

By the Committees on Health & Human Services
Appropriations, Health Care Standards & Regulatory Reform and
Representatives Sanderson, Saunders and Murman

1 A bill to be entitled
2 An act relating to the regulation of health
3 care facilities; amending s. 20.42, F.S.;
4 deleting the responsibility of the Division of
5 Health Policy and Cost Control within the
6 Agency for Health Care Administration for
7 reviewing hospital budgets; abolishing the
8 Health Care Board; amending s. 154.209, F.S.;
9 expanding programs eligible for financing by a
10 health facilities authority; amending s.
11 154.304, F.S., relating to health care for
12 indigent persons; revising definitions;
13 amending ss. 212.055 and 394.4788, F.S.,
14 relating to discretionary sales surtaxes and
15 mental health services; updating provisions
16 relating to duties formerly performed by the
17 Health Care Cost Containment Board; amending s.
18 395.0163, F.S.; providing exemptions from
19 construction inspections and investigations by
20 the Agency for Health Care Administration for
21 certain outpatient facilities; providing
22 exceptions; amending s. 395.0197, F.S.;
23 exempting ambulatory surgical centers and
24 hospitals from certain staffing requirements in
25 surgical recovery rooms; amending s. 395.1055,
26 F.S.; requiring the Agency for Health Care
27 Administration to adopt rules to assure that,
28 following a disaster, licensed facilities are
29 capable of serving as shelters only for
30 patients, staff, and the families of staff;
31 providing for applicability; providing for a

1 report by the agency to the Governor and
2 Legislature; amending s. 395.3025, F.S.;
3 revising charges for copies of medical records;
4 amending s. 395.401, F.S.; providing for
5 certain reports formerly made to the Health
6 Care Board to be made to the agency; amending
7 s. 395.701, F.S., relating to the Public
8 Medical Assistance Trust Fund; revising
9 definitions; amending ss. 408.05, 408.061,
10 408.062, and 408.063, F.S., relating to the
11 State Center for Health Statistics and the
12 collection and dissemination of health care
13 information; updating provisions to reflect the
14 assumption by the Agency for Health Care
15 Administration of duties formerly performed by
16 the Health Care Board and the former Department
17 of Health and Rehabilitative Services;
18 authorizing the agency to conduct data-based
19 studies and make recommendations; deleting
20 obsolete provisions; amending s. 408.07, F.S.;
21 deleting definitions made obsolete by the
22 repeal of requirements with respect to hospital
23 budget reviews; amending s. 408.08, F.S.;
24 deleting provisions requiring the Health Care
25 Board to review the budgets of certain
26 hospitals; deleting requirements that a
27 hospital file budget letters; deleting certain
28 administrative penalties; amending s. 408.40,
29 F.S.; removing a reference to the duties of the
30 Public Counsel with respect to hospital budget
31 review proceedings; amending ss. 409.2673 and

1 409.9113, F.S., relating to health care
2 programs for low-income persons and the
3 disproportionate share program for teaching
4 hospitals; updating provisions to reflect the
5 abolishment of the Health Care Cost Containment
6 Board and the assumption of its duties by the
7 agency; repealing ss. 395.403(9), 407.61,
8 408.003, 408.072, and 408.085, F.S., relating
9 to reimbursement of state-sponsored trauma
10 centers, studies by the Health Care Board,
11 appointment of members to the Health Care
12 Board, review of hospital budgets, and budget
13 reviews of comprehensive inpatient
14 rehabilitation hospitals; providing for
15 retroactive application of provisions of the
16 act relating to repeal of review of hospital
17 budgets; amending ss. 381.026 and 381.0261,
18 F.S.; requiring distribution of the Florida
19 Patient's Bill of Rights and Responsibilities;
20 providing penalties; repealing s. 395.002(2)
21 and (15), F.S.; deleting definitions of
22 "adverse or untoward incident" and "injury";
23 amending s. 395.0193, F.S.; revising provisions
24 relating to facility peer review disciplinary
25 actions against practitioners; requiring report
26 to the Agency for Health Care Administration;
27 providing penalties; amending s. 395.0197,
28 F.S.; revising provisions relating to internal
29 risk management; defining "adverse incident";
30 requiring certain reports to the agency;
31 including minors in provisions relating to

1 notification of sexual misconduct or abuse;
2 requiring facility corrective action plans;
3 providing penalties; correcting cross
4 references; renumbering s. 626.941, F.S.,
5 relating to purpose of the health care risk
6 manager licensure program; renumbering and
7 amending s. 626.942, F.S., relating to the
8 Health Care Risk Manager Advisory Council;
9 renumbering and amending s. 626.943, F.S.;
10 providing powers and duties of the agency;
11 renumbering and amending s. 626.944, F.S.,
12 relating to qualifications for health care risk
13 managers; providing for fees; providing for
14 issuance, cancellation, and renewal of
15 licenses; renumbering and amending s. 626.945,
16 F.S., relating to grounds for denial,
17 suspension, or revocation of licenses; amending
18 ss. 394.4787, 395.602, 395.701, 400.051,
19 409.905, 440.13, 458.307, 458.331, 459.015,
20 468.505, 641.55, and 766.1115, F.S.; conforming
21 references and correcting cross references;
22 transferring the internal risk manager
23 licensure program from the Department of
24 Insurance to the Agency for Health Care
25 Administration; providing an appropriation;
26 providing effective dates.

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28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraphs (b), (d), and (e) of subsection
2 (2) and subsections (6) and (7) of section 20.42, Florida
3 Statutes, are amended to read:

4 20.42 Agency for Health Care Administration.--There is
5 created the Agency for Health Care Administration within the
6 Department of Business and Professional Regulation. The agency
7 shall be a separate budget entity, and the director of the
8 agency shall be the agency head for all purposes. The agency
9 shall not be subject to control, supervision, or direction by
10 the Department of Business and Professional Regulation in any
11 manner, including, but not limited to, personnel, purchasing,
12 transactions involving real or personal property, and
13 budgetary matters.

14 (2) ORGANIZATION OF THE AGENCY.--The agency shall be
15 organized as follows:

16 (b) The Division of Health Policy and Cost Control,
17 which shall be responsible for health policy, the State Center
18 for Health Statistics, the development of The Florida Health
19 Plan, certificate of need, ~~hospital budget review~~, state and
20 local health planning under s. 408.033, and research and
21 analysis.

22 ~~(d) The Health Care Board, which shall be responsible~~
23 ~~for hospital budget review, nursing home financial analysis,~~
24 ~~and special studies as assigned by the secretary or the~~
25 ~~legislature.~~

26 (d)~~(e)~~ The Division of Administrative Services, which
27 shall be responsible for revenue management, budget,
28 personnel, and general services.

29 ~~(6) HEALTH CARE BOARD.--The Health Care Board shall be~~
30 ~~composed of 11 members appointed by the Governor, subject to~~
31 ~~confirmation by the Senate. The members of the board shall~~

1 ~~biennially elect a chairperson and a vice chairperson from its~~
2 ~~membership. The board shall be responsible for hospital budget~~
3 ~~review, nursing home financial review and analysis, and~~
4 ~~special studies requested by the Governor, the Legislature, or~~
5 ~~the director.~~

6 (6)~~(7)~~ DEPUTY DIRECTOR OF ADMINISTRATIVE
7 SERVICES.--The director shall appoint a Deputy Director of
8 Administrative Services who shall serve at the pleasure of,
9 and be directly responsible to, the director. The deputy
10 director shall be responsible for the Division of
11 Administrative Services.

12 Section 2. Subsection (18) of section 154.209, Florida
13 Statutes, is amended to read:

14 154.209 Powers of authority.--The purpose of the
15 authority shall be to assist health facilities in the
16 acquisition, construction, financing, and refinancing of
17 projects in any incorporated or unincorporated area within the
18 geographical limits of the local agency. For this purpose,
19 the authority is authorized and empowered:

20 (18) To participate in and issue bonds and other forms
21 of indebtedness for the purpose of establishing and
22 maintaining an accounts receivable program on behalf of a
23 health facility or group of health facilities.
24 Notwithstanding any other provisions of this part, the
25 structuring and financing of an accounts receivable program or
26 the acquisition and financing of accounts receivable from
27 other not-for-profit health care corporations pursuant to this
28 subsection shall constitute a project and may be structured
29 for the benefit of health facilities within or outside the
30 geographical limits of the local agency.

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1 Section 3. Subsections (1) and (8) of section 154.304,
2 Florida Statutes, are amended to read:

3 154.304 Definitions.--For the purpose of this act:

4 (1) "Agency" means the Agency for Health Care
5 Administration~~"Board"~~ means the Health Care Board as
6 ~~established in chapter 408.~~

7 (8) "Participating hospital" means a hospital which is
8 eligible to receive reimbursement under the provisions of this
9 act because it has been certified by the agency board as
10 having met its charity care obligation and has either:

11 (a) A formal signed agreement with a county or
12 counties to treat such county's indigent patients; or

13 (b) Demonstrated to the agency board that at least 2.5
14 percent of its uncompensated charity care, as reported to the
15 board, is generated by out-of-county residents.

16 Section 4. Paragraph (d) of subsection (4) and
17 paragraph (c) of subsection (6) of section 212.055, Florida
18 Statutes, are amended to read:

19 212.055 Discretionary sales surtaxes; legislative
20 intent; authorization and use of proceeds.--It is the
21 legislative intent that any authorization for imposition of a
22 discretionary sales surtax shall be published in the Florida
23 Statutes as a subsection of this section, irrespective of the
24 duration of the levy. Each enactment shall specify the types
25 of counties authorized to levy; the rate or rates which may be
26 imposed; the maximum length of time the surtax may be imposed,
27 if any; the procedure which must be followed to secure voter
28 approval, if required; the purpose for which the proceeds may
29 be expended; and such other requirements as the Legislature
30 may provide. Taxable transactions and administrative
31 procedures shall be as provided in s. 212.054.

1 (4) INDIGENT CARE SURTAX.--
2 (d) The ordinance adopted by the governing body
3 providing for the imposition of the surtax shall set forth a
4 plan for providing health care services to qualified
5 residents, as defined in paragraph (e). Such plan and
6 subsequent amendments to it shall fund a broad range of health
7 care services for both indigent persons and the medically
8 poor, including, but not limited to, primary care and
9 preventive care as well as hospital care. It shall emphasize
10 a continuity of care in the most cost-effective setting,
11 taking into consideration both a high quality of care and
12 geographic access. Where consistent with these objectives, it
13 shall include, without limitation, services rendered by
14 physicians, clinics, community hospitals, mental health
15 centers, and alternative delivery sites, as well as at least
16 one regional referral hospital where appropriate. It shall
17 provide that agreements negotiated between the county and
18 providers will include reimbursement methodologies that take
19 into account the cost of services rendered to eligible
20 patients, recognize hospitals that render a disproportionate
21 share of indigent care, provide other incentives to promote
22 the delivery of charity care, and require cost containment
23 including, but not limited to, case management. It must also
24 provide that any hospitals that are owned and operated by
25 government entities on May 21, 1991, must, as a condition of
26 receiving funds under this subsection, afford public access
27 equal to that provided under s. 286.011 as to meetings of the
28 governing board, the subject of which is budgeting resources
29 for the rendition of charity care as that term is defined in
30 the Florida Hospital Uniform Reporting System (FHURS) manual
31 referenced in s. 408.07. The plan must ~~shall~~ also include

1 innovative health care programs that provide cost-effective
2 alternatives to traditional methods of service delivery and
3 funding.

4 (6) SMALL COUNTY INDIGENT CARE SURTAX.--

5 (c) The ordinance adopted by the governing body
6 providing for the imposition of the surtax shall set forth a
7 brief plan for providing health care services to qualified
8 residents, as defined in paragraph (d). Such plan and
9 subsequent amendments to it shall fund a broad range of health
10 care services for both indigent persons and the medically
11 poor, including, but not limited to, primary care and
12 preventive care as well as hospital care. It shall emphasize
13 a continuity of care in the most cost-effective setting,
14 taking into consideration both a high quality of care and
15 geographic access. Where consistent with these objectives, it
16 shall include, without limitation, services rendered by
17 physicians, clinics, community hospitals, mental health
18 centers, and alternative delivery sites, as well as at least
19 one regional referral hospital where appropriate. It shall
20 provide that agreements negotiated between the county and
21 providers will include reimbursement methodologies that take
22 into account the cost of services rendered to eligible
23 patients, recognize hospitals that render a disproportionate
24 share of indigent care, provide other incentives to promote
25 the delivery of charity care, and require cost containment
26 including, but not limited to, case management. It shall also
27 provide that any hospitals that are owned and operated by
28 government entities on May 21, 1991, must, as a condition of
29 receiving funds under this subsection, afford public access
30 equal to that provided under s. 286.011 as to meetings of the
31 governing board, the subject of which is budgeting resources

1 for the rendition of charity care as that term is defined in
2 the rules of the Florida Hospital Uniform Reporting System
3 (FHURS) manual referenced in s. 408.07 ~~Health Care Cost~~
4 ~~Containment Board~~. The plan must ~~shall~~ also include
5 innovative health care programs that provide cost-effective
6 alternatives to traditional methods of service delivery and
7 funding.

8 Section 5. Subsections (2) and (3) of section
9 394.4788, Florida Statutes, are amended to read:

10 394.4788 Use of certain PMATF funds for the purchase
11 of acute care mental health services.--

12 (2) ~~By October 1, 1989, and annually thereafter,~~The
13 agency shall annually calculate a per diem reimbursement rate
14 for each specialty psychiatric hospital to be paid to the
15 specialty psychiatric hospitals for the provision of acute
16 mental health services provided to indigent mentally ill
17 patients who meet the criteria in subsection (1). After the
18 first rate period, providers shall be notified of new
19 reimbursement rates for each new state fiscal year by June 1.
20 The new reimbursement rates shall commence July 1.

21 (3) Reimbursement rates shall be calculated using the
22 most recent audited actual costs received by the agency. Cost
23 data received ~~as of August 15, 1989, and~~ each April 15
24 ~~thereafter~~ shall be used in the calculation of the rates.
25 Historic costs shall be inflated from the midpoint of a
26 hospital's fiscal year to the midpoint of the state fiscal
27 year. The inflation adjustment shall be made utilizing the
28 latest available projections as of March 31 for the Data
29 Resources Incorporated National and Regional Hospital Input
30 Price Indices as calculated by the Medicaid program office.
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1 Section 6. Subsection (1) of section 395.0163, Florida
2 Statutes, is amended to read:

3 395.0163 Construction inspections; plan submission and
4 approval; fees.--

5 (1) The agency shall make, or cause to be made, such
6 construction inspections and investigations as it deems
7 necessary. The agency may prescribe by rule that any licensee
8 or applicant desiring to make specified types of alterations
9 or additions to its facilities or to construct new facilities
10 shall, before commencing such alteration, addition, or new
11 construction, submit plans and specifications therefor to the
12 agency for preliminary inspection and approval or
13 recommendation with respect to compliance with agency rules
14 and standards. The agency shall approve or disapprove the
15 plans and specifications within 60 days after receipt of the
16 fee for review of plans as required in subsection (2). The
17 agency may be granted one 15-day extension for the review
18 period if the director of the agency approves the extension.
19 If the agency fails to act within the specified time, it shall
20 be deemed to have approved the plans and specifications. When
21 the agency disapproves plans and specifications, it shall set
22 forth in writing the reasons for its disapproval. Conferences
23 and consultations may be provided as necessary. Outpatient
24 facilities that provide surgical treatments requiring general
25 anesthesia or intravenous conscious sedation or that provide
26 cardiac catheterization services shall submit plans and
27 specifications to the agency for review under this section.
28 All other outpatient facilities that are physically detached
29 from the hospital with no utility connections and that do not
30 block emergency egress from or create a fire hazard to the
31 hospital are exempt from review under this section.

1 Applications pending review on the effective date of this act
2 shall be governed by the exemption provided in this
3 subsection.

4 Section 7. Paragraph (b) of subsection (1) of section
5 395.0197, Florida Statutes, is amended to read:

6 395.0197 Internal risk management program.--

7 (1) Every licensed facility shall, as a part of its
8 administrative functions, establish an internal risk
9 management program that includes all of the following
10 components:

11 (b) The development of appropriate measures to
12 minimize the risk of injuries and adverse incidents to
13 patients, including, but not limited to:

14 1. Risk management and risk prevention education and
15 training of all nonphysician personnel as follows:

16 a. Such education and training of all nonphysician
17 personnel as part of their initial orientation; and

18 b. At least 1 hour of such education and training
19 annually for all nonphysician personnel of the licensed
20 facility working in clinical areas and providing patient care.

21 2. A prohibition, except when emergency circumstances
22 require otherwise, against a staff member of the licensed
23 facility attending a patient in the recovery room, unless the
24 staff member is authorized to attend the patient in the
25 recovery room and is in the company of at least one other
26 person. However, a licensed facility ~~hospital~~ is exempt from
27 the two-person requirement if it has:

28 a. Live visual observation;

29 b. Electronic observation; or

30 c. Any other reasonable measure taken to ensure
31 patient protection and privacy.

1 Section 8. Paragraph (d) of subsection (1) of section
2 395.1055, Florida Statutes, is amended to read:

3 395.1055 Rules and enforcement.--

4 (1) The agency shall adopt, amend, promulgate, and
5 enforce rules to implement the provisions of this part, which
6 shall include reasonable and fair minimum standards for
7 ensuring that:

8 (d) New facilities and a new wing or floor added to an
9 existing facility after July 1, 1998, are structurally capable
10 of serving as shelters only for patients, staff, and families
11 of staff, and equipped to be self-supporting during and
12 immediately following disasters.

13 Section 9. The Agency for Health Care Administration
14 shall work with persons affected by the amendment to s.
15 395.1055(1)(d), Florida Statutes, by this act and report to
16 the Governor and Legislature by March 1, 1999, its
17 recommendations for cost-effective renovation standards to be
18 applied to existing facilities.

19 Section 10. Subsection (1) of section 395.3025,
20 Florida Statutes, is amended to read:

21 395.3025 Patient and personnel records; copies;
22 examination.--

23 (1) Any licensed facility shall, upon written request,
24 and only after discharge of the patient, furnish, in a timely
25 manner, without delays for legal review, to any person
26 admitted therein for care and treatment or treated thereat, or
27 to any such person's guardian, curator, or personal
28 representative, or in the absence of one of those persons, to
29 the next of kin of a decedent or the parent of a minor, or to
30 anyone designated by such person in writing, a true and
31 correct copy of all patient records, including X rays, and

1 insurance information concerning such person, which records
2 are in the possession of the licensed facility, provided the
3 person requesting such records pays ~~agrees to pay~~ a charge.
4 The exclusive charge for copies of patient records stored in
5 paper form ~~may include sales tax and actual postage, and,~~
6 ~~except for nonpaper records which are subject to a charge not~~
7 ~~to exceed \$2 as provided in s. 28.24(9)(c),~~ may not exceed \$1
8 per page, and for copies of patient records stored in nonpaper
9 form, such as microfilm, microfiche, and disk, may not exceed
10 \$2 per page for each paper copy of not more than 14 inches by
11 8-1/2 inches furnished. These maximum charges are deemed to be
12 reasonable. In addition, a search fee of \$1 for each year of
13 records requested, any sales tax due with respect to the
14 charge for copies and for the search, and actual postage may
15 be charged. Charges for X-ray copies are limited to a
16 reasonable amount. ~~as provided in s. 28.24(8)(a). A fee of up~~
17 ~~to \$1 may be charged for each year of records requested.~~ These
18 charges shall apply to all records furnished, whether directly
19 from the facility or from a copy service providing these
20 services on behalf of the facility. However, a patient whose
21 records are copied or searched for the purpose of continuing
22 to receive medical care is not required to pay a charge for
23 copying or for the search. The licensed facility shall
24 further allow any such person to examine the original records
25 in its possession, or microforms or other suitable
26 reproductions of the records, upon such reasonable terms as
27 shall be imposed to assure that the records will not be
28 damaged, destroyed, or altered.

29 Section 11. Paragraphs (a) and (b) of subsection (1)
30 of section 395.401, Florida Statutes, are amended to read:
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1 395.401 Trauma services system plans; verification of
2 trauma centers and pediatric trauma referral centers;
3 procedures; renewal.--

4 (1) As used in this part, the term:

5 (a) "Agency" means the Agency for Health Care
6 Administration~~"Board" means the Health Care Board.~~

7 (b) "Charity care" or "uncompensated charity care"
8 means that portion of hospital charges reported to the agency
9 ~~board~~ for which there is no compensation for care provided to
10 a patient whose family income for the 12 months preceding the
11 determination is less than or equal to 150 percent of the
12 federal poverty level, unless the amount of hospital charges
13 due from the patient exceeds 25 percent of the annual family
14 income. However, in no case shall the hospital charges for a
15 patient whose family income exceeds 4 times the federal
16 poverty level for a family of four be considered charity.

17 Section 12. Subsections (1), (2), (3), and (4) of
18 section 395.701, Florida Statutes, are amended to read:

19 395.701 Annual assessments on net operating revenues
20 to fund public medical assistance; administrative fines for
21 failure to pay assessments when due.--

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

23 (a) "Agency" means the Agency for Health Care
24 Administration.

25 **(b)**~~(a)~~ "Gross operating revenue" or "gross revenue"
26 means the sum of daily hospital service charges, ambulatory
27 service charges, ancillary service charges, and other
28 operating revenue.

29 **(b)**~~(b)~~ ~~"Health Care Board" or "board" means the Health~~
30 ~~Care Board created by s. 20.42.~~

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

4 (d) "Net operating revenue" or "net revenue" means
5 gross revenue less deductions from revenue.

6 (e) "Total deductions from gross revenue" or
7 "deductions from revenue" means reductions from gross revenue
8 resulting from inability to collect payment of charges. Such
9 reductions include bad debts; contractual adjustments;
10 uncompensated care; administrative, courtesy, and policy
11 discounts and adjustments; and other such revenue deductions,
12 but also includes the offset of restricted donations and
13 grants for indigent care.

14 (2) There is ~~hereby~~ imposed upon each hospital an
15 assessment in an amount equal to 1.5 percent of the annual net
16 operating revenue for each hospital, such revenue to be
17 determined by the agency department, based on the actual
18 experience of the hospital as reported to the agency
19 ~~department~~. Within 6 months after the end of each hospital
20 fiscal year, the agency department shall certify the amount of
21 the assessment for each hospital. The assessment shall be
22 payable to and collected by the agency department in equal
23 quarterly amounts, on or before the first day of each calendar
24 quarter, beginning with the first full calendar quarter that
25 occurs after the agency department certifies the amount of the
26 assessment for each hospital. All moneys collected pursuant to
27 this subsection shall be deposited into the Public Medical
28 Assistance Trust Fund.

29 (3) The agency department shall impose an
30 administrative fine, not to exceed \$500 per day, for failure
31 of any hospital to pay its assessment by the first day of the

1 calendar quarter on which it is due. The failure of a
2 hospital to pay its assessment within 30 days after the
3 assessment is due is ground for the agency ~~department~~ to
4 impose an administrative fine not to exceed \$5,000 per day.
5 (4) The purchaser, successor, or assignee of a
6 facility subject to the agency's ~~board's~~ jurisdiction shall
7 assume full liability for any assessments, fines, or penalties
8 of the facility or its employees, regardless of when
9 identified. Such assessments, fines, or penalties shall be
10 paid by the employee, owner, or licensee who incurred them,
11 within 15 days of the sale, transfer, or assignment. However,
12 the purchaser, successor, or assignee of the facility may
13 withhold such assessments, fines, or penalties from purchase
14 moneys or payment due to the seller, transferor, or employee,
15 and shall make such payment on behalf of the seller,
16 transferor, or employee. Any employer, purchaser, successor,
17 or assignee who fails to withhold sufficient funds to pay
18 assessments, fines, or penalties arising under the provisions
19 of chapter 408 shall make such payments within 15 days of the
20 date of the transfer, purchase, or assignment. Failure by the
21 transferee to make payments as provided in this subsection
22 shall subject such transferee to the penalties and assessments
23 provided in chapter 408. Further, in the event of sale,
24 transfer, or assignment of any facility under the agency's
25 ~~board's~~ jurisdiction, future assessments shall be based upon
26 the most recently available prior year report or audited
27 actual experience for the facility. It shall be the
28 responsibility of the new owner or licensee to require the
29 production of the audited financial data for the period of
30 operation of the prior owner. If the transferee fails to
31 obtain current audited financial data from the previous owner

1 or licensee, the new owner shall be assessed based upon the
2 most recent year of operation for which 12 months of audited
3 actual experience are available or upon a reasonable estimate
4 of 12 months of full operation as calculated by the agency
5 ~~board~~.

6 Section 13. Subsection (1), paragraphs (e) and (f) of
7 subsection (3), subsection (6), and paragraphs (c) and (d) of
8 subsection (7) of section 408.05, Florida Statutes, are
9 amended to read:

10 408.05 State Center for Health Statistics.--

11 (1) ESTABLISHMENT.--The agency ~~department~~ shall
12 establish a State Center for Health Statistics. The center
13 shall establish a comprehensive health information system to
14 provide for the collection, compilation, coordination,
15 analysis, indexing, dissemination, and utilization of both
16 purposefully collected and extant health-related data and
17 statistics. The center shall be staffed with public health
18 experts, biostatisticians, information system analysts, health
19 policy experts, economists, and other staff necessary to carry
20 out its functions.

21 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.--In order
22 to produce comparable and uniform health information and
23 statistics, the agency shall perform the following functions:

24 (e) The agency ~~department~~ shall establish by rule the
25 types of data collected, compiled, processed, used, or shared.
26 Decisions regarding center data sets should be made based on
27 consultation with the Comprehensive Health Information System
28 Advisory Council and other public and private users regarding
29 the types of data which should be collected and their uses.

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1 (f) The center shall establish standardized means for
2 collecting health information and statistics under laws and
3 rules administered by the agency ~~department~~.

4 (6) PROVIDER DATA REPORTING.--This section does not
5 confer on the agency ~~department~~ the power to demand or require
6 that a health care provider or professional furnish
7 information, records of interviews, written reports,
8 statements, notes, memoranda, or data other than as expressly
9 required by law.

10 (7) BUDGET; FEES; TRUST FUND.--

11 (c) The center may charge such reasonable fees for
12 services as the agency ~~department~~ prescribes by rule. The
13 established fees may ~~shall~~ not exceed the reasonable cost for
14 such services. Fees collected may not be used to offset
15 annual appropriations from the General Revenue Fund.

16 (d) The agency ~~department~~ shall establish a
17 Comprehensive Health Information System Trust Fund as the
18 repository of all funds appropriated to, and fees and grants
19 collected for, services of the State Center for Health
20 Statistics. Any funds, other than funds appropriated to the
21 center from the General Revenue Fund, which are raised or
22 collected by the agency ~~department~~ for the operation of the
23 center and which are not needed to meet the expenses of the
24 center for its current fiscal year shall be available to the
25 agency ~~board~~ in succeeding years.

26 Section 14. Subsections (10) and (11) of section
27 408.061, Florida Statutes, are amended to read:

28 408.061 Data collection; uniform systems of financial
29 reporting; information relating to physician charges;
30 confidentiality of patient records; immunity.--

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1 (10) No health care facility, health care provider,
2 health insurer, or other reporting entity or its employees or
3 agents shall be held liable for civil damages or subject to
4 criminal penalties either for the reporting of patient data to
5 the agency board or for the release of such data by the agency
6 ~~board~~ as authorized by this chapter.

7 (11) The agency shall be the primary source for
8 collection and dissemination of health care data. No other
9 agency of state government may gather data from a health care
10 provider licensed or regulated under this chapter without
11 first determining if the data is currently being collected by
12 the agency and affirmatively demonstrating that it would be
13 more cost-effective for an agency of state government other
14 than the agency to gather the health care data. The director
15 ~~secretary~~ shall ensure that health care data collected by the
16 divisions within the agency is coordinated. It is the express
17 intent of the Legislature that all health care data be
18 collected by a single source within the agency and that other
19 divisions within the agency, and all other agencies of state
20 government, obtain data for analysis, regulation, and public
21 dissemination purposes from that single source. Confidential
22 information may be released to other governmental entities or
23 to parties contracting with the agency to perform agency
24 duties or functions as needed in connection with the
25 performance of the duties of the receiving entity. The
26 receiving entity or party shall retain the confidentiality of
27 such information as provided for herein.

28 Section 15. Subsections (2) and (5) of section
29 408.062, Florida Statutes, are amended to read:

30 408.062 Research, analyses, studies, and reports.--

31

1 (2) The agency ~~board~~ shall evaluate data from nursing
2 home financial reports and shall document and monitor:

3 (a) Total revenues, annual change in revenues, and
4 revenues by source and classification, including contributions
5 for a resident's care from the resident's resources and from
6 the family and contributions not directed toward any specific
7 resident's care.

8 (b) Average resident charges by geographic region,
9 payor, and type of facility ownership.

10 (c) Profit margins by geographic region and type of
11 facility ownership.

12 (d) Amount of charity care provided by geographic
13 region and type of facility ownership.

14 (e) Resident days by payor category.

15 (f) Experience related to Medicaid conversion as
16 reported under s. 408.061.

17 (g) Other information pertaining to nursing home
18 revenues and expenditures.

19

20 The findings of the agency ~~board~~ shall be included in an
21 annual report to the Governor and Legislature by January 1
22 each year.

23 (5)(a) The agency is empowered to conduct data-based
24 studies and evaluations and to make recommendations to the
25 Legislature and the Governor concerning exemptions, the
26 effectiveness of limitations of referrals, restrictions on
27 investment interests and compensation arrangements, and the
28 effectiveness of public disclosure. Such analysis may
29 include, but need not be limited to, utilization of services,
30 cost of care, quality of care, and access to care. The agency
31 may require the submission of data necessary to carry out this

1 duty, which may include, but need not be limited to, data
2 concerning ownership, Medicare and Medicaid, charity care,
3 types of services offered to patients, and revenues and
4 expenses, patient-encounter data, and other data reasonably
5 necessary to study utilization patterns and the impact of
6 health care provider ownership interests in
7 health-care-related entities on the cost, quality, and
8 accessibility of health care.

9 (b) The agency may collect such data from any health
10 facility as a special study.~~The board is directed to research~~
11 ~~hospital financial and nonfinancial data in order to determine~~
12 ~~the need for establishing a category of inpatient hospital~~
13 ~~patients defined as medically indigent. For purposes of this~~
14 ~~section, a medically indigent patient is an individual who is~~
15 ~~admitted as an inpatient to a hospital, who is not classified~~
16 ~~as a Medicare beneficiary, a Medicaid recipient, or a charity~~
17 ~~care patient, but who has insufficient financial resources to~~
18 ~~pay for needed medical care. In its determination of the need~~
19 ~~for establishing a category of medically indigent patients,~~
20 ~~the board shall consider the creation of income and asset~~
21 ~~levels that would establish a person as medically indigent.~~
22 ~~The board shall submit a report and recommendations to the~~
23 ~~Governor and the Legislature on the establishment of a~~
24 ~~category of medically indigent inpatient hospital patients on~~
25 ~~or before January 1, 1994. If the board recommends the~~
26 ~~establishment of a category of medically indigent patients, it~~
27 ~~shall provide a specific recommendation for the eligibility~~
28 ~~determination process to be used in classifying a patient as~~
29 ~~medically indigent.~~

30 Section 16. Subsection (1) of section 408.063, Florida
31 Statutes, is amended to read:

1 408.063 Dissemination of health care information.--
2 (1) The agency, relying on data collected pursuant to
3 this chapter, shall establish a reliable, timely, and
4 consistent information system which distributes information
5 and serves as the basis for the agency's ~~board's~~ public
6 education programs. The agency shall seek advice from
7 consumers, health care purchasers, health care providers,
8 health care facilities, health insurers, and local health
9 councils in the development and implementation of its
10 information system. Whenever appropriate, the agency shall use
11 the local health councils for the dissemination of information
12 and education of the public.

13 Section 17. Section 408.07, Florida Statutes, is
14 amended to read:

15 408.07 Definitions.--As used in this chapter, with the
16 exception of ss. 408.031-408.045, the term:

17 (1) "Accepted" means that the agency ~~board~~ has found
18 that a report or data submitted by a health care facility or a
19 health care provider contains all schedules and data required
20 by the agency ~~board~~ and has been prepared in the format
21 specified by the agency ~~board~~, and otherwise conforms to
22 applicable rule or Florida Hospital Uniform Reporting System
23 manual requirements regarding reports in effect at the time
24 such report was submitted, and the data are mathematically
25 reasonable and accurate.

26 (2) "Adjusted admission" means the sum of acute and
27 intensive care admissions divided by the ratio of inpatient
28 revenues generated from acute, intensive, ambulatory, and
29 ancillary patient services to gross revenues. If a hospital
30 reports only subacute admissions, then "adjusted admission"

31

1 means the sum of subacute admissions divided by the ratio of
2 total inpatient revenues to gross revenues.

3 (3) "Agency" means the Agency for Health Care
4 Administration.

5 (4) "Alcohol or chemical dependency treatment center"
6 means an organization licensed under chapter 397.

7 (5) "Ambulatory care center" means an organization
8 which employs or contracts with licensed health care
9 professionals to provide diagnosis or treatment services
10 predominantly on a walk-in basis and the organization holds
11 itself out as providing care on a walk-in basis. Such an
12 organization is not an ambulatory care center if it is wholly
13 owned and operated by five or fewer health care providers.

14 (6) "Ambulatory surgical center" means a facility
15 licensed as an ambulatory surgical center under chapter 395.

16 ~~(7) "Applicable rate of increase" means the maximum~~
17 ~~allowable rate of increase (MARI) when applied to gross~~
18 ~~revenue per adjusted admission, unless the board has approved~~
19 ~~a different rate of increase, in which case the board approved~~
20 ~~rate of increase shall apply.~~

21 (7)(8) "Audited actual data" means information
22 contained within financial statements examined by an
23 independent, Florida-licensed, certified public accountant in
24 accordance with generally accepted auditing standards, but
25 does not include data within a financial statement about which
26 the certified public accountant does not express an opinion or
27 issues a disclaimer.

28 ~~(9) "Banked points" means the percentage points earned~~
29 ~~by a hospital when the actual rate of increase in gross~~
30 ~~revenue per adjusted admission (GRAA) is less than the maximum~~
31 ~~allowable rate of increase (MARI) or the actual rate of~~

1 ~~increase in the net revenue per adjusted admission (NRAA) is~~
2 ~~less than the market basket index.~~

3 (8)~~(10)~~ "Birth center" means an organization licensed
4 under s. 383.305.

5 ~~(11)~~ "Board" means the Health Care Board established
6 ~~under s. 408.003.~~

7 ~~(12)~~ "Budget" means the projections by the hospital,
8 ~~for a specified future time period, of expenditures and~~
9 ~~revenues, with supporting statistical indicators, or a budget~~
10 ~~letter verified by the board pursuant to s. 408.072(3)(a).~~

11 (9)~~(13)~~ "Cardiac catheterization laboratory" means a
12 freestanding facility that ~~which~~ employs or contracts with
13 licensed health care professionals to provide diagnostic or
14 therapeutic services for cardiac conditions such as cardiac
15 catheterization or balloon angioplasty.

16 (10)~~(14)~~ "Case mix" means a calculated index for each
17 health care facility or health care provider, based on patient
18 data, reflecting the relative costliness of the mix of cases
19 to that facility or provider compared to a state or national
20 mix of cases.

21 (11)~~(15)~~ "Clinical laboratory" means a facility
22 licensed under s. 483.091, excluding: any hospital laboratory
23 defined under s. 483.041(5); any clinical laboratory operated
24 by the state or a political subdivision of the state; any
25 blood or tissue bank where the majority of revenues are
26 received from the sale of blood or tissue and where blood,
27 plasma, or tissue is procured from volunteer donors and
28 donated, processed, stored, or distributed on a nonprofit
29 basis; and any clinical laboratory which is wholly owned and
30 operated by physicians who are licensed pursuant to chapter
31 458 or chapter 459 and who practice in the same group

1 practice, and at which no clinical laboratory work is
2 performed for patients referred by any health care provider
3 who is not a member of that same group practice.
4 (12)~~(16)~~ "Comprehensive rehabilitative hospital" or
5 "rehabilitative hospital" means a hospital licensed by the
6 agency ~~for Health Care Administration~~ as a specialty hospital
7 as defined in s. 395.002; provided that the hospital provides
8 a program of comprehensive medical rehabilitative services and
9 is designed, equipped, organized, and operated solely to
10 deliver comprehensive medical rehabilitative services, and
11 further provided that all licensed beds in the hospital are
12 classified as "comprehensive rehabilitative beds" pursuant to
13 s. 395.003(4), and are not classified as "general beds."
14 (13)~~(17)~~ "Consumer" means any person other than a
15 person who administers health activities, is a member of the
16 governing body of a health care facility, provides health
17 services, has a fiduciary interest in a health facility or
18 other health agency or its affiliated entities, or has a
19 material financial interest in the rendering of health
20 services.
21 (14)~~(18)~~ "Continuing care facility" means a facility
22 licensed under chapter 651.
23 (15)~~(19)~~ "Cross-subsidization" means that the revenues
24 from one type of hospital service are sufficiently higher than
25 the costs of providing such service as to offset some of the
26 costs of providing another type of service in the hospital.
27 Cross-subsidization results from the lack of a direct
28 relationship between charges and the costs of providing a
29 particular hospital service or type of service.
30 (16)~~(20)~~ "Deductions from gross revenue" or
31 "deductions from revenue" means reductions from gross revenue

1 resulting from inability to collect payment of charges. For
2 hospitals, such reductions include contractual adjustments;
3 uncompensated care; administrative, courtesy, and policy
4 discounts and adjustments; and other such revenue deductions,
5 but also includes the offset of restricted donations and
6 grants for indigent care.

7 (17)~~(21)~~ "Diagnostic-imaging center" means a
8 freestanding outpatient facility that provides specialized
9 services for the diagnosis of a disease by examination and
10 also provides radiological services. Such a facility is not a
11 diagnostic-imaging center if it is wholly owned and operated
12 by physicians who are licensed pursuant to chapter 458 or
13 chapter 459 and who practice in the same group practice and no
14 diagnostic-imaging work is performed at such facility for
15 patients referred by any health care provider who is not a
16 member of that same group practice.

17 (18)~~(22)~~ "FHURS" means the Florida Hospital Uniform
18 Reporting System developed by the agency ~~board~~.

19 (19)~~(23)~~ "Freestanding" means that a health facility
20 bills and receives revenue which is not directly subject to
21 the hospital assessment for the Public Medical Assistance
22 Trust Fund as described in s. 395.701.

23 (20)~~(24)~~ "Freestanding radiation therapy center" means
24 a facility where treatment is provided through the use of
25 radiation therapy machines that are registered under s. 404.22
26 and the provisions of the Florida Administrative Code
27 implementing s. 404.22. Such a facility is not a freestanding
28 radiation therapy center if it is wholly owned and operated by
29 physicians licensed pursuant to chapter 458 or chapter 459 who
30 practice within the specialty of diagnostic or therapeutic
31 radiology.

1 (21)~~(25)~~ "GRAA" means gross revenue per adjusted
2 admission.

3 (22)~~(26)~~ "Gross revenue" means the sum of daily
4 hospital service charges, ambulatory service charges,
5 ancillary service charges, and other operating revenue. Gross
6 revenues do not include contributions, donations, legacies, or
7 bequests made to a hospital without restriction by the donors.

8 (23)~~(27)~~ "Health care facility" means an ambulatory
9 surgical center, a hospice, a nursing home, a hospital, a
10 diagnostic-imaging center, a freestanding or hospital-based
11 therapy center, a clinical laboratory, a home health agency, a
12 cardiac catheterization laboratory, a medical equipment
13 supplier, an alcohol or chemical dependency treatment center,
14 a physical rehabilitation center, a lithotripsy center, an
15 ambulatory care center, a birth center, or a nursing home
16 component licensed under chapter 400 within a continuing care
17 facility licensed under chapter 651.

18 (24)~~(28)~~ "Health care provider" means a health care
19 professional licensed under chapter 458, chapter 459, chapter
20 460, chapter 461, chapter 463, chapter 464, chapter 465,
21 chapter 466, part I, part III, part IV, part V, or part X of
22 chapter 468, chapter 483, chapter 484, chapter 486, chapter
23 490, or chapter 491.

24 (25)~~(29)~~ "Health care purchaser" means an employer in
25 the state, other than a health care facility, health insurer,
26 or health care provider, who provides health care coverage for
27 her or his employees.

28 (26)~~(30)~~ "Health insurer" means any insurance company
29 authorized to transact health insurance in the state, any
30 insurance company authorized to transact health insurance or
31 casualty insurance in the state that is offering a minimum

1 premium plan or stop-loss coverage for any person or entity
2 providing health care benefits, any self-insurance plan as
3 defined in s. 624.031, any health maintenance organization
4 authorized to transact business in the state pursuant to part
5 I of chapter 641, any prepaid health clinic authorized to
6 transact business in the state pursuant to part II of chapter
7 641, any multiple-employer welfare arrangement authorized to
8 transact business in the state pursuant to ss. 624.436-624.45,
9 or any fraternal benefit society providing health benefits to
10 its members as authorized pursuant to chapter 632.

11 (27)~~(31)~~ "Home health agency" means an organization
12 licensed under part IV of chapter 400.

13 (28)~~(32)~~ "Hospice" means an organization licensed
14 under part VI of chapter 400.

15 (29)~~(33)~~ "Hospital" means a health care institution
16 licensed by the Agency for Health Care Administration as a
17 hospital under chapter 395.

18 (30)~~(34)~~ "Lithotripsy center" means a freestanding
19 facility that ~~which~~ employs or contracts with licensed health
20 care professionals to provide diagnosis or treatment services
21 using electro-hydraulic shock waves.

22 (31)~~(35)~~ "Local health council" means the agency
23 defined in s. 408.033.

24 (32)~~(36)~~ "Market basket index" means the Florida
25 hospital input price index (FHIPI), which is a statewide
26 market basket index used to measure inflation in hospital
27 input prices weighted for the Florida-specific experience
28 which uses multistate regional and state-specific price
29 measures, when available. The index shall be constructed in
30 the same manner as the index employed by the Secretary of the
31 United States Department of Health and Human Services for

1 determining the inflation in hospital input prices for
2 purposes of Medicare reimbursement.
3 ~~(37) "Maximum allowable rate of increase" or "MARI"~~
4 ~~means the maximum rate at which a hospital is normally~~
5 ~~expected to increase its average gross revenues per adjusted~~
6 ~~admission for a given period. The board, using the most~~
7 ~~recent audited actual data for each hospital, shall calculate~~
8 ~~the MARI for each hospital as follows: The projected rate of~~
9 ~~increase in the market basket index shall be divided by a~~
10 ~~number which is determined by subtracting the sum of one-half~~
11 ~~of the proportion of Medicare days plus one-half of the~~
12 ~~proportion of CHAMPUS days plus the proportion of Medicaid~~
13 ~~days plus 1.5 times the proportion of charity care days from~~
14 ~~the number one. The formula to be employed by the board to~~
15 ~~calculate the MARI shall take the following form:~~

16
17
$$\text{MARI} = \frac{\text{FHIPI}}{1 - [(Me \times 0.5) + (Cp \times 0.5) + Md + (Cc \times 1.5)]}$$

21 where:

22 ~~MARI - maximum allowable rate of increase applied to~~
23 ~~gross revenue.~~

24 ~~FHIPI - Florida hospital input price index, which shall~~
25 ~~be the projected rate of change in the market basket index.~~

26 ~~Me - proportion of Medicare days, including when~~
27 ~~available and reported to the board Medicare HMO days, to~~
28 ~~total days.~~

29 ~~Cp - proportion of Civilian Health and Medical Program~~
30 ~~of the Uniformed Services (CHAMPUS) days to total days.~~

31

1 ~~Md - proportion of Medicaid days, including when~~
2 ~~available and reported to the board Medicaid HMO days, to~~
3 ~~total days.~~

4 ~~Cc - proportion of charity care days to total days with~~
5 ~~a 50-percent offset for restricted grants for charity care and~~
6 ~~unrestricted grants from local governments.~~

7 (33)~~(38)~~ "Medical equipment supplier" means an
8 organization that ~~which~~ provides medical equipment and
9 supplies used by health care providers and health care
10 facilities in the diagnosis or treatment of disease.

11 (34)~~(39)~~ "Net revenue" means gross revenue minus
12 deductions from revenue.

13 (35)~~(40)~~ "New hospital" means a hospital in its
14 initial year of operation as a licensed hospital and does not
15 include any facility which has been in existence as a licensed
16 hospital, regardless of changes in ownership, for over 1
17 calendar year.

18 (36)~~(41)~~ "Nursing home" means a facility licensed
19 under s. 400.062 or, for resident level and financial data
20 collection purposes only, any institution licensed under
21 chapter 395 and which has a Medicare or Medicaid certified
22 distinct part used for skilled nursing home care, but does not
23 include a facility licensed under chapter 651.

24 (37)~~(42)~~ "Operating expenses" means total expenses
25 excluding income taxes.

26 (38)~~(43)~~ "Other operating revenue" means all revenue
27 generated from hospital operations other than revenue directly
28 associated with patient care.

29 (39)~~(44)~~ "Physical rehabilitation center" means an
30 organization that ~~which~~ employs or contracts with health care
31 professionals licensed under part I or part III of chapter 468

1 or chapter 486 to provide speech, occupational, or physical
2 therapy services on an outpatient or ambulatory basis.

3 (40)~~(45)~~ "Prospective payment arrangement" means a
4 financial agreement negotiated between a hospital and an
5 insurer, health maintenance organization, preferred provider
6 organization, or other third-party payor which contains, at a
7 minimum, the elements provided for in s. 408.50.

8 (41)~~(46)~~ "Rate of return" means the financial
9 indicators used to determine or demonstrate reasonableness of
10 the financial requirements of a hospital. Such indicators
11 shall include, but not be limited to: return on assets,
12 return on equity, total margin, and debt service coverage.

13 (42)~~(47)~~ "Rural hospital" means an acute care hospital
14 licensed under chapter 395, with 85 licensed beds or fewer,
15 which has an emergency room and is located in an area defined
16 as rural by the United States Census, and which is:

17 (a) The sole provider within a county with a
18 population density of no greater than 100 persons per square
19 mile;

20 (b) An acute care hospital, in a county with a
21 population density of no greater than 100 persons per square
22 mile, which is at least 30 minutes of travel time, on normally
23 traveled roads under normal traffic conditions, from another
24 acute care hospital within the same county; or

25 (c) A hospital supported by a tax district or
26 subdistrict whose boundaries encompass a population of 100
27 persons or less per square mile.

28 (43)~~(48)~~ "Special study" means a nonrecurring
29 data-gathering and analysis effort designed to aid the agency
30 ~~for Health Care Administration~~ in meeting its responsibilities
31 pursuant to this chapter.

1 ~~(44)~~(49) "Teaching hospital" means any hospital
2 formally affiliated with an accredited medical school which
3 ~~that~~ exhibits activity in the area of medical education as
4 reflected by at least seven different resident physician
5 specialties and the presence of 100 or more resident
6 physicians.

7 Section 18. Section 408.08, Florida Statutes, is
8 amended to read:

9 408.08 Inspections and audits; violations; penalties;
10 fines; enforcement.--

11 (1) The agency may inspect and audit books and records
12 of individual or corporate ownership, including books and
13 records of related organizations with which a health care
14 provider or a health care facility had transactions, for
15 compliance with this chapter. Upon presentation of a written
16 request for inspection to a health care provider or a health
17 care facility by the agency or its staff, the health care
18 provider or the health care facility shall make available to
19 the agency or its staff for inspection, copying, and review
20 all books and records relevant to the determination of whether
21 the health care provider or the health care facility has
22 complied with this chapter.

23 ~~(2) The board shall annually compare the audited~~
24 ~~actual experience of each hospital to the audited actual~~
25 ~~experience of that hospital for the previous year.~~

26 ~~(a) For a hospital submitting a budget letter, if the~~
27 ~~board determines that the audited actual experience of the~~
28 ~~hospital exceeded its previous year's audited actual~~
29 ~~experience by more than the maximum allowable rate of increase~~
30 ~~as certified in the budget letter plus any banked points~~
31 ~~utilized in the budget letter, the amount of such excess shall~~

1 ~~be determined by the board and a penalty shall be levied~~
2 ~~against such hospital pursuant to subsection (3).~~

3 ~~(b) For a hospital subject to budget review, if the~~
4 ~~board determines that the audited actual experience of the~~
5 ~~hospital exceeded its previous year's audited actual~~
6 ~~experience by more than the most recent approved budget or the~~
7 ~~most recent approved budget as amended, the amount of such~~
8 ~~excess shall be determined by the board, and a penalty shall~~
9 ~~be levied against such hospital pursuant to subsection (3).~~

10 ~~(c) For a hospital submitting a budget letter and for~~
11 ~~a hospital subject to budget review, the board shall annually~~
12 ~~compare each hospital's audited actual experience for net~~
13 ~~revenues per adjusted admission to the hospital's audited~~
14 ~~actual experience for net revenues per adjusted admission for~~
15 ~~the previous year. If the rate of increase in net revenues~~
16 ~~per adjusted admission between the previous year and the~~
17 ~~current year was less than the market basket index, the~~
18 ~~hospital may carry forward the difference and earn up to a~~
19 ~~cumulative maximum of 3 banked net revenue percentage points.~~
20 ~~Such banked net revenue percentage points shall be available~~
21 ~~to the hospital to offset, in any future year, penalties for~~
22 ~~exceeding the approved budget or the maximum allowable rate of~~
23 ~~increase as set forth in subsection (3). Nothing in this~~
24 ~~paragraph shall be used by a hospital to justify the approval~~
25 ~~of a budget or a budget amendment by the board in excess of~~
26 ~~the maximum allowable rate of increase pursuant to s. 408.072.~~

27 ~~(3) Penalties shall be assessed as follows:~~

28 ~~(a) For the first occurrence within a 5-year period,~~
29 ~~the board shall prospectively reduce the current budget of the~~
30 ~~hospital by the amount of the excess up to 5 percent; and, if~~
31 ~~such excess is greater than 5 percent over the maximum~~

1 ~~allowable rate of increase, any amount in excess of 5 percent~~
2 ~~shall be levied by the board as a fine against such hospital~~
3 ~~to be deposited in the Public Medical Assistance Trust Fund.~~
4 ~~(b) For the second occurrence with the 5-year period~~
5 ~~following the first occurrence as set forth in paragraph (a),~~
6 ~~the board shall prospectively reduce the current budget of the~~
7 ~~hospital by the amount of the excess up to 2 percent; and, if~~
8 ~~such excess is greater than 2 percent over the maximum~~
9 ~~allowable rate of increase, any amount in excess of 2 percent~~
10 ~~shall be levied by the board as a fine against such hospital~~
11 ~~to be deposited in the Public Medical Assistance Trust Fund.~~
12 ~~(c) For the third occurrence within the 5-year period~~
13 ~~following the first occurrence as set forth in paragraph (a),~~
14 ~~the board shall:~~
15 ~~1. Levy a fine against the hospital in the total~~
16 ~~amount of the excess, to be deposited in the Public Medical~~
17 ~~Assistance Trust Fund.~~
18 ~~2. Notify the agency of the violation, whereupon the~~
19 ~~agency shall not accept any application for a certificate of~~
20 ~~need pursuant to ss. 408.031-408.045 from or on behalf of such~~
21 ~~hospital until such time as the hospital has demonstrated to~~
22 ~~the satisfaction of the board that, following the date the~~
23 ~~penalty was imposed under subparagraph 1., the hospital has~~
24 ~~stayed within its projected or amended budget or its~~
25 ~~applicable maximum allowable rate of increase for a period of~~
26 ~~at least 1 year. However, this provision does not apply with~~
27 ~~respect to a certificate-of-need application filed to satisfy~~
28 ~~a life or safety code violation.~~
29 ~~3. Upon a determination that the hospital knowingly~~
30 ~~and willfully generated such excess, notify the agency,~~
31 ~~whereupon the agency shall initiate disciplinary proceedings~~

1 ~~to deny, modify, suspend, or revoke the license of such~~
2 ~~hospital or impose an administrative fine on such hospital not~~
3 ~~to exceed \$20,000.~~
4
5 ~~The determination of the amount of any such excess shall be~~
6 ~~based upon net revenues per adjusted admission, excluding~~
7 ~~funds distributed to the hospital from the Public Medical~~
8 ~~Assistance Trust Fund. However, in making such determination,~~
9 ~~the board shall appropriately reduce the amount of the excess~~
10 ~~by the total amount of the assessment paid by such hospital~~
11 ~~pursuant to s. 395.701 minus the amount of revenues received~~
12 ~~by the hospital through the Public Medical Assistance Trust~~
13 ~~Fund. It is the responsibility of the hospital to demonstrate~~
14 ~~to the satisfaction of the board its entitlement to such~~
15 ~~reduction. It is the intent of the Legislature that the~~
16 ~~Health Care Board, in levying any penalty imposed against a~~
17 ~~hospital for exceeding its maximum allowable rate of increase~~
18 ~~or its approved budget pursuant to this subsection, consider~~
19 ~~the effect of changes in the case mix of the hospital and in~~
20 ~~the hospital's intensity and severity of illness as measured~~
21 ~~by changes in the hospital's actual proportion of outlier~~
22 ~~cases to total cases and dollar increases in outlier cases'~~
23 ~~average charge per case. It is the responsibility of the~~
24 ~~hospital to demonstrate to the satisfaction of the board any~~
25 ~~change in its case mix and in its intensity and severity of~~
26 ~~illness. For psychiatric hospitals and other hospitals not~~
27 ~~reimbursed under a prospective payment system by the Federal~~
28 ~~Government, until a proxy for case mix is available, the board~~
29 ~~shall also reduce the amount of excess by the change in a~~
30 ~~hospital's audited actual average length of stay without any~~
31 ~~thresholds or limitations.~~

1 ~~(4) The following factors may be used by the board to~~
2 ~~reduce the amount of excess of the hospital as determined~~
3 ~~pursuant to this section:~~
4 ~~(a) Unforeseen and unforeseeable events which affect~~
5 ~~the net revenue per adjusted admission and which are beyond~~
6 ~~the control of the hospital, such as prior year Medicare cost~~
7 ~~report settlements, retroactive changes in Medicare~~
8 ~~reimbursement methodology, and increases in malpractice~~
9 ~~insurance premiums, which occurred in the last 3 months of the~~
10 ~~hospital fiscal year during which the hospital generated the~~
11 ~~excess; or~~
12 ~~(b) Imposition of the penalty would have a severe~~
13 ~~adverse effect which would jeopardize the continued existence~~
14 ~~of an otherwise economically viable hospital.~~
15 ~~(5) The board shall reduce the amount of the excess~~
16 ~~for hospitals submitting budget letters pursuant to s.~~
17 ~~408.072(3)(a) by the amount of any documented costs from~~
18 ~~financial assistance provided to expand or supplement the~~
19 ~~curriculum of a community college, university, or vocational~~
20 ~~training school for the purpose of training nurses or other~~
21 ~~health professionals, not including physicians. Financial~~
22 ~~assistance would include, but not be limited to, the direct~~
23 ~~costs for faculty salaries and expenses, books, equipment,~~
24 ~~recruiting efforts, tuition assistance, and hospital~~
25 ~~internships. The reduction would be based on actual~~
26 ~~documented expenses increased by the gross revenues necessary~~
27 ~~to generate net revenues sufficient to cover the expenses.~~
28 ~~(6) If the board finds that any hospital chief~~
29 ~~executive officer or any person who is in charge of hospital~~
30 ~~administration or operations has knowingly and willfully~~
31 ~~allowed or authorized actual operating revenues or~~

1 ~~expenditures that are in excess of projected operating~~
2 ~~revenues or expenditures in the hospital's approved budget,~~
3 ~~the board shall order such officer or person to pay an~~
4 ~~administrative fine not to exceed \$5,000.~~

5 ~~(7) For hospitals filing budget letters, the board~~
6 ~~shall annually compare the audited actual experience of each~~
7 ~~hospital for the year under review to the audited actual~~
8 ~~experience of that hospital for the previous year. For~~
9 ~~hospitals which submitted detailed budgets or budget~~
10 ~~amendments, the board shall compare the audited actual~~
11 ~~experience of each hospital for the year under review to its~~
12 ~~approved gross revenue per adjusted admission for the year~~
13 ~~under review, for purposes of levying an administrative fine.~~

14 ~~(a) For a hospital submitting a budget letter pursuant~~
15 ~~to s. 408.072(3)(a), if the board determines that the audited~~
16 ~~actual experience for the year under review exceeded the~~
17 ~~hospital's previous year's audited actual experience by more~~
18 ~~than the maximum allowable rate of increase as certified in~~
19 ~~the budget letter plus any banked points utilized in the~~
20 ~~budget letter, the amount of the excess shall be determined~~
21 ~~and an administrative fine shall be levied against such~~
22 ~~hospital pursuant to subsection (8).~~

23 ~~(b) For a hospital which submitted a budget pursuant~~
24 ~~to s. 408.072(1), or a budget amendment pursuant to s.~~
25 ~~408.072(6), if the board determines that the gross revenue per~~
26 ~~adjusted admission contained in the hospital's audited actual~~
27 ~~experience exceeded its board-approved gross revenue per~~
28 ~~adjusted admission, the amount of the excess shall be~~
29 ~~determined and an administrative fine shall be levied against~~
30 ~~such hospital pursuant to subsection (8).~~

31

1 ~~(8) If the board determines that an excess exists~~
2 ~~pursuant to subsection (7), the board shall multiply the~~
3 ~~excess by the number of actual adjusted admissions contained~~
4 ~~in the year at issue to determine the amount of the base fine.~~
5 ~~The base fine shall be multiplied by the applicable occurrence~~
6 ~~factor to determine the amount of the administrative fine~~
7 ~~levied against the hospital.~~

8 ~~(a) For the first occurrence within a 5-year period,~~
9 ~~the applicable occurrence factor shall be 0.25. For the~~
10 ~~second occurrence within a 5-year period, the applicable~~
11 ~~occurrence factor shall be 0.55. For the third occurrence~~
12 ~~within a 5-year period, the applicable occurrence factor shall~~
13 ~~be 1.0.~~

14 ~~(b) In no event shall any administrative fine levied~~
15 ~~pursuant to this subsection exceed \$365,000.~~

16 ~~(9) In levying any administrative fine against a~~
17 ~~hospital pursuant to subsection (8), the board shall consider~~
18 ~~the effect of any changes in the hospital's case mix, and in~~
19 ~~the hospital's intensity and severity of illness as measured~~
20 ~~by changes in the hospital's actual proportion of outlier~~
21 ~~cases to total cases and dollar increases in outlier cases'~~
22 ~~average charge per case. The board shall adjust the amount of~~
23 ~~any excess by the changes in the hospital's case mix and in~~
24 ~~its intensity and severity of illness, based upon certified~~
25 ~~hospital patient discharge data provided to the board pursuant~~
26 ~~to s. 408.061. For psychiatric hospitals and other hospitals~~
27 ~~not reimbursed under a prospective payment system by the~~
28 ~~Federal Government, until a proxy for case mix is available,~~
29 ~~the board shall adjust the amount of any excess by the change~~
30 ~~in a hospital's audited actual average length of stay without~~
31 ~~any thresholds or limitation.~~

1 ~~(10) In levying any administrative fine against a~~
2 ~~hospital pursuant to subsection (8), it is the intent of the~~
3 ~~Legislature that if a hospital can demonstrate to the~~
4 ~~satisfaction of the board that it operated within its approved~~
5 ~~gross revenue per adjusted admission for the first 8 months of~~
6 ~~its fiscal year and did not increase its prices, except for~~
7 ~~exceptions determined by the board during the last 5 months of~~
8 ~~its fiscal year, it shall not be subject to any administrative~~
9 ~~fine levied pursuant to subsection (8).~~

10 ~~(11) It is the further intent of the Legislature that~~
11 ~~if a hospital can demonstrate to the satisfaction of the board~~
12 ~~that it did not increase its prices on average in excess of~~
13 ~~the MARI for the prior year, it shall not be subject to any~~
14 ~~administrative fine levied pursuant to subsection (8).~~

15 ~~(12) If the board finds that any hospital chief~~
16 ~~executive officer or any person who is in charge of hospital~~
17 ~~administration or operations has knowingly and willfully~~
18 ~~allowed or authorized gross revenue per adjusted admission,~~
19 ~~net revenue per adjusted admission, or rates of increase that~~
20 ~~are in excess of gross or net revenue per adjusted admission,~~
21 ~~or rates of increase in the hospital's approved budget, budget~~
22 ~~amendment, or budget letter, the agency shall order such~~
23 ~~officer or person to pay an administrative fine not to exceed~~
24 ~~\$5,000.~~

25 (2)~~(13)~~ Any health care facility that refuses to file
26 a report, fails to timely file a report, files a false report,
27 or files an incomplete report and upon notification fails to
28 timely file a complete report required under ~~this section and~~
29 s. 408.061; that violates ~~any provision of~~ this section, s.
30 408.061, or s. 408.20, or rule adopted thereunder; or that
31 fails to provide documents or records requested by the agency

1 under ~~the provisions of~~ this chapter shall be punished by a
2 fine not exceeding \$1,000 per day for each day in violation,
3 to be imposed and collected by the agency.

4 (3)~~(14)~~ Any health care provider that refuses to file
5 a report, fails to timely file a report, files a false report,
6 or files an incomplete report and upon notification fails to
7 timely file a complete report required under ~~this section and~~
8 s. 408.061; that violates ~~any provision of~~ this section, s.
9 408.061, or s. 408.20, or rule adopted thereunder; or that
10 fails to provide documents or records requested by the agency
11 under ~~the provisions of~~ this chapter shall be referred to the
12 appropriate licensing board which shall take appropriate
13 action against the health care provider.

14 (4)~~(15)~~ If ~~in the event that~~ a health insurer does not
15 comply with the requirements of s. 408.061, the agency shall
16 report a health insurer's failure to comply to the Department
17 of Insurance, which shall take into account the failure by the
18 health insurer to comply in conjunction with its approval
19 authority under s. 627.410. The agency shall adopt any rules
20 necessary to carry out its responsibilities required by this
21 subsection.

22 (5)~~(16)~~ Refusal to file, failure to timely file, or
23 filing false or incomplete reports or other information
24 required to be filed under the provisions of this chapter,
25 failure to pay or failure to timely pay any assessment
26 authorized to be collected by the agency, or violation of any
27 other provision of this chapter or lawfully entered order of
28 the agency or rule adopted under this chapter, shall be
29 punished by a fine not exceeding \$1,000 a day for each day in
30 violation, to be fixed, imposed, and collected by the agency.
31 Each day in violation shall be considered a separate offense.

1 (6)~~(17)~~ Notwithstanding any other provisions of this
2 chapter, when a hospital alleges that a factual determination
3 made by the agency board is incorrect, the burden of proof
4 shall be on the hospital to demonstrate that such
5 determination is, in light of the total record, not supported
6 by a preponderance of the evidence. The burden of proof
7 remains with the hospital in all cases involving
8 administrative agency action.

9 Section 19. Section 408.40, Florida Statutes, is
10 amended to read:

11 408.40 ~~Budget review proceedings; duty of Public~~
12 ~~Counsel.--~~

13 (1) Notwithstanding any other provisions of this
14 chapter, ~~it shall be the duty of the Public Counsel~~ shall ~~to~~
15 represent the ~~general public of the state~~ in any proceeding
16 before the agency or its advisory panels in any administrative
17 hearing conducted pursuant to ~~the provisions of~~ chapter 120 or
18 before any other state and federal agencies and courts in any
19 issue before the agency, any court, or any agency. With
20 respect to any such proceeding, the Public Counsel is subject
21 to the provisions of and may use ~~utilize~~ the powers granted to
22 him or her by ss. 350.061-350.0614.

23 (2) The Public Counsel shall:

24 (a) Recommend to the agency, by petition, the
25 commencement of any proceeding or action or to appear, in the
26 name of the state or its citizens, in any proceeding or action
27 before the agency and urge therein any position that ~~which~~ he
28 or she deems to be in the public interest, whether consistent
29 or inconsistent with positions previously adopted by the
30 agency, and use ~~utilize~~ therein all forms of discovery
31 available to attorneys in civil actions generally, subject to

1 protective orders of the agency, which shall be reviewable by
2 summary procedure in the circuit courts of this state.

3 (b) Have access to and use of all files, records, and
4 data of the agency available to any other attorney
5 representing parties in a proceeding before the agency.

6 (c) In any proceeding in which he or she has
7 participated as a party, seek review of any determination,
8 finding, or order of the agency, or of any administrative law
9 judge, or any hearing officer or hearing examiner designated
10 by the agency, in the name of the state or its citizens.

11 (d) Prepare and issue reports, recommendations, and
12 proposed orders to the agency, the Governor, and the
13 Legislature on any matter or subject within the jurisdiction
14 of the agency, and to make such recommendations as he or she
15 deems appropriate for legislation relative to agency
16 procedures, rules, jurisdiction, personnel, and functions.

17 (e) Appear before other state agencies, federal
18 agencies, and state and federal courts in connection with
19 matters under the jurisdiction of the agency, in the name of
20 the state or its citizens.

21 Section 20. Paragraph (e) of subsection (10) and
22 subsection (14) of section 409.2673, Florida Statutes, are
23 amended to read:

24 409.2673 Shared county and state health care program
25 for low-income persons; trust fund.--

26 (10) Under the shared county and state program,
27 reimbursement to a hospital for services for an eligible
28 person must:

29 (e) Be conditioned, for tax district hospitals that
30 deliver services as part of this program, on the delivery of
31 charity care, as defined in the rules of the Agency for Health

1 Care Administration ~~Health Care Cost Containment Board~~, which
2 equals a minimum of 2.5 percent of the tax district hospital's
3 net revenues; however, those tax district hospitals which by
4 virtue of the population within the geographic boundaries of
5 the tax district can not feasibly provide this level of
6 charity care shall assure an "open door" policy to those
7 residents of the geographic boundaries of the tax district who
8 would otherwise be considered charity cases.

9 (14) Any dispute among a county, the Agency for Health
10 Care Administration ~~Health Care Cost Containment Board~~, the
11 department, or a participating hospital shall be resolved by
12 order as provided in chapter 120. Hearings held under this
13 subsection shall be conducted in the same manner as provided
14 in ss. 120.569 and 120.57, except that the administrative law
15 judge's or hearing officer's order constitutes final agency
16 action. Cases filed under chapter 120 may combine all relevant
17 disputes between parties.

18 Section 21. Section 409.9113, Florida Statutes, is
19 amended to read:

20 409.9113 Disproportionate share program for teaching
21 hospitals.--In addition to the payments made under ss. 409.911
22 and 409.9112, the Agency for Health Care Administration
23 ~~Department of Health and Rehabilitative Services~~ shall make
24 disproportionate share payments to statutorily defined
25 teaching hospitals for their increased costs associated with
26 medical education programs and for tertiary health care
27 services provided to the indigent. This system of payments
28 shall conform with federal requirements and shall distribute
29 funds in each fiscal year for which an appropriation is made
30 by making quarterly Medicaid payments. Notwithstanding ~~the~~
31 ~~provisions of s. 409.915~~, counties are exempt from

1 contributing toward the cost of this special reimbursement for
2 hospitals serving a disproportionate share of low-income
3 patients.

4 (1) On or before September 15 of each year, the Agency
5 for Health Care Administration shall calculate an allocation
6 fraction to be used for distributing funds to state statutory
7 teaching hospitals. Subsequent to the end of each quarter of
8 the state fiscal year, the agency ~~department~~ shall distribute
9 to each statutory teaching hospital, as defined in s. 408.07,
10 an amount determined by multiplying one-fourth of the funds
11 appropriated for this purpose by the Legislature times such
12 hospital's allocation fraction. The allocation fraction for
13 each such hospital shall be determined by the sum of three
14 primary factors, divided by three. The primary factors are:

15 (a) The number of nationally accredited graduate
16 medical education programs offered by the hospital, including
17 programs accredited by the Accreditation Council for Graduate
18 Medical Education and the combined Internal Medicine and
19 Pediatrics programs acceptable to both the American Board of
20 Internal Medicine and the American Board of Pediatrics at the
21 beginning of the state fiscal year preceding the date on which
22 the allocation fraction is calculated. The numerical value of
23 this factor is the fraction that the hospital represents of
24 the total number of programs, where the total is computed for
25 all state statutory teaching hospitals.

26 (b) The number of full-time equivalent trainees in the
27 hospital, which comprises two components:

28 1. The number of trainees enrolled in nationally
29 accredited graduate medical education programs, as defined in
30 paragraph (a). Full-time equivalents are computed using the
31 fraction of the year during which each trainee is primarily

1 assigned to the given institution, over the state fiscal year
2 preceding the date on which the allocation fraction is
3 calculated. The numerical value of this factor is the fraction
4 that the hospital represents of the total number of full-time
5 equivalent trainees enrolled in accredited graduate programs,
6 where the total is computed for all state statutory teaching
7 hospitals.

8 2. The number of medical students enrolled in
9 accredited colleges of medicine and engaged in clinical
10 activities, including required clinical clerkships and
11 clinical electives. Full-time equivalents are computed using
12 the fraction of the year during which each trainee is
13 primarily assigned to the given institution, over the course
14 of the state fiscal year preceding the date on which the
15 allocation fraction is calculated. The numerical value of this
16 factor is the fraction that the given hospital represents of
17 the total number of full-time equivalent students enrolled in
18 accredited colleges of medicine, where the total is computed
19 for all state statutory teaching hospitals.

20
21 The primary factor for full-time equivalent trainees is
22 computed as the sum of these two components, divided by two.

23 (c) A service index that ~~which~~ comprises three
24 components:

25 1. The Agency for Health Care Administration ~~Health~~
26 ~~Care Cost Containment Board~~ Service Index, computed by
27 applying the standard Service Inventory Scores established by
28 the Agency for Health Care Administration ~~Health Care Cost~~
29 ~~Containment Board~~ to services offered by the given hospital,
30 as reported on ~~the Health Care Cost Containment Board~~
31 Worksheet A-2 for the last fiscal year reported to the agency

1 ~~board~~ before the date on which the allocation fraction is
2 calculated. The numerical value of this factor is the
3 fraction that the given hospital represents of the total
4 Agency for Health Care Administration ~~Health Care Cost~~
5 ~~Containment Board~~ Service Index values, where the total is
6 computed for all state statutory teaching hospitals.

7 2. A volume-weighted service index, computed by
8 applying the standard Service Inventory Scores established by
9 the Agency for Health Care Administration ~~Health Care Cost~~
10 ~~Containment Board~~ to the volume of each service, expressed in
11 terms of the standard units of measure reported on ~~the Health~~
12 ~~Care Cost Containment Board~~ Worksheet A-2 for the last fiscal
13 year reported to the agency board before the date on which the
14 allocation factor is calculated. The numerical value of this
15 factor is the fraction that the given hospital represents of
16 the total volume-weighted service index values, where the
17 total is computed for all state statutory teaching hospitals.

18 3. Total Medicaid payments to each hospital for direct
19 inpatient and outpatient services during the fiscal year
20 preceding the date on which the allocation factor is
21 calculated. This includes payments made to each hospital for
22 such services by Medicaid prepaid health plans, whether the
23 plan was administered by the hospital or not. The numerical
24 value of this factor is the fraction that each hospital
25 represents of the total of such Medicaid payments, where the
26 total is computed for all state statutory teaching hospitals.

27
28 The primary factor for the service index is computed as the
29 sum of these three components, divided by three.

30 (2) By October 1 of each year, the agency shall use
31 the following formula ~~shall be utilized by the department~~ to

1 calculate the maximum additional disproportionate share
2 payment for statutorily defined teaching hospitals:

3

4

$$\text{TAP} = \text{THAF} \times \text{A}$$

5

6 Where:

7

TAP = total additional payment.

8

THAF = teaching hospital allocation factor.

9

A = amount appropriated for a teaching hospital
10 disproportionate share program.

11

12 ~~(3) The Health Care Cost Containment Board shall~~
13 ~~report to the department the statutory teaching hospital~~
14 ~~allocation fraction prior to October 1 of each year.~~

15 Section 22. Subsection (9) of section 395.403, Florida
16 Statutes, and sections 407.61, 408.003, 408.072, and 408.085,
17 Florida Statutes, are hereby repealed.

18 Section 23. The repeal of laws governing the review of
19 hospital budgets and related penalties contained in this act
20 operates retroactively and applies to any hospital budget
21 prepared for a fiscal year that ended during the 1996 calendar
22 year.

23 Section 24. Subsection (6) of section 381.026, Florida
24 Statutes, is amended to read:

25 381.026 Florida Patient's Bill of Rights and
26 Responsibilities.--

27 (6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.--Any
28 health care provider who treats a patient in an office or any
29 health care facility licensed under chapter 395 that provides
30 emergency services and care or outpatient services and care to
31 a patient, or admits and treats a patient, shall adopt and

1 make available to the patient ~~public~~, in writing, a statement
2 of the rights and responsibilities of patients, including:

3
4 SUMMARY OF THE FLORIDA PATIENT'S BILL
5 OF RIGHTS AND RESPONSIBILITIES
6

7 Florida law requires that your health care provider or
8 health care facility recognize your rights while you are
9 receiving medical care and that you respect the health care
10 provider's or health care facility's right to expect certain
11 behavior on the part of patients. You may request a copy of
12 the full text of this law from your health care provider or
13 health care facility. A summary of your rights and
14 responsibilities follows:

15 A patient has the right to be treated with courtesy and
16 respect, with appreciation of his or her individual dignity,
17 and with protection of his or her need for privacy.

18 A patient has the right to a prompt and reasonable
19 response to questions and requests.

20 A patient has the right to know who is providing
21 medical services and who is responsible for his or her care.

22 A patient has the right to know what patient support
23 services are available, including whether an interpreter is
24 available if he or she does not speak English.

25 A patient has the right to know what rules and
26 regulations apply to his or her conduct.

27 A patient has the right to be given by the health care
28 provider information concerning diagnosis, planned course of
29 treatment, alternatives, risks, and prognosis.

30 A patient has the right to refuse any treatment, except
31 as otherwise provided by law.

1 A patient has the right to be given, upon request, full
2 information and necessary counseling on the availability of
3 known financial resources for his or her care.

4 A patient who is eligible for Medicare has the right to
5 know, upon request and in advance of treatment, whether the
6 health care provider or health care facility accepts the
7 Medicare assignment rate.

8 A patient has the right to receive, upon request, prior
9 to treatment, a reasonable estimate of charges for medical
10 care.

11 A patient has the right to receive a copy of a
12 reasonably clear and understandable, itemized bill and, upon
13 request, to have the charges explained.

14 A patient has the right to impartial access to medical
15 treatment or accommodations, regardless of race, national
16 origin, religion, physical handicap, or source of payment.

17 A patient has the right to treatment for any emergency
18 medical condition that will deteriorate from failure to
19 provide treatment.

20 A patient has the right to know if medical treatment is
21 for purposes of experimental research and to give his or her
22 consent or refusal to participate in such experimental
23 research.

24 A patient has the right to express grievances regarding
25 any violation of his or her rights, as stated in Florida law,
26 through the grievance procedure of the health care provider or
27 health care facility which served him or her and to the
28 appropriate state licensing agency.

29 A patient is responsible for providing to the health
30 care provider, to the best of his or her knowledge, accurate
31 and complete information about present complaints, past

1 illnesses, hospitalizations, medications, and other matters
2 relating to his or her health.

3 A patient is responsible for reporting unexpected
4 changes in his or her condition to the health care provider.

5 A patient is responsible for reporting to the health
6 care provider whether he or she comprehends a contemplated
7 course of action and what is expected of him or her.

8 A patient is responsible for following the treatment
9 plan recommended by the health care provider.

10 A patient is responsible for keeping appointments and,
11 when he or she is unable to do so for any reason, for
12 notifying the health care provider or health care facility.

13 A patient is responsible for his or her actions if he
14 or she refuses treatment or does not follow the health care
15 provider's instructions.

16 A patient is responsible for assuring that the
17 financial obligations of his or her health care are fulfilled
18 as promptly as possible.

19 A patient is responsible for following health care
20 facility rules and regulations affecting patient care and
21 conduct.

22 Section 25. Section 381.0261, Florida Statutes, is
23 amended to read:

24 381.0261 ~~Distribution of~~ Summary of patient's bill of
25 rights; distribution; penalty.--

26 (1) The Agency for Health Care Administration
27 ~~Department of Health and Rehabilitative Services~~ shall have
28 printed and made continuously available to health care
29 facilities licensed under chapter 395, physicians licensed
30 under chapter 458, osteopathic physicians licensed under
31 chapter 459, and podiatrists licensed under chapter 461 a

1 summary of the Florida Patient's Bill of Rights and
2 Responsibilities. In adopting and making available to
3 patients ~~public~~ the summary of the Florida Patient's Bill of
4 Rights and Responsibilities, health care providers and health
5 care facilities are not limited to the format in which the
6 Agency for Health Care Administration ~~Department of Health and~~
7 ~~Rehabilitative Services~~ prints and distributes the summary.
8 (2) Health care providers and health care facilities
9 shall inform patients of the address and telephone number of
10 each state agency responsible for responding to patient
11 complaints about a health care provider or health care
12 facility's alleged noncompliance with state licensing
13 requirements established pursuant to law.
14 (3) Health care facilities shall adopt policies and
15 procedures to ensure that inpatients are provided the
16 opportunity during the course of admission to receive
17 information regarding their rights and how to file complaints
18 with the facility and appropriate state agencies.
19 (4) An administrative fine may be imposed by the
20 agency when any health care provider or health care facility
21 fails to make available to patients a summary of their rights,
22 pursuant to ss. 381.026 and this section. Initial nonwillful
23 violations shall be subject to corrective action and shall not
24 be subject to an administrative fine. The agency may levy a
25 fine of up to \$5,000 for repeated nonwillful violations, and
26 up to \$25,000 for willful violations. Each willful violation
27 constitutes a separate violation and is subject to a separate
28 fine.
29 (5) In determining the amount of fine to be levied for
30 a violation, as provided in subsection (4), the following
31 factors shall be considered:

1 (a) The scope and severity of the violation, including
2 the number of patients found to have not received notice of
3 patient rights, and whether the failure to provide notice to
4 patients was willful.

5 (b) Actions taken by the health care provider or
6 health care facility to correct the violations or to remedy
7 complaints.

8 (c) Any previous violations of this section by the
9 health care provider or health care facility.

10 Section 26. Subsections (2) and (15) of section
11 395.002, Florida Statutes, are hereby repealed:

12 395.002 Definitions.--As used in this chapter:

13 ~~(2) "Adverse or untoward incident," for purposes of~~
14 ~~reporting to the agency, means an event over which health care~~
15 ~~personnel could exercise control, which is probably associated~~
16 ~~in whole or in part with medical intervention rather than the~~
17 ~~condition for which such intervention occurred, and which~~
18 ~~causes injury to a patient, and which:~~

19 ~~(a) Is not consistent with or expected to be a~~
20 ~~consequence of such medical intervention;~~

21 ~~(b) Occurs as a result of medical intervention to~~
22 ~~which the patient has not given his or her informed consent;~~

23 ~~(c) Occurs as the result of any other action or lack~~
24 ~~of any other action on the part of the hospital or personnel~~
25 ~~of the hospital;~~

26 ~~(d) Results in a surgical procedure being performed on~~
27 ~~the wrong patient; or~~

28 ~~(e) Results in a surgical procedure being performed~~
29 ~~that is unrelated to the patient's diagnosis or medical needs.~~

30
31

1 ~~(15) "Injury," for purposes of reporting to the~~
2 ~~agency, means any of the following outcomes if caused by an~~
3 ~~adverse or untoward incident:~~
4 ~~(a) Death;~~
5 ~~(b) Brain damage;~~
6 ~~(c) Spinal damage;~~
7 ~~(d) Permanent disfigurement;~~
8 ~~(e) Fracture or dislocation of bones or joints;~~
9 ~~(f) Any condition requiring definitive or specialized~~
10 ~~medical attention which is not consistent with the routine~~
11 ~~management of the patient's case or patient's preexisting~~
12 ~~physical condition;~~
13 ~~(g) Any condition requiring surgical intervention to~~
14 ~~correct or control;~~
15 ~~(h) Any condition resulting in transfer of the~~
16 ~~patient, within or outside the facility, to a unit providing a~~
17 ~~more acute level of care;~~
18 ~~(i) Any condition that extends the patient's length of~~
19 ~~stay; or~~
20 ~~(j) Any condition that results in a limitation of~~
21 ~~neurological, physical, or sensory function which continues~~
22 ~~after discharge from the facility.~~

23 Section 27. Present subsections (3), (4), (5), and (7)
24 of section 395.0193, Florida Statutes, are amended, present
25 subsections (6), (7), (8), and (9) are renumbered as
26 subsections (7), (8), (9), and (10), respectively, and a new
27 subsection (6) is added to said section, to read:

28 395.0193 Licensed facilities; peer review;
29 disciplinary powers; agency or partnership with physicians.--

30 (3) If reasonable belief exists that conduct by a
31 staff member or physician who delivers health care services at

1 the licensed facility may constitute one or more grounds for
2 discipline as provided in this subsection, a peer review panel
3 shall investigate and determine whether grounds for discipline
4 exist with respect to such staff member or physician. The
5 governing board of any licensed facility, after considering
6 the recommendations of its peer review panel, shall suspend,
7 deny, revoke, or curtail the privileges, or reprimand,
8 counsel, or require education, of any such staff member or
9 physician after a final determination has been made that one
10 or more of the following grounds exist:

11 (a) Incompetence.

12 (b) Being found to be a habitual user of intoxicants
13 or drugs to the extent that he or she is deemed dangerous to
14 himself, herself, or others.

15 (c) Mental or physical impairment which may adversely
16 affect patient care.

17 (d) Being found liable by a court of competent
18 jurisdiction for medical negligence or malpractice involving
19 negligent conduct.

20 (e) One or more settlements exceeding \$10,000 for
21 medical negligence or malpractice involving negligent conduct
22 by the staff member.

23 (f) Medical negligence other than as specified in
24 paragraph (d) or paragraph (e).

25 (g) Failure to comply with the policies, procedures,
26 or directives of the risk management program or any quality
27 assurance committees of any licensed facility.

28

29 However, the grounds specified in paragraphs (a)-(g) are not
30 the only grounds for discipline of a practitioner.~~procedures~~
31 ~~for such actions shall comply with the standards outlined by~~

1 ~~the Joint Commission on Accreditation of Healthcare~~
2 ~~Organizations, the American Osteopathic Association, the~~
3 ~~Commission on Accreditation of Rehabilitation Facilities, the~~
4 ~~Accreditation Association for Ambulatory Health Care, Inc.,~~
5 ~~and the "Medicare/Medicaid Conditions of Participation," and~~
6 ~~rules of the agency and the department. The procedures shall~~
7 ~~be adopted pursuant to hospital bylaws.~~

8 (4) Pursuant to ss. 458.337 and 459.016, any
9 disciplinary actions taken under subsection (3) shall be
10 reported in writing to the Division of Health Quality
11 Assurance of the agency within 30 working days after its
12 initial occurrence, regardless of the pendency of appeals. The
13 notification shall identify the disciplined practitioner, the
14 action taken, and the reason for such action.All final
15 disciplinary actions taken under subsection (3), if different
16 than those which were reported to the agency within 30 days
17 after the initial occurrence, shall be reported within 10
18 working days to the Division of Health Quality Assurance of
19 the agency in writing and shall specify the disciplinary
20 action taken and the specific grounds therefor. The division
21 shall review each report and determine whether it potentially
22 involved conduct by the licensee that is subject to
23 disciplinary action, in which case s. 455.225 shall apply. The
24 reports are not ~~report shall not be~~ subject to inspection
25 under s. 119.07(1) even if the division's investigation
26 results in a finding of probable cause.

27 (5) There shall be no monetary liability on the part
28 of, and no cause of action for damages against, any licensed
29 facility, its governing board or governing board members, peer
30 review panel, medical staff, or disciplinary body, or its
31 agents, investigators, witnesses, or employees; a committee of

1 a hospital, a physician-hospital organization, or an
2 integrated delivery system; or any other person, for any
3 action taken without intentional fraud in carrying out the
4 provisions of this section.

5 (6) For a single incident or series of isolated
6 incidents that are nonwillful violations of the reporting
7 requirements of this section, the agency shall first seek to
8 obtain corrective action by the facility. If correction is not
9 demonstrated within the timeframe established by the agency or
10 if there is a pattern of nonwillful violations of this
11 section, the agency may impose an administrative fine, not to
12 exceed \$5,000 for any violation of the reporting requirements
13 of this section. The administrative fine for repeated
14 nonwillful violations shall not exceed \$10,000 for any
15 violation. The administrative fine for each willful violation
16 shall not exceed \$25,000 per violation, per day. Each day of
17 willful violation constitutes a separate violation and is
18 subject to a separate fine. In determining the amount of fine
19 to be levied, the agency shall be guided by s. 395.1065(2)(b).

20 (8)~~(7)~~ The investigations, proceedings, and records of
21 the peer review panel, a committee of a hospital, a
22 physician-hospital organization, an integrated delivery
23 system, a disciplinary board, or a governing board, or agent
24 thereof with whom there is a specific written contract for
25 that purpose, as described in this section shall not be
26 subject to discovery or introduction into evidence in any
27 civil or administrative action against a provider of
28 professional health services arising out of the matters which
29 are the subject of evaluation and review by such group or its
30 agent, and a person who was in attendance at a meeting of such
31 group or its agent may not be permitted or required to testify

1 in any such civil or administrative action as to any evidence
2 or other matters produced or presented during the proceedings
3 of such group or its agent or as to any findings,
4 recommendations, evaluations, opinions, or other actions of
5 such group or its agent or any members thereof. However,
6 information, documents, or records otherwise available from
7 original sources are not to be construed as immune from
8 discovery or use in any such civil or administrative action
9 merely because they were presented during proceedings of such
10 group, and any person who testifies before such group or who
11 is a member of such group may not be prevented from testifying
12 as to matters within his or her knowledge, but such witness
13 may not be asked about his or her testimony before such a
14 group or opinions formed by him or her as a result of such
15 group hearings.

16 Section 28. Section 395.0197, Florida Statutes, is
17 amended to read:

18 395.0197 Internal risk management program.--

19 (1) Every licensed facility shall, as a part of its
20 administrative functions, establish an internal risk
21 management program that includes all of the following
22 components:

23 (a) The investigation and analysis of the frequency
24 and causes of general categories and specific types of adverse
25 incidents ~~causing injury~~ to patients.

26 (b) The development of appropriate measures to
27 minimize the risk of ~~injuries and~~ adverse incidents to
28 patients, including, but not limited to:

29 1. Risk management and risk prevention education and
30 training of all nonphysician personnel as follows:

31

1 a. Such education and training of all nonphysician
2 personnel as part of their initial orientation; and
3 b. At least 1 hour of such education and training
4 annually for all nonphysician personnel of the licensed
5 facility working in clinical areas and providing patient care.
6 2. A prohibition, except when emergency circumstances
7 require otherwise, against a staff member of the licensed
8 facility attending a patient in the recovery room, unless the
9 staff member is authorized to attend the patient in the
10 recovery room and is in the company of at least one other
11 person. However, a hospital is exempt from the two-person
12 requirement if it has:
13 a. Live visual observation;
14 b. Electronic observation; or
15 c. Any other reasonable measure taken to ensure
16 patient protection and privacy.
17 (c) The analysis of patient grievances that relate to
18 patient care and the quality of medical services.
19 (d) The development and implementation of an incident
20 reporting system based upon the affirmative duty of all health
21 care providers and all agents and employees of the licensed
22 health care facility to report adverse incidents to the risk
23 manager, or to his or her designee, within 3 business days
24 after its occurrence.
25 (2) The internal risk management program is the
26 responsibility of the governing board of the health care
27 facility. Each licensed facility shall hire a risk manager,
28 licensed under part IX of chapter 626, who is responsible for
29 implementation and oversight of such facility's internal risk
30 management program as required by this section. A risk
31 manager must not be made responsible for more than four

1 internal risk management programs in separate licensed
2 facilities, unless the facilities are under one corporate
3 ownership or the risk management programs are in rural
4 hospitals.

5 (3) In addition to the programs mandated by this
6 section, other innovative approaches intended to reduce the
7 frequency and severity of medical malpractice and patient
8 injury claims shall be encouraged and their implementation and
9 operation facilitated. Such additional approaches may include
10 extending internal risk management programs to health care
11 providers' offices and the assuming of provider liability by a
12 licensed health care facility for acts or omissions occurring
13 within the licensed facility.

14 (4) The agency shall, after consulting with the
15 Department of Insurance, adopt rules governing the
16 establishment of internal risk management programs to meet the
17 needs of individual licensed facilities. Each internal risk
18 management program shall include the use of incident reports
19 to be filed with an individual of responsibility who is
20 competent in risk management techniques in the employ of each
21 licensed facility, such as an insurance coordinator, or who is
22 retained by the licensed facility as a consultant. The
23 individual responsible for the risk management program shall
24 have free access to all medical records of the licensed
25 facility. The incident reports are part of the workpapers of
26 the attorney defending the licensed facility in litigation
27 relating to the licensed facility and are subject to
28 discovery, but are not admissible as evidence in court. A
29 person filing an incident report is not subject to civil suit
30 by virtue of such incident report. As a part of each internal
31 risk management program, the incident reports shall be used to

1 develop categories of incidents which identify problem areas.
2 Once identified, procedures shall be adjusted to correct the
3 problem areas.

4 (5) For purposes of reporting to the agency pursuant
5 to subsections (6), (7), and (8), "adverse incident" means an
6 event over which health care personnel could exercise control
7 and which is associated in whole or in part with medical
8 intervention, rather than the condition for which such
9 intervention occurred, and which:

10 (a) Results in one of the following injuries:

11 1. Death;

12 2. Brain or spinal damage;

13 3. Permanent disfigurement;

14 4. Fracture or dislocation of bones or joints;

15 5. A resulting limitation of neurological, physical,
16 or sensory function which continues after discharge from the
17 facility;

18 6. Any condition that required specialized medical
19 attention or surgical intervention resulting from medical
20 intervention to which the patient has not given his or her
21 informed consent; or

22 7. Any condition that required the transfer of the
23 patient, within or outside the facility, to a unit providing a
24 more acute level of care due to the adverse incident, rather
25 than the patient's condition prior to the adverse incident;

26 (b) Was the performance of: a surgical procedure on
27 the wrong patient, a wrong surgical procedure, a wrong-site
28 surgical procedure, or a surgical procedure otherwise
29 unrelated to the patient's diagnosis or medical condition;

30 (c) Required the surgical repair of damage resulting
31 to a patient from a planned surgical procedure, where the

1 damage was not consistent with or expected to be a consequence
2 of the planned surgical procedure; or
3 (d) Was a procedure to remove unplanned foreign
4 objects remaining from a surgical procedure.
5 (6)(5)(a) Each licensed facility subject to this
6 section shall submit an annual report to the agency
7 summarizing the incident reports that have been filed in the
8 facility for that year. The report shall include:
9 1. The total number of adverse incidents ~~causing~~
10 ~~injury to patients.~~
11 2. A listing, by category, of the types of operations,
12 diagnostic or treatment procedures, or other actions causing
13 the injuries, and the number of incidents occurring within
14 each category.
15 3. A listing, by category, of the types of injuries
16 caused and the number of incidents occurring within each
17 category.
18 4. A code number using the health care professional's
19 licensure number and a separate code number identifying all
20 other individuals directly involved in adverse incidents
21 ~~causing injury~~ to patients, the relationship of the individual
22 to the licensed facility, and the number of incidents in which
23 each individual has been directly involved. Each licensed
24 facility shall maintain names of the health care professionals
25 and individuals identified by code numbers for purposes of
26 this section.
27 5. A description of all malpractice claims filed
28 against the licensed facility, including the total number of
29 pending and closed claims and the nature of the incident which
30 led to, the persons involved in, and the status and
31

1 disposition of each claim. Each report shall update status and
2 disposition for all prior reports.

3 ~~6. A report of all disciplinary actions pertaining to~~
4 ~~patient care taken against any medical staff member, including~~
5 ~~the nature and cause of the action.~~

6 (b) The information reported to the agency pursuant to
7 paragraph (a) which relates to persons licensed under chapter
8 458, chapter 459, chapter 461, or chapter 466 shall be
9 reviewed by the agency. The agency shall determine whether
10 any of the incidents potentially involved conduct by a health
11 care professional who is subject to disciplinary action, in
12 which case the provisions of s. 455.225 shall apply.

13 (c) The report submitted to the agency shall also
14 contain the name and license number of the risk manager of the
15 licensed facility, a copy of its policy and procedures which
16 govern the measures taken by the facility and its risk manager
17 to reduce the risk of injuries and adverse ~~or untoward~~
18 incidents, and the results of such measures. The annual
19 report is confidential and is not available to the public
20 pursuant to s. 119.07(1) or any other law providing access to
21 public records. The annual report is not discoverable or
22 admissible in any civil or administrative action, except in
23 disciplinary proceedings by the agency or the appropriate
24 regulatory board. The annual report is not available to the
25 public as part of the record of investigation for and
26 prosecution in disciplinary proceedings made available to the
27 public by the agency or the appropriate regulatory board.
28 However, the agency or the appropriate regulatory board shall
29 make available, upon written request by a health care
30 professional against whom probable cause has been found, any

31

1 such records which form the basis of the determination of
2 probable cause.

3 (7) The licensed facility shall notify the agency no
4 later than 1 business day after the risk manager or his or her
5 designee has received a report pursuant to paragraph (1)(d)
6 and is able to determine within 1 business day that any of the
7 following adverse incidents has occurred, whether occurring in
8 the licensed facility or arising from health care prior to
9 admission in the licensed facility:

10 (a) The death of a patient;
11 (b) Brain or spinal damage to a patient;
12 (c) The performance of a surgical procedure on the
13 wrong patient;
14 (d) The performance of a wrong-site surgical
15 procedure; or
16 (e) The performance of a wrong surgical procedure.
17

18 The notification must be made in writing and be provided by
19 facsimile device or overnight mail delivery. The notification
20 must include information regarding the identity of the
21 affected patient, the type of adverse incident, the initiation
22 of an investigation by the facility, and whether the events
23 causing or resulting in the adverse incident represent a
24 potential risk to other patients. The information contained
25 in the notification shall be confidential and shall not be
26 available to the public pursuant to s. 119.07(1) or any other
27 law providing access to public records, nor be discoverable or
28 admissible in any civil or administrative action, except in
29 disciplinary proceedings by the agency or the appropriate
30 regulatory board, nor shall it be available to the public as
31 part of the record of investigation for and prosecution in

1 disciplinary proceedings made available by the agency or the
2 appropriate regulatory board.
3 ~~(8)(6)~~ Any of the following adverse incidents, whether
4 occurring in the licensed facility or arising from health care
5 prior to admission in the licensed facility, shall be reported
6 by the facility to the agency within 15 calendar days after
7 its occurrence:~~If an adverse or untoward incident, whether~~
8 ~~occurring in the licensed facility or arising from health care~~
9 ~~prior to admission in the licensed facility, results in:~~
10 (a) The death of a patient;
11 (b) Brain or spinal damage to a patient;
12 (c) The performance of a surgical procedure on the
13 wrong patient; ~~or~~
14 (d) The performance of a wrong-site surgical
15 procedure;
16 (e) The performance of a wrong surgical procedure; or
17 (f) The performance of procedures to remove unplanned
18 foreign objects remaining from a surgical procedure.
19 ~~(d) A surgical procedure unrelated to the patient's~~
20 ~~diagnosis or medical needs being performed on any patient,~~
21 ~~including the surgical repair of injuries or damage resulting~~
22 ~~from the planned surgical procedure, wrong site or wrong~~
23 ~~procedure surgeries, and procedures to remove foreign objects~~
24 ~~remaining from surgical procedures,~~
25
26 ~~the licensed facility shall report this incident to the agency~~
27 ~~within 15 calendar days after its occurrence.~~The agency may
28 grant extensions to this reporting requirement for more than
29 15 days upon justification submitted in writing by the
30 facility administrator to the agency. The agency may require
31 an additional, final report. These reports shall not be

1 available to the public pursuant to s. 119.07(1) or any other
2 law providing access to public records, nor be discoverable or
3 admissible in any civil or administrative action, except in
4 disciplinary proceedings by the agency or the appropriate
5 regulatory board, nor shall they be available to the public as
6 part of the record of investigation for and prosecution in
7 disciplinary proceedings made available to the public by the
8 agency or the appropriate regulatory board. However, the
9 agency or the appropriate regulatory board shall make
10 available, upon written request by a health care professional
11 against whom probable cause has been found, any such records
12 which form the basis of the determination of probable cause.
13 The agency may investigate, as it deems appropriate, any such
14 incident and prescribe measures that must or may be taken in
15 response to the incident. The agency shall review each
16 incident and determine whether it potentially involved conduct
17 by the health care professional who is subject to disciplinary
18 action, in which case the provisions of s. 455.225 shall
19 apply.

20 (9)~~(7)~~ The internal risk manager of each licensed
21 facility shall:

22 (a)~~(b)~~ Investigate every allegation of sexual
23 misconduct which is made against a member of the facility's
24 personnel who has direct patient contact, when the allegation
25 is that the sexual misconduct occurred at the facility or on
26 the grounds of the facility; ~~and~~

27 (b)~~(c)~~ Report every allegation of sexual misconduct to
28 the administrator of the licensed facility; ~~and-~~

29 (c)~~(a)~~ Notify the family or guardian of the victim, if
30 a minor, that an allegation of sexual misconduct has been made
31 and that an investigation is being conducted. ~~+~~

1 ~~(10)(8)~~ Any witness who witnessed or who possesses
2 actual knowledge of the act that is the basis of an allegation
3 of sexual abuse shall:

4 (a) Notify the local police; and

5 (b) Notify the hospital risk manager and the
6 administrator.

7
8 For purposes of this subsection, "sexual abuse" means acts of
9 a sexual nature committed for the sexual gratification of
10 anyone upon, or in the presence of, a vulnerable adult,
11 without the vulnerable adult's informed consent, or a minor.

12 "Sexual abuse" includes, but is not limited to, the acts
13 defined in s. 794.011(1)(h), fondling, exposure of a
14 vulnerable adult's or minor's sexual organs, or the use of the
15 vulnerable adult or minor to solicit for or engage in
16 prostitution or sexual performance. "Sexual abuse" does not
17 include any act intended for a valid medical purpose or any
18 act which may reasonably be construed to be a normal
19 caregiving action.

20 ~~(11)(9)~~ A person who, with malice or with intent to
21 discredit or harm a licensed facility or any person, makes a
22 false allegation of sexual misconduct against a member of a
23 licensed facility's personnel is guilty of a misdemeanor of
24 the second degree, punishable as provided in s. 775.082 or s.
25 775.083.

26 ~~(12)(10)~~ In addition to any penalty imposed pursuant
27 to this section, the agency shall require a written plan of
28 correction from the facility. For a single incident or series
29 of isolated incidents that are nonwillful violations of the
30 reporting requirements of this section, the agency shall first
31 seek to obtain corrective action by the facility. If the

1 correction is not demonstrated within the timeframe
2 established by the agency or if there is a pattern of
3 nonwillful violations of this section, the agency may impose
4 an administrative fine, not to exceed \$5,000 for any violation
5 of the reporting requirements of this section. The
6 administrative fine for repeated nonwillful violations shall
7 not exceed \$10,000 for any violation. The administrative fine
8 for each willful violation shall not exceed \$25,000 per
9 violation, per day. Each day of willful violation constitutes
10 a separate violation and is subject to a separate fine. In
11 determining the amount of fine to be levied, the agency shall
12 be guided by s. 395.1065(2)(b)~~may impose an administrative~~
13 ~~fine, not to exceed \$5,000, for any violation of the reporting~~
14 ~~requirements of this section.~~

15 (13)~~(11)~~ The agency shall have access to all licensed
16 facility records necessary to carry out the provisions of this
17 section. The records obtained are not available to the public
18 under s. 119.07(1), nor shall they be discoverable or
19 admissible in any civil or administrative action, except in
20 disciplinary proceedings by the agency or the appropriate
21 regulatory board, nor shall records obtained pursuant to s.
22 455.223 be available to the public as part of the record of
23 investigation for and prosecution in disciplinary proceedings
24 made available to the public by the agency or the appropriate
25 regulatory board. However, the agency or the appropriate
26 regulatory board shall make available, upon written request by
27 a health care professional against whom probable cause has
28 been found, any such records which form the basis of the
29 determination of probable cause, except that, with respect to
30 medical review committee records, s. 766.101 controls.

31

1 (14)~~(12)~~ The meetings of the committees and governing
2 board of a licensed facility held solely for the purpose of
3 achieving the objectives of risk management as provided by
4 this section shall not be open to the public under the
5 provisions of chapter 286. The records of such meetings are
6 confidential and exempt from s. 119.07(1), except as provided
7 in subsection(13)~~(11)~~.

8 (15)~~(13)~~ The agency shall review, as part of its
9 licensure inspection process, the internal risk management
10 program at each licensed facility regulated by this section to
11 determine whether the program meets standards established in
12 statutes and rules, whether the program is being conducted in
13 a manner designed to reduce adverse incidents, and whether the
14 program is appropriately reporting incidents under subsections
15 (5), and (6), (7), and (8).

16 (16)~~(14)~~ There shall be no monetary liability on the
17 part of, and no cause of action for damages shall arise
18 against, any risk manager, licensed under part IX of chapter
19 626, for the implementation and oversight of the internal risk
20 management program in a facility licensed under this chapter
21 or chapter 390 as required by this section, for any act or
22 proceeding undertaken or performed within the scope of the
23 functions of such internal risk management program if the risk
24 manager acts without intentional fraud.

25 (17)~~(15)~~ If the agency, through its receipt of the
26 annual reports prescribed in subsection(6)~~(5)~~ or through any
27 investigation, has a reasonable belief that conduct by a staff
28 member or employee of a licensed facility is grounds for
29 disciplinary action by the appropriate regulatory board, the
30 agency shall report this fact to such regulatory board.

31

1 ~~(18)~~(16) The agency shall annually publish a report
2 summarizing the information contained in the annual incident
3 reports submitted by licensed facilities pursuant to
4 subsection (6), and any serious incident reports submitted by
5 licensed facilities pursuant to subsection (7), and
6 disciplinary actions reported to the agency pursuant to s.
7 395.0193. The report must, at a minimum, summarize:
8 (a) Adverse and serious incidents, ~~by service district~~
9 ~~of the department as defined in s. 20.19,~~ by category of
10 reported incident, and by type of professional involved.
11 (b) Types of malpractice claims filed, ~~by service~~
12 ~~district of the department as defined in s. 20.19,~~ and by type
13 of professional involved.
14 (c) Disciplinary actions taken against professionals,
15 ~~by service district of the department as defined in s. 20.19,~~
16 ~~and by~~ type of professional involved.
17 Section 29. Effective January 1, 1999, subsections (2)
18 and (14) of section 395.0197, Florida Statutes, are amended to
19 read:
20 395.0197 Internal risk management program.--
21 (2) The internal risk management program is the
22 responsibility of the governing board of the health care
23 facility. Each licensed facility shall hire a risk manager,
24 licensed under ss. 395.10971-395.10975 ~~part IX of chapter 626,~~
25 who is responsible for implementation and oversight of such
26 facility's internal risk management program as required by
27 this section. A risk manager must not be made responsible for
28 more than four internal risk management programs in separate
29 licensed facilities, unless the facilities are under one
30 corporate ownership or the risk management programs are in
31 rural hospitals.

1 (14) There shall be no monetary liability on the part
2 of, and no cause of action for damages shall arise against,
3 any risk manager, licensed under ss. 395.10971-395.10975 ~~part~~
4 ~~IX of chapter 626~~, for the implementation and oversight of the
5 internal risk management program in a facility licensed under
6 this chapter or chapter 390 as required by this section, for
7 any act or proceeding undertaken or performed within the scope
8 of the functions of such internal risk management program if
9 the risk manager acts without intentional fraud.

10 Section 30. Effective January 1, 1999, section
11 626.941, Florida Statutes, is renumbered as section 395.10971,
12 Florida Statutes.

13 Section 31. Effective January 1, 1999, section
14 626.942, Florida Statutes, is renumbered as section 395.10972,
15 Florida Statutes, and amended to read:

16 395.10972 ~~626.942~~ Health Care Risk Manager Advisory
17 Council.--The Director of Health Care Administration ~~Insurance~~
18 ~~Commissioner~~ may appoint a five-member advisory council to
19 advise the agency department on matters pertaining to health
20 care risk managers. The members of the council shall serve at
21 the pleasure of the director ~~Insurance Commissioner~~. The
22 council shall designate a chair. The council shall meet at
23 the call of the director ~~Insurance Commissioner~~ or at those
24 times as may be required by rule of the agency department.
25 The members of the advisory council shall receive no
26 compensation for their services, but shall be reimbursed for
27 travel expenses as provided in s. 112.061. The council shall
28 consist of individuals representing the following areas:

- 29 (1) Two shall be active health care risk managers.
30 (2) One shall be an active hospital administrator.

31

1 (3) One shall be an employee of an insurer or
2 self-insurer of medical malpractice coverage.

3 (4) One shall be a representative of the
4 health-care-consuming public.

5 Section 32. Effective January 1, 1999, section
6 626.943, Florida Statutes, is renumbered as section 395.10973,
7 Florida Statutes, and amended to read:

8 395.10973 ~~626.943~~ Powers and duties of the agency
9 ~~department~~.--It is the function of the agency ~~department~~ to:

10 (1) Promulgate rules necessary to carry out the duties
11 conferred upon it under this part to protect the public
12 health, safety, and welfare.

13 (2) Develop, impose, and enforce specific standards
14 within the scope of the general qualifications established by
15 this part which must be met by individuals in order to receive
16 licenses as health care risk managers. These standards shall
17 be designed to ensure that health care risk managers are
18 individuals of good character and otherwise suitable and, by
19 training or experience in the field of health care risk
20 management, qualified in accordance with the provisions of
21 this part to serve as health care risk managers, within
22 statutory requirements.

23 (3) Develop a method for determining whether an
24 individual meets the standards set forth in s. 395.10974
25 ~~626.944~~.

26 (4) Issue licenses, ~~beginning on June 1, 1986,~~ to
27 qualified individuals meeting the standards set forth in s.
28 395.10974 ~~626.944~~.

29 (5) Receive, investigate, and take appropriate action
30 with respect to any charge or complaint filed with the agency
31 ~~department~~ to the effect that a certified health care risk

1 manager has failed to comply with the requirements or
2 standards adopted by rule by the agency ~~department~~ or to
3 comply with the provisions of this part.

4 (6) Establish procedures for providing ~~the Department~~
5 ~~of Health and Rehabilitative Services with~~ periodic reports on
6 persons certified or disciplined by the agency ~~department~~
7 under this part.

8 (7) Develop a model risk management program for health
9 care facilities which will satisfy the requirements of s.
10 395.0197.

11 Section 33. Effective January 1, 1999, section
12 626.944, Florida Statutes, is renumbered as section 395.10974,
13 Florida Statutes, and amended to read:

14 395.10974 ~~626.944~~ Qualifications for health care risk
15 managers.--

16 (1) Any person desiring to be licensed as a health
17 care risk manager shall submit an application on a form
18 provided by the agency ~~department~~. In order to qualify, the
19 applicant shall submit evidence satisfactory to the agency
20 ~~department~~ which demonstrates the applicant's competence, by
21 education or experience, in the following areas:

22 (a) Applicable standards of health care risk
23 management.

24 (b) Applicable federal, state, and local health and
25 safety laws and rules.

26 (c) General risk management administration.

27 (d) Patient care.

28 (e) Medical care.

29 (f) Personal and social care.

30 (g) Accident prevention.

31 (h) Departmental organization and management.

1 (i) Community interrelationships.

2 (j) Medical terminology.

3

4 The agency department may require such additional information,
5 from the applicant or any other person, as may be reasonably
6 required to verify the information contained in the
7 application.

8 (2) The agency department shall not grant or issue a
9 license as a health care risk manager to any individual unless
10 from the application it affirmatively appears that the
11 applicant:

12 (a) Is 18 years of age or over;

13 (b) Is a high school graduate or equivalent; and

14 (c)1. Has fulfilled the requirements of a 1-year
15 program or its equivalent in health care risk management
16 training which may be developed or approved by the agency
17 department;

18 2. Has completed 2 years of college-level studies
19 which would prepare the applicant for health care risk
20 management, to be further defined by rule; or

21 3. Has obtained 1 year of practical experience in
22 health care risk management.

23 (3) The agency department shall issue a license,
24 ~~beginning on June 1, 1986,~~ to practice health care risk
25 management to any applicant who qualifies under this section
26 and submits an application fee of not more than \$75, a
27 fingerprinting fee of not more than \$75, and a license fee of
28 not more than \$100. The agency shall by rule establish fees
29 and procedures for the issuance and cancellation of licenses.
30 ~~the license fee as set forth in s. 624.501. Licenses shall be~~
31

1 ~~issued and canceled in the same manner as provided in part I~~
2 ~~of this chapter.~~

3 (4) The agency ~~department~~ shall renew a health care
4 risk manager license upon receipt of a biennial renewal
5 application and fees. The agency shall by rule establish a
6 procedure for the biennial renewal of licenses in accordance
7 ~~with procedures prescribed in s. 626.381 for agents in~~
8 ~~general.~~

9 Section 34. Effective January 1, 1999, section
10 626.945, Florida Statutes, is renumbered as section 395.10975,
11 Florida Statutes, and amended to read:

12 395.10975 ~~626.945~~ Grounds for denial, suspension, or
13 revocation of a health care risk manager's license;
14 administrative fine.--

15 (1) The agency ~~department~~ may, in its discretion,
16 deny, suspend, revoke, or refuse to renew or continue the
17 license of any health care risk manager or applicant, if it
18 finds that as to such applicant or licensee any one or more of
19 the following grounds exist:

20 (a) Any cause for which issuance of the license could
21 have been refused had it then existed and been known to the
22 agency ~~department~~.

23 (b) Giving false or forged evidence to the agency
24 ~~department~~ for the purpose of obtaining a license.

25 (c) Having been found guilty of, or having pleaded
26 guilty or nolo contendere to, a crime in this state or any
27 other state relating to the practice of risk management or the
28 ability to practice risk management, whether or not a judgment
29 or conviction has been entered.

30 (d) Having been found guilty of, or having pleaded
31 guilty or nolo contendere to, a felony, or a crime involving

1 moral turpitude punishable by imprisonment of 1 year or more
2 under the law of the United States, under the law of any
3 state, or under the law of any other country, without regard
4 to whether a judgment of conviction has been entered by the
5 court having jurisdiction of such cases.

6 (e) Making or filing a report or record which the
7 licensee knows to be false; or intentionally failing to file a
8 report or record required by state or federal law; or
9 willfully impeding or obstructing, or inducing another person
10 to impede or obstruct, the filing of a report or record
11 required by state or federal law. Such reports or records
12 shall include only those which are signed in the capacity of a
13 licensed health care risk manager.

14 (f) Fraud or deceit, negligence, incompetence, or
15 misconduct in the practice of health care risk management.

16 (g) Violation of any provision of this part or any
17 other law applicable to the business of health care risk
18 management.

19 (h) Violation of any lawful order or rule of the
20 agency ~~department~~ or failure to comply with a lawful subpoena
21 issued by the department.

22 (i) Practicing with a revoked or suspended health care
23 risk manager license.

24 (j) Repeatedly acting in a manner inconsistent with
25 the health and safety of the patients of the licensed facility
26 in which the licensee is the health care risk manager.

27 (k) Being unable to practice health care risk
28 management with reasonable skill and safety to patients by
29 reason of illness; drunkenness; or use of drugs, narcotics,
30 chemicals, or any other material or substance or as a result
31 of any mental or physical condition. Any person affected

1 under this paragraph shall have the opportunity, at reasonable
2 intervals, to demonstrate that he or she can resume the
3 competent practices of health care risk manager with
4 reasonable skill and safety to patients.

5 (l) Willfully permitting unauthorized disclosure of
6 information relating to a patient or a patient's records.

7 (m) Discriminating in respect to patients, employees,
8 or staff on account of race, religion, color, sex, or national
9 origin.

10 (2) If the agency ~~department~~ finds that one or more of
11 the grounds set forth in subsection (1) exist, it may, in lieu
12 of or in addition to suspension or revocation, enter an order
13 imposing one or more of the following penalties:

14 (a) Imposition of an administrative fine not to exceed
15 \$2,500 for each count or separate offense.

16 (b) Issuance of a reprimand.

17 (c) Placement of the licensee on probation for a
18 period of time and subject to such conditions as the agency
19 ~~department~~ may specify, including requiring the licensee to
20 attend continuing education courses or to work under the
21 supervision of another licensee.

22 (3) The agency ~~department~~ may reissue the license of a
23 disciplined licensee in accordance with the provisions of this
24 part.

25 Section 35. Subsection (7) of section 394.4787,
26 Florida Statutes, is amended to read:

27 394.4787 Definitions.--As used in this section and ss.
28 394.4786, 394.4788, and 394.4789:

29 (7) "Specialty psychiatric hospital" means a hospital
30 licensed by the agency pursuant to s. 395.002(25)~~(27)~~ as a
31 specialty psychiatric hospital.

1 Section 36. Paragraph (c) of subsection (2) of section
2 395.602, Florida Statutes, is amended to read:

3 395.602 Rural hospitals.--

4 (2) DEFINITIONS.--As used in this part:

5 (c) "Inactive rural hospital bed" means a licensed
6 acute care hospital bed, as defined in s. 395.002(12)~~(13)~~,
7 that is inactive in that it cannot be occupied by acute care
8 inpatients.

9 Section 37. Paragraph (c) of subsection (1) of section
10 395.701, Florida Statutes, is amended to read:

11 395.701 Annual assessments on net operating revenues
12 to fund public medical assistance; administrative fines for
13 failure to pay assessments when due.--

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

15 (c) "Hospital" means a health care institution as
16 defined in s. 395.002(11)~~(12)~~, but does not include any
17 hospital operated by the agency or the Department of
18 Corrections.

19 Section 38. Paragraph (b) of subsection (1) of section
20 400.051, Florida Statutes, is amended to read:

21 400.051 Homes or institutions exempt from the
22 provisions of this part.--

23 (1) The following shall be exempt from the provisions
24 of this part:

25 (b) Any hospital, as defined in s. 395.002(9)~~(10)~~,
26 that is licensed under chapter 395.

27 Section 39. Subsection (8) of section 409.905, Florida
28 Statutes, is amended to read:

29 409.905 Mandatory Medicaid services.--The agency may
30 make payments for the following services, which are required
31 of the state by Title XIX of the Social Security Act,

1 furnished by Medicaid providers to recipients who are
2 determined to be eligible on the dates on which the services
3 were provided. Any service under this section shall be
4 provided only when medically necessary and in accordance with
5 state and federal law. Nothing in this section shall be
6 construed to prevent or limit the agency from adjusting fees,
7 reimbursement rates, lengths of stay, number of visits, number
8 of services, or any other adjustments necessary to comply with
9 the availability of moneys and any limitations or directions
10 provided for in the General Appropriations Act or chapter 216.

11 (8) NURSING FACILITY SERVICES.--The agency shall pay
12 for 24-hour-a-day nursing and rehabilitative services for a
13 recipient in a nursing facility licensed under part II of
14 chapter 400 or in a rural hospital, as defined in s. 395.602,
15 or in a Medicare certified skilled nursing facility operated
16 by a hospital, as defined by s. 395.002~~(9)~~(10), that is
17 licensed under part I of chapter 395, and in accordance with
18 provisions set forth in s. 409.908(2)(a), which services are
19 ordered by and provided under the direction of a licensed
20 physician. However, if a nursing facility has been destroyed
21 or otherwise made uninhabitable by natural disaster or other
22 emergency and another nursing facility is not available, the
23 agency must pay for similar services temporarily in a hospital
24 licensed under part I of chapter 395 provided federal funding
25 is approved and available.

26 Section 40. Paragraph (g) of subsection (1) of section
27 440.13, Florida Statutes, is amended to read:

28 440.13 Medical services and supplies; penalty for
29 violations; limitations.--

30 (1) DEFINITIONS.--As used in this section, the term:

31

1 (g) "Emergency services and care" means emergency
2 services and care as defined in s. 395.002~~(9)~~.

3 Section 41. Effective January 1, 1999, subsection (2)
4 of section 458.307, Florida Statutes, is amended to read:

5 458.307 Board of Medicine.--

6 (2) Twelve members of the board must be licensed
7 physicians in good standing in this state who are residents of
8 the state and who have been engaged in the active practice or
9 teaching of medicine for at least 4 years immediately
10 preceding their appointment. One of the physicians must be on
11 the full-time faculty of a medical school in this state, and
12 one of the physicians must be in private practice and on the
13 full-time staff of a statutory teaching hospital in this state
14 as defined in s. 408.07. At least one of the physicians must
15 be a graduate of a foreign medical school. The remaining
16 three members must be residents of the state who are not, and
17 never have been, licensed health care practitioners. One
18 member must be a hospital risk manager certified under ss.
19 395.10971-395.10975 ~~part IX of chapter 626~~. At least one
20 member of the board must be 60 years of age or older.

21 Section 42. Subsection (9) of section 458.331, Florida
22 Statutes, is amended to read:

23 458.331 Grounds for disciplinary action; action by the
24 board and department.--

25 (9) When an investigation of a physician is
26 undertaken, the department shall promptly furnish to the
27 physician or the physician's attorney a copy of the complaint
28 or document which resulted in the initiation of the
29 investigation. For purposes of this subsection, such
30 documents include, but are not limited to: the pertinent
31 portions of an annual report submitted to the department

1 pursuant to s. 395.0197(6)(~~5~~)(b); a report of an adverse ~~or~~
2 ~~untoward~~ incident which is provided to the department pursuant
3 to the provisions of s. 395.0197(8)(~~6~~); a report of peer
4 review disciplinary action submitted to the department
5 pursuant to the provisions of s. 395.0193(4) or s. 458.337,
6 providing that the investigations, proceedings, and records
7 relating to such peer review disciplinary action shall
8 continue to retain their privileged status even as to the
9 licensee who is the subject of the investigation, as provided
10 by ss. 395.0193(8)(~~7~~) and 458.337(3); a report of a closed
11 claim submitted pursuant to s. 627.912; a presuit notice
12 submitted pursuant to s. 766.106(2); and a petition brought
13 under the Florida Birth-Related Neurological Injury
14 Compensation Plan, pursuant to s. 766.305(2). The physician
15 may submit a written response to the information contained in
16 the complaint or document which resulted in the initiation of
17 the investigation within 45 days after service to the
18 physician of the complaint or document. The physician's
19 written response shall be considered by the probable cause
20 panel.

21 Section 43. Subsection (9) of section 459.015, Florida
22 Statutes, is amended to read:

23 459.015 Grounds for disciplinary action by the
24 board.--

25 (9) When an investigation of an osteopathic physician
26 is undertaken, the department shall promptly furnish to the
27 osteopathic physician or his or her attorney a copy of the
28 complaint or document which resulted in the initiation of the
29 investigation. For purposes of this subsection, such documents
30 include, but are not limited to: the pertinent portions of an
31 annual report submitted to the department pursuant to s.

1 395.0197(6)(~~5~~)(b); a report of an adverse ~~or untoward~~ incident
2 which is provided to the department pursuant to the provisions
3 of s. 395.0197(8)(~~6~~); a report of peer review disciplinary
4 action submitted to the department pursuant to the provisions
5 of s. 395.0193(4) or s. 459.016, provided that the
6 investigations, proceedings, and records relating to such peer
7 review disciplinary action shall continue to retain their
8 privileged status even as to the licensee who is the subject
9 of the investigation, as provided by ss. 395.0193(8)(~~7~~)and
10 459.016(3); a report of a closed claim submitted pursuant to
11 s. 627.912; a presuit notice submitted pursuant to s.
12 766.106(2); and a petition brought under the Florida
13 Birth-Related Neurological Injury Compensation Plan, pursuant
14 to s. 766.305(2). The osteopathic physician may submit a
15 written response to the information contained in the complaint
16 or document which resulted in the initiation of the
17 investigation within 45 days after service to the osteopathic
18 physician of the complaint or document. The osteopathic
19 physician's written response shall be considered by the
20 probable cause panel.

21 Section 44. Paragraph (1) of subsection (1) of section
22 468.505, Florida Statutes, is amended to read:

23 468.505 Exemptions; exceptions.--

24 (1) Nothing in this part may be construed as
25 prohibiting or restricting the practice, services, or
26 activities of:

27 (1) A person employed by a nursing facility exempt
28 from licensing under s. 395.002(11)(~~12~~), or a person exempt
29 from licensing under s. 464.022; or
30
31

1 Section 45. Effective January 1, 1999, subsections (2)
2 and (10) of section 641.55, Florida Statutes, are amended to
3 read:

4 641.55 Internal risk management program.--

5 (2) The risk management program shall be the
6 responsibility of the governing authority or board of the
7 organization. Every organization which has an annual premium
8 volume of \$10 million or more and which directly provides
9 health care in a building owned or leased by the organization
10 shall hire a risk manager, certified under ss.

11 395.10971-395.10975 ~~626.941-626.945~~, who shall be responsible
12 for implementation of the organization's risk management
13 program required by this section. A part-time risk manager
14 shall not be responsible for risk management programs in more
15 than four organizations or facilities. Every organization
16 which does not directly provide health care in a building
17 owned or leased by the organization and every organization
18 with an annual premium volume of less than \$10 million shall
19 designate an officer or employee of the organization to serve
20 as the risk manager.

21 (10) There shall be no monetary liability on the part
22 of, and no cause of action for damages shall arise against,
23 any risk manager certified under ss. 395.10971-395.10975 ~~part~~
24 ~~IX of chapter 626~~ for the implementation and oversight of the
25 risk management program in an organization authorized under
26 this chapter for any act or proceeding undertaken or performed
27 within the scope of the function of such risk management
28 program if the risk manager acts without intentional fraud.

29
30 The gross data compiled under this section or s. 395.0197
31 shall be furnished by the agency upon request to organizations

1 to be utilized for risk management purposes. The agency shall
2 adopt rules necessary to carry out the provisions of this
3 section.

4 Section 46. Paragraph (c) of subsection (4) of section
5 766.1115, Florida Statutes, is amended to read:

6 766.1115 Health care providers; creation of agency
7 relationship with governmental contractors.--

8 (4) CONTRACT REQUIREMENTS.--A health care provider
9 that executes a contract with a governmental contractor to
10 deliver health care services on or after April 17, 1992, as an
11 agent of the governmental contractor is an agent for purposes
12 of s. 768.28(9), while acting within the scope of duties
13 pursuant to the contract, if the contract complies with the
14 requirements of this section. A health care provider under
15 contract with the state may not be named as a defendant in any
16 action arising out of the medical care or treatment provided
17 on or after April 17, 1992, pursuant to contracts entered into
18 under this section. The contract must provide that:

19 (c) Adverse incidents and information on treatment
20 outcomes must be reported by any health care provider to the
21 governmental contractor if such incidents and information
22 pertain to a patient treated pursuant to the contract. The
23 health care provider shall annually submit an adverse incident
24 report that includes all information required by s.

25 395.0197(6)(5)(a), unless the adverse incident involves a
26 result described by s. 395.0197(8)(6), in which case it shall
27 be reported within 15 days of the occurrence of such incident.
28 If an incident involves a professional licensed by the
29 Department of Health Business and Professional Regulation or a
30 facility licensed by the Agency for Health Care Administration
31 ~~Department of Health and Rehabilitative Services~~, the

1 governmental contractor shall submit such incident reports to
2 the appropriate department or agency, which shall review each
3 incident and determine whether it involves conduct by the
4 licensee that is subject to disciplinary action. All patient
5 medical records and any identifying information contained in
6 adverse incident reports and treatment outcomes which are
7 obtained by governmental entities pursuant to this paragraph
8 are confidential and exempt from the provisions of s.
9 119.07(1) and s. 24(a), Art. I of the State Constitution.

10

11 A governmental contractor that is also a health care provider
12 is not required to enter into a contract under this section
13 with respect to the health care services delivered by its
14 employees.

15 Section 47. Effective January 1, 1999, all powers,
16 duties and functions, rules, records, personnel, property, and
17 unexpended balances of appropriations, allocations, or other
18 funds of the Department of Insurance related to the health
19 care risk manager licensure program, as established in part IX
20 of chapter 626, Florida Statutes, are transferred by a type
21 two transfer, as defined in s. 20.06(2), Florida Statutes,
22 from the Department of Insurance to the Agency for Health Care
23 Administration.

24 Section 48. There is hereby appropriated from the
25 Health Care Trust Fund to the Agency for Health Care
26 Administration, one full time position and \$100,281 in a lump
27 sum to administer the provisions of this act.

28 Section 49. Except as otherwise provided herein, this
29 act shall take effect July 1 of the year in which enacted.

30

31