption from health testing regulations for Law~~  
3541 enforcement personnel authorized to conduct ~~conducting~~ drug  
3542 tests on inmates and releasees.-

3543 (1) Any law enforcement officer, state or county probation  
3544 officer, employee of the Department of Corrections, or employee  
3545 of a contracted community correctional center who is certified  
3546 by the Department of Corrections pursuant to subsection (2) may  
3547 administer, ~~is exempt from part I of chapter 483, for the~~  
3548 ~~limited purpose of administering~~ a urine screen drug test to:

3549 (a) Persons during incarceration;

3550 (b) Persons released as a condition of probation for either  
3551 a felony or misdemeanor;

3552 (c) Persons released as a condition of community control;

3553 (d) Persons released as a condition of conditional release;

3554 (e) Persons released as a condition of parole;

3555 (f) Persons released as a condition of provisional release;

3556 (g) Persons released as a condition of pretrial release; or

3557 (h) Persons released as a condition of control release.

3558 (2) The Department of Corrections shall develop a procedure  
3559 for certification of any law enforcement officer, state or  
3560 county probation officer, employee of the Department of  
3561 Corrections, or employee of a contracted community correctional  
3562 center to perform a urine screen drug test on the persons  
3563 specified in subsection (1).

3564 Section 125. Paragraph (b) of subsection (2) of section  
3565 1009.65, Florida Statutes, is amended to read:



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3566           1009.65 Medical Education Reimbursement and Loan Repayment  
3567 Program.—

3568           (2) From the funds available, the Department of Health  
3569 shall make payments to selected medical professionals as  
3570 follows:

3571           (b) All payments are ~~shall be~~ contingent on continued proof  
3572 of primary care practice in an area defined in s. 395.602(2)(b)  
3573 ~~s. 395.602(2)(e)~~, or an underserved area designated by the  
3574 Department of Health, provided the practitioner accepts Medicaid  
3575 reimbursement if eligible for such reimbursement. Correctional  
3576 facilities, state hospitals, and other state institutions that  
3577 employ medical personnel shall be designated by the Department  
3578 of Health as underserved locations. Locations with high  
3579 incidences of infant mortality, high morbidity, or low Medicaid  
3580 participation by health care professionals may be designated as  
3581 underserved.

3582           Section 126. Subsection (2) of section 1011.52, Florida  
3583 Statutes, is amended to read:

3584           1011.52 Appropriation to first accredited medical school.—

3585           (2) In order for a medical school to qualify under ~~the~~  
3586 ~~provisions of~~ this section and to be entitled to the benefits  
3587 herein, such medical school:

3588           (a) Must be primarily operated and established to offer,  
3589 afford, and render a medical education to residents of the state  
3590 qualifying for admission to such institution;

3591           (b) Must be operated by a municipality or county of this  
3592 state, or by a nonprofit organization heretofore or hereafter  
3593 established exclusively for educational purposes;

3594           (c) Must, upon the formation and establishment of an



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3595 accredited medical school, transmit and file with the Department  
3596 of Education documentary proof evidencing the facts that such  
3597 institution has been certified and approved by the council on  
3598 medical education and hospitals of the American Medical  
3599 Association and has adequately met the requirements of that  
3600 council in regard to its administrative facilities,  
3601 administrative plant, clinical facilities, curriculum, and all  
3602 other such requirements as may be necessary to qualify with the  
3603 council as a recognized, approved, and accredited medical  
3604 school;

3605 (d) Must certify to the Department of Education the name,  
3606 address, and educational history of each student approved and  
3607 accepted for enrollment in such institution for the ensuing  
3608 school year; and

3609 (e) Must have in place an operating agreement with a  
3610 government-owned hospital that is located in the same county as  
3611 the medical school and that is a statutory teaching hospital as  
3612 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement  
3613 must ~~shall~~ provide for the medical school to maintain the same  
3614 level of affiliation with the hospital, including the level of  
3615 services to indigent and charity care patients served by the  
3616 hospital, which was in place in the prior fiscal year. Each  
3617 year, documentation demonstrating that an operating agreement is  
3618 in effect shall be submitted jointly to the Department of  
3619 Education by the hospital and the medical school prior to the  
3620 payment of moneys from the annual appropriation.

3621 Section 127. This act shall take effect July 1, 2018.