



CHAMBER ACTION

The Committee on Appropriations recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to long-term care services; providing that certain prior offenses shall be considered in conducting employment screening, notwithstanding the provisions of section 64 of ch. 95-228, Laws of Florida; amending s. 400.071, F.S.; requiring applicants for licensure as a nursing home to provide proof of a legal right to occupy the property; amending s. 400.414, F.S.; delineating the types and number of deficiencies justifying denial, revocation, or suspension of a license as an assisted living facility; amending s. 400.417, F.S.; providing an alternative method of providing notice to an assisted living facility that a license must be renewed; amending s. 400.419, F.S.; providing that administrative fines for assisted living facilities or its personnel shall be imposed by the Agency for Health Care Administration in the manner provided in ch. 120, F.S.; amending s. 400.0239, F.S.; providing for deposit of civil monetary fines in the Quality of Long-Term Care Facility



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29 Improvement Trust Fund; providing for additional purposes
30 for which funds from such trust fund may be expended;
31 amending s. 400.141, F.S.; providing for enforcement of
32 minimum-staffing standards for nursing facilities within a
33 range; amending s. 400.235, F.S.; allowing reviewed
34 financial statements to be submitted for the Gold Seal
35 Program; amending s. 400.452, F.S.; revising training and
36 education requirements of the Department of Elderly
37 Affairs for assisted living facilities; deleting a
38 requirement that fees for training and education programs
39 be based on the percentage of residents receiving monthly
40 optional supplementation payments; amending s. 430.502,
41 F.S.; requiring the Agency for Health Care Administration
42 and the Department of Health to seek and implement a
43 Medicaid home and community-based waiver for persons with
44 Alzheimer's disease; requiring the development of waiver
45 program standards; providing for consultation with the
46 presiding officers of the Legislature; providing for a
47 contingent future repeal of such waiver program; amending
48 s. 400.557, F.S.; providing an alternative method of
49 providing notice to an adult day care center that a
50 license must be renewed; amending s. 400.619, F.S.;
51 requiring that the Agency for Health Care Administration
52 provide advance notice to an adult family-care home that a
53 license must be renewed; reenacting and amending s.
54 400.980, F.S.; providing that the provisions governing
55 background screening of persons involved with health care
56 services pools shall not stand repealed; amending s.



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57 | 408.061, F.S.; exempting nursing homes and continuing care
 58 | facilities from certain financial reporting requirements;
 59 | amending s. 408.062, F.S.; providing that the Agency for
 60 | Health Care Administration is not required to evaluate
 61 | financial reports of nursing homes; amending s. 408.831,
 62 | F.S.; requiring that licensees of the Agency for Health
 63 | Care Administration pay or arrange for payment of amounts
 64 | owed to the agency by the licensee prior to transfer of
 65 | the license or issuance of a license to a transferee;
 66 | amending s. 409.9116, F.S.; correcting a cross reference;
 67 | providing an effective date.

68 |
 69 | Be It Enacted by the Legislature of the State of Florida:
 70 |

71 | Section 1. Notwithstanding the provisions of section 64 of
 72 | chapter 95-228, Laws of Florida, the provisions of chapter 435,
 73 | Florida Statutes, as created therein and as subsequently
 74 | amended, and any reference thereto, shall apply to all offenses
 75 | regardless of the date on which offenses referenced in chapter
 76 | 435, Florida Statutes, were committed, unless specifically
 77 | provided otherwise in a provision other than section 64 of
 78 | chapter 95-228, Laws of Florida.

79 | Section 2. Subsection (12) is added to section 400.071,
 80 | Florida Statutes, to read:

81 | 400.071 Application for license.--

82 | (12) The applicant must provide the agency with proof of a
 83 | legal right to occupy the property before a license may be
 84 | issued. Proof may include, but is not limited to, copies of



85 warranty deeds, lease or rental agreements, contracts for deeds,
 86 or quitclaim deeds.

87 Section 3. Subsection (1) of section 400.414, Florida
 88 Statutes, is amended to read:

89 400.414 Denial, revocation, or suspension of license;
 90 imposition of administrative fine; grounds.--

91 (1) The agency may deny, revoke, or suspend any license
 92 issued under this part, or impose an administrative fine in the
 93 manner provided in chapter 120, for any of the following actions
 94 by an assisted living facility, for the actions of any person
 95 subject to level 2 background screening under s. 400.4174, or
 96 for the actions of any facility employee:

97 (a) An intentional or negligent act seriously affecting
 98 the health, safety, or welfare of a resident of the facility.

99 (b) The determination by the agency that the owner lacks
 100 the financial ability to provide continuing adequate care to
 101 residents.

102 (c) Misappropriation or conversion of the property of a
 103 resident of the facility.

104 (d) Failure to follow the criteria and procedures provided
 105 under part I of chapter 394 relating to the transportation,
 106 voluntary admission, and involuntary examination of a facility
 107 resident.

108 (e) A citation of any of the following deficiencies as
 109 defined in s. 400.419:

110 1. One or more cited class I deficiencies.

111 2. Three or more cited class II deficiencies.



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112 3. Five or more cited class III deficiencies that have
113 been cited on a single survey and have not been corrected within
114 the times specified ~~One or more class I, three or more class II,~~
115 ~~or five or more repeated or recurring identical or similar class~~
116 ~~III violations that are similar or identical to violations which~~
117 ~~were identified by the agency within the last 2 years.~~

118 (f) A determination that a person subject to level 2
119 background screening under s. 400.4174(1) does not meet the
120 screening standards of s. 435.04 or that the facility is
121 retaining an employee subject to level 1 background screening
122 standards under s. 400.4174(2) who does not meet the screening
123 standards of s. 435.03 and for whom exemptions from
124 disqualification have not been provided by the agency.

125 (g) A determination that an employee, volunteer,
126 administrator, or owner, or person who otherwise has access to
127 the residents of a facility does not meet the criteria specified
128 in s. 435.03(2), and the owner or administrator has not taken
129 action to remove the person. Exemptions from disqualification
130 may be granted as set forth in s. 435.07. No administrative
131 action may be taken against the facility if the person is
132 granted an exemption.

133 (h) Violation of a moratorium.

134 (i) Failure of the license applicant, the licensee during
135 relicensure, or a licensee that holds a provisional license to
136 meet the minimum license requirements of this part, or related
137 rules, at the time of license application or renewal.

138 (j) A fraudulent statement or omission of any material
139 fact on an application for a license or any other document



140 required by the agency, including the submission of a license
 141 application that conceals the fact that any board member,
 142 officer, or person owning 5 percent or more of the facility may
 143 not meet the background screening requirements of s. 400.4174,
 144 or that the applicant has been excluded, permanently suspended,
 145 or terminated from the Medicaid or Medicare programs.

146 (k) An intentional or negligent life-threatening act in
 147 violation of the uniform firesafety standards for assisted
 148 living facilities or other firesafety standards that threatens
 149 the health, safety, or welfare of a resident of a facility, as
 150 communicated to the agency by the local authority having
 151 jurisdiction or the State Fire Marshal.

152 (l) Exclusion, permanent suspension, or termination from
 153 the Medicare or Medicaid programs.

154 (m) Knowingly operating any unlicensed facility or
 155 providing without a license any service that must be licensed
 156 under this chapter.

157 (n) Any act constituting a ground upon which application
 158 for a license may be denied.

159
 160 Administrative proceedings challenging agency action under this
 161 subsection shall be reviewed on the basis of the facts and
 162 conditions that resulted in the agency action.

163 Section 4. Subsection (1) of section 400.417, Florida
 164 Statutes, is amended to read:

165 400.417 Expiration of license; renewal; conditional
 166 license.--



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167 (1) Biennial licenses, unless sooner suspended or revoked,
168 shall expire 2 years from the date of issuance. Limited nursing,
169 extended congregate care, and limited mental health licenses
170 shall expire at the same time as the facility's standard
171 license, regardless of when issued. The agency shall notify the
172 facility ~~by certified mail~~ at least 120 days prior to expiration
173 that a renewal license is necessary to continue operation. The
174 notification must be provided electronically or by mail
175 delivery. Ninety days prior to the expiration date, an
176 application for renewal shall be submitted to the agency. Fees
177 must be prorated. The failure to file a timely renewal
178 application shall result in a late fee charged to the facility
179 in an amount equal to 50 percent of the current fee.

180 Section 5. Section 400.419, Florida Statutes, is amended
181 to read:

182 400.419 Violations; imposition of administrative fines;
183 grounds.--

184 (1) The agency shall impose an administrative fine in the
185 manner provided in chapter 120 for any of the actions or
186 violations as set forth within this section by an assisted
187 living facility, for the actions of any person subject to level
188 2 background screening under s. 400.4174, for the actions of any
189 facility employee, or for an intentional or negligent act
190 seriously affecting the health, safety, or welfare of a resident
191 of the facility.

192 (2)~~(1)~~ Each violation of this part and adopted rules shall
193 be classified according to the nature of the violation and the
194 gravity of its probable effect on facility residents. The agency



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195 shall indicate the classification on the written notice of the
196 violation as follows:

197 (a) Class "I" violations are those conditions or
198 occurrences related to the operation and maintenance of a
199 facility or to the personal care of residents which the agency
200 determines present an imminent danger to the residents or guests
201 of the facility or a substantial probability that death or
202 serious physical or emotional harm would result therefrom. The
203 condition or practice constituting a class I violation shall be
204 abated or eliminated within 24 hours, unless a fixed period, as
205 determined by the agency, is required for correction. The agency
206 shall impose an administrative fine for a cited class I
207 ~~violation is subject to an administrative fine~~ in an amount not
208 less than \$5,000 and not exceeding \$10,000 for each violation. A
209 fine may be levied notwithstanding the correction of the
210 violation.

211 (b) Class "II" violations are those conditions or
212 occurrences related to the operation and maintenance of a
213 facility or to the personal care of residents which the agency
214 determines directly threaten the physical or emotional health,
215 safety, or security of the facility residents, other than class
216 I violations. The agency shall impose an administrative fine for
217 a cited class II violation ~~is subject to an administrative fine~~
218 in an amount not less than \$1,000 and not exceeding \$5,000 for
219 each violation. A fine shall be levied notwithstanding the
220 correction of the violation ~~A citation for a class II violation~~
221 ~~must specify the time within which the violation is required to~~
222 ~~be corrected.~~



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223 (c) Class "III" violations are those conditions or
224 occurrences related to the operation and maintenance of a
225 facility or to the personal care of residents which the agency
226 determines indirectly or potentially threaten the physical or
227 emotional health, safety, or security of facility residents,
228 other than class I or class II violations. The agency shall
229 impose an administrative fine for a cited class III violation in
230 an amount ~~is subject to an administrative fine of~~ not less than
231 \$500 and not exceeding \$1,000 for each violation. A citation for
232 a class III violation must specify the time within which the
233 violation is required to be corrected. If a class III violation
234 is corrected within the time specified, no fine may be imposed,
235 unless it is a repeated offense.

236 (d) Class "IV" violations are those conditions or
237 occurrences related to the operation and maintenance of a
238 building or to required reports, forms, or documents that do not
239 have the potential of negatively affecting residents. These
240 violations are of a type that the agency determines do not
241 threaten the health, safety, or security of residents of the
242 facility. The agency shall impose an administrative fine for a
243 cited class IV violation in an amount ~~A facility that does not~~
244 ~~correct a class IV violation within the time specified in the~~
245 ~~agency approved corrective action plan is subject to an~~
246 ~~administrative fine of~~ not less than \$100 and not exceeding ~~nor~~
247 ~~more than~~ \$200 for each violation. A citation for a class IV
248 violation must specify the time within which the violation is
249 required to be corrected. If a class IV violation is corrected
250 within the time specified, no fine shall be imposed. Any class



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251 IV violation that is corrected during the time an agency survey
252 is being conducted will be identified as an agency finding and
253 not as a violation.

254 (3)~~(2)~~ In determining if a penalty is to be imposed and in
255 fixing the amount of the fine, the agency shall consider the
256 following factors:

257 (a) The gravity of the violation, including the
258 probability that death or serious physical or emotional harm to
259 a resident will result or has resulted, the severity of the
260 action or potential harm, and the extent to which the provisions
261 of the applicable laws or rules were violated.

262 (b) Actions taken by the owner or administrator to correct
263 violations.

264 (c) Any previous violations.

265 (d) The financial benefit to the facility of committing or
266 continuing the violation.

267 (e) The licensed capacity of the facility.

268 (4)~~(3)~~ Each day of continuing violation after the date
269 fixed for termination of the violation, as ordered by the
270 agency, constitutes an additional, separate, and distinct
271 violation.

272 (5)~~(4)~~ Any action taken to correct a violation shall be
273 documented in writing by the owner or administrator of the
274 facility and verified through followup visits by agency
275 personnel. The agency may impose a fine and, in the case of an
276 owner-operated facility, revoke or deny a facility's license
277 when a facility administrator fraudulently misrepresents action
278 taken to correct a violation.



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279 (6)~~(5)~~ For fines that are upheld following administrative
280 or judicial review, the violator shall pay the fine, plus
281 interest at the rate as specified in s. 55.03, for each day
282 beyond the date set by the agency for payment of the fine.

283 (7)~~(6)~~ Any unlicensed facility that continues to operate
284 after agency notification is subject to a \$1,000 fine per day.

285 (8)~~(7)~~ Any licensed facility whose owner or administrator
286 concurrently operates an unlicensed facility shall be subject to
287 an administrative fine of \$5,000 per day.

288 (9)~~(8)~~ Any facility whose owner fails to apply for a
289 change-of-ownership license in accordance with s. 400.412 and
290 operates the facility under the new ownership is subject to a
291 fine of \$5,000.

292 (10)~~(9)~~ In addition to any administrative fines imposed,
293 the agency may assess a survey fee, equal to the lesser of one
294 half of the facility's biennial license and bed fee or \$500, to
295 cover the cost of conducting initial complaint investigations
296 that result in the finding of a violation that was the subject
297 of the complaint or monitoring visits conducted under s.
298 400.428(3)(c) to verify the correction of the violations.

299 (11)~~(10)~~ The agency, as an alternative to or in
300 conjunction with an administrative action against a facility for
301 violations of this part and adopted rules, shall make a
302 reasonable attempt to discuss each violation and recommended
303 corrective action with the owner or administrator of the
304 facility, prior to written notification. The agency, instead of
305 fixing a period within which the facility shall enter into
306 compliance with standards, may request a plan of corrective



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307 | action from the facility which demonstrates a good faith effort
308 | to remedy each violation by a specific date, subject to the
309 | approval of the agency.

310 | (12)~~(11)~~ Administrative fines paid by any facility under
311 | this section shall be deposited into the Health Care Trust Fund
312 | and expended as provided in s. 400.418.

313 | (13)~~(12)~~ The agency shall develop and disseminate an
314 | annual list of all facilities sanctioned or fined \$5,000 or more
315 | for violations of state standards, the number and class of
316 | violations involved, the penalties imposed, and the current
317 | status of cases. The list shall be disseminated, at no charge,
318 | to the Department of Elderly Affairs, the Department of Health,
319 | the Department of Children and Family Services, the area
320 | agencies on aging, the Florida Statewide Advocacy Council, and
321 | the state and local ombudsman councils. The Department of
322 | Children and Family Services shall disseminate the list to
323 | service providers under contract to the department who are
324 | responsible for referring persons to a facility for residency.
325 | The agency may charge a fee commensurate with the cost of
326 | printing and postage to other interested parties requesting a
327 | copy of this list.

328 | Section 6. Subsections (1) and (2) of section 400.0239,
329 | Florida Statutes, are amended to read:

330 | 400.0239 Quality of Long-Term Care Facility Improvement
331 | Trust Fund.--

332 | (1) There is created within the Agency for Health Care
333 | Administration a Quality of Long-Term Care Facility Improvement
334 | Trust Fund to support activities and programs directly related



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335 to improvement of the care of nursing home and assisted living
336 facility residents. The trust fund shall be funded through
337 proceeds generated pursuant to ss. 400.0238 and 400.4298,
338 through funds specifically appropriated by the Legislature, ~~and~~
339 through gifts, endowments, and other charitable contributions
340 allowed under federal and state law, and through federal nursing
341 home civil monetary penalties collected by the Centers for
342 Medicare and Medicaid Services and returned to the state. These
343 funds must be utilized in accordance with federal requirements.

344 (2) Expenditures from the trust fund shall be allowable
345 for direct support of the following:

346 (a) Development and operation of a mentoring program, in
347 consultation with the Department of Health and the Department of
348 Elderly Affairs, for increasing the competence, professionalism,
349 and career preparation of long-term care facility direct care
350 staff, including nurses, nursing assistants, and social service
351 and dietary personnel.

352 (b) Development and implementation of specialized training
353 programs for long-term care facility personnel who provide
354 direct care for residents with Alzheimer's disease and other
355 dementias, residents at risk of developing pressure sores, and
356 residents with special nutrition and hydration needs.

357 (c) Addressing areas of deficient practice identified
358 through regulation or state monitoring.

359 (d)-(e) Provision of economic and other incentives to
360 enhance the stability and career development of the nursing home
361 direct care workforce, including paid sabbaticals for exemplary
362 direct care career staff to visit facilities throughout the



363 state to train and motivate younger workers to commit to careers
364 in long-term care.

365 (e)~~(d)~~ Promotion and support for the formation and active
366 involvement of resident and family councils in the improvement
367 of nursing home care.

368 (f) Evaluation of special residents' needs in long-term
369 care facilities, including challenges in meeting special
370 residents' needs, appropriateness of placement and setting, and
371 cited deficiencies related to caring for special needs.

372 (g) Other initiatives authorized by the Centers for
373 Medicare and Medicaid Services for the use of federal civil
374 monetary penalties, including projects recommended through the
375 Medicaid "Up-or-Out" Quality of Care Contract Management Program
376 pursuant to s. 400.148.

377 Section 7. Paragraph (d) of subsection (15) of section
378 400.141, Florida Statutes, is amended, and a new paragraph (e)
379 is added to said subsection, to read:

380 400.141 Administration and management of nursing home
381 facilities.--Every licensed facility shall comply with all
382 applicable standards and rules of the agency and shall:

383 (15) Submit semiannually to the agency, or more frequently
384 if requested by the agency, information regarding facility
385 staff-to-resident ratios, staff turnover, and staff stability,
386 including information regarding certified nursing assistants,
387 licensed nurses, the director of nursing, and the facility
388 administrator. For purposes of this reporting:

389 (d) A nursing facility that has failed to maintain
390 certified nursing assistant staffing of at least 95 percent of



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391 the ~~comply with~~ state minimum-staffing requirements on any day
392 or has certified nursing assistant staffing that is below the
393 minimum requirements provided in s. 400.23(3)(a) for 2
394 consecutive days is prohibited from accepting new admissions
395 until the facility has achieved the minimum-staffing
396 requirements for a period of 6 consecutive days. For the
397 purposes of this paragraph, any person who was a resident of the
398 facility and was absent from the facility for the purpose of
399 receiving medical care at a separate location or was on a leave
400 of absence is not considered a new admission. Failure to impose
401 such an admissions moratorium constitutes a class II deficiency.

402 (e) A nursing facility may be cited for failure to comply
403 with the standards for certified nursing assistants in s.
404 400.23(3)(a) only if it has failed to meet those standards on 2
405 consecutive days or if it has failed to meet at least 95 percent
406 of those standards on any one day. Nothing in this section shall
407 limit the agency's ability to impose a deficiency or take other
408 actions if a facility does not have enough staff to meet the
409 residents' needs.

410
411 Facilities that have been awarded a Gold Seal under the program
412 established in s. 400.235 may develop a plan to provide
413 certified nursing assistant training as prescribed by federal
414 regulations and state rules and may apply to the agency for
415 approval of their program.

416 Section 8. Paragraph (b) of subsection (5) of section
417 400.235, Florida Statutes, is amended to read:



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418 400.235 Nursing home quality and licensure status; Gold
419 Seal Program.--

420 (5) Facilities must meet the following additional criteria
421 for recognition as a Gold Seal Program facility:

422 (b) Evidence financial soundness and stability according
423 to standards adopted by the agency in administrative rule. Such
424 standards must include, but not be limited to, criteria for the
425 use of financial statements that are prepared in accordance with
426 generally accepted accounting principles and that are reviewed
427 or audited by certified public accountants.

428
429 A facility assigned a conditional licensure status may not
430 qualify for consideration for the Gold Seal Program until after
431 it has operated for 30 months with no class I or class II
432 deficiencies and has completed a regularly scheduled relicensure
433 survey.

434 Section 9. Subsections (1), (2), (7), (8), and (9) of
435 section 400.452, Florida Statutes, are amended to read:

436 400.452 Staff training and educational programs; core
437 educational requirement.--

438 (1) The department shall ensure that ~~provide, or cause to~~
439 ~~be provided, training and educational programs for the~~
440 administrators and other assisted living facility staff have met
441 training and education requirements that ~~to better~~ enable them
442 to appropriately respond to the needs of residents, to maintain
443 resident care and facility standards, and to meet licensure
444 requirements.



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445 (2) The department shall ~~also~~ establish a core educational
446 requirement ~~to be used in these programs~~. Successful completion
447 of the core educational requirement must include successful
448 completion of a competency test. ~~Programs must be provided by~~
449 ~~the department or by a provider approved by the department at~~
450 ~~least quarterly~~. The core educational requirement must cover at
451 least the following topics:

452 (a) State law and rules relating to assisted living
453 facilities.

454 (b) Resident rights and identifying and reporting abuse,
455 neglect, and exploitation.

456 (c) Special needs of elderly persons, persons with mental
457 illness, and persons with developmental disabilities and how to
458 meet those needs.

459 (d) Nutrition and food service, including acceptable
460 sanitation practices for preparing, storing, and serving food.

461 (e) Medication management, recordkeeping, and proper
462 techniques for assisting residents with self-administered
463 medication.

464 (f) Firesafety requirements, including fire evacuation
465 drill procedures and other emergency procedures.

466 (g) Care of persons with Alzheimer's disease and related
467 disorders.

468 ~~(7) A facility that does not have any residents who~~
469 ~~receive monthly optional supplementation payments must pay a~~
470 ~~reasonable fee for such training and education programs. A~~
471 ~~facility that has one or more such residents shall pay a reduced~~
472 ~~fee that is proportional to the percentage of such residents in~~



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473 ~~the facility. Any facility more than 90 percent of whose~~
474 ~~residents receive monthly optional state supplementation~~
475 ~~payments is not required to pay for the training and continuing~~
476 ~~education programs required under this section.~~

477 (7)~~(8)~~ If the department or the agency determines that
478 there are problems in a facility that could be reduced through
479 specific staff training or education beyond that already
480 required under this section, the department or the agency may
481 require, and provide, or cause to be provided, the training or
482 education of any personal care staff in the facility.

483 (8)~~(9)~~ The department shall adopt rules to establish
484 training programs, standards and curriculum for training, staff
485 training requirements, procedures for approving training
486 programs, and training fees.

487 Section 10. Subsections (7), (8), and (9) are added to
488 section 430.502, Florida Statutes, to read:

489 430.502 Alzheimer's disease; memory disorder clinics and
490 day care and respite care programs.--

491 (7) The Agency for Health Care Administration and the
492 department shall seek a federal waiver to implement a Medicaid
493 home and community-based waiver targeted to persons with
494 Alzheimer's disease to test the effectiveness of Alzheimer's
495 specific interventions to delay or to avoid institutional
496 placement.

497 (8) The department will implement the waiver program
498 specified in subsection (7). The agency and the department shall
499 ensure that providers are selected that have a history of
500 successfully serving persons with Alzheimer's disease. The



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501 department and the agency shall develop specialized standards
502 for providers and services tailored to persons in the early,
503 middle, and late stages of Alzheimer's disease and designate a
504 level of care determination process and standard that is most
505 appropriate to this population. The department and the agency
506 shall include in the waiver services designed to assist the
507 caregiver in continuing to provide in-home care. The department
508 shall implement this waiver program subject to a specific
509 appropriation or as provided in the General Appropriations Act.
510 The department and the agency shall submit their program design
511 to the President of the Senate and the Speaker of the House of
512 Representatives for consultation during the development process.

513 (9) Authority to continue the waiver program specified in
514 subsection (7) shall be automatically eliminated at the close of
515 the 2008 Regular Session of the Legislature unless further
516 legislative action is taken to continue it prior to such time.

517 Section 11. Subsection (1) of section 400.557, Florida
518 Statutes, is amended to read:

519 400.557 Expiration of license; renewal; conditional
520 license or permit.--

521 (1) A license issued for the operation of an adult day
522 care center, unless sooner suspended or revoked, expires 2 years
523 after the date of issuance. The agency shall notify a licensee
524 ~~by certified mail, return receipt requested,~~ at least 120 days
525 before the expiration date that license renewal is required to
526 continue operation. The notification must be provided
527 electronically or by mail delivery. At least 90 days prior to
528 the expiration date, an application for renewal must be



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529 submitted to the agency. A license shall be renewed, upon the
 530 filing of an application on forms furnished by the agency, if
 531 the applicant has first met the requirements of this part and of
 532 the rules adopted under this part. The applicant must file with
 533 the application satisfactory proof of financial ability to
 534 operate the center in accordance with the requirements of this
 535 part and in accordance with the needs of the participants to be
 536 served and an affidavit of compliance with the background
 537 screening requirements of s. 400.5572.

538 Section 12. Subsection (3) of section 400.619, Florida
 539 Statutes, is amended to read:

540 400.619 Licensure application and renewal.--

541 (3) The agency shall notify a licensee at least 120 days
 542 before the expiration date that license renewal is required to
 543 continue operation. The notification must be provided
 544 electronically or by mail delivery. Application for a license or
 545 annual license renewal must be made on a form provided by the
 546 agency, signed under oath, and must be accompanied by a
 547 licensing fee of \$100 per year.

548 Section 13. Subsection (4) of section 400.980, Florida
 549 Statutes, is reenacted and amended to read:

550 400.980 Health care services pools.--

551 (4) Each applicant for registration must comply with the
 552 following requirements:

553 (a) Upon receipt of a completed, signed, and dated
 554 application, the agency shall require background screening, in
 555 accordance with the level 1 standards for screening set forth in
 556 chapter 435, of every individual who will have contact with



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557 patients. The agency shall require background screening of the
558 managing employee or other similarly titled individual who is
559 responsible for the operation of the entity, and of the
560 financial officer or other similarly titled individual who is
561 responsible for the financial operation of the entity, including
562 billings for services in accordance with the level 2 standards
563 for background screening as set forth in chapter 435.

564 (b) The agency may require background screening of any
565 other individual who is affiliated with the applicant if the
566 agency has a reasonable basis for believing that he or she has
567 been convicted of a crime or has committed any other offense
568 prohibited under the level 2 standards for screening set forth
569 in chapter 435.

570 (c) Proof of compliance with the level 2 background
571 screening requirements of chapter 435 which has been submitted
572 within the previous 5 years in compliance with any other health
573 care or assisted living licensure requirements of this state is
574 acceptable in fulfillment of paragraph (a).

575 (d) A provisional registration may be granted to an
576 applicant when each individual required by this section to
577 undergo background screening has met the standards for the
578 Department of Law Enforcement background check but the agency
579 has not yet received background screening results from the
580 Federal Bureau of Investigation. A standard registration may be
581 granted to the applicant upon the agency's receipt of a report
582 of the results of the Federal Bureau of Investigation background
583 screening for each individual required by this section to
584 undergo background screening which confirms that all standards



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585 have been met, or upon the granting of a disqualification
586 exemption by the agency as set forth in chapter 435. Any other
587 person who is required to undergo level 2 background screening
588 may serve in his or her capacity pending the agency's receipt of
589 the report from the Federal Bureau of Investigation. However,
590 the person may not continue to serve if the report indicates any
591 violation of background screening standards and if a
592 disqualification exemption has not been requested of and granted
593 by the agency as set forth in chapter 435.

594 (e) Each applicant must submit to the agency, with its
595 application, a description and explanation of any exclusions,
596 permanent suspensions, or terminations of the applicant from the
597 Medicare or Medicaid programs. Proof of compliance with the
598 requirements for disclosure of ownership and controlling
599 interests under the Medicaid or Medicare programs may be
600 accepted in lieu of this submission.

601 (f) Each applicant must submit to the agency a description
602 and explanation of any conviction of an offense prohibited under
603 the level 2 standards of chapter 435 which was committed by a
604 member of the board of directors of the applicant, its officers,
605 or any individual owning 5 percent or more of the applicant.
606 This requirement does not apply to a director of a not-for-
607 profit corporation or organization who serves solely in a
608 voluntary capacity for the corporation or organization, does not
609 regularly take part in the day-to-day operational decisions of
610 the corporation or organization, receives no remuneration for
611 his or her services on the corporation's or organization's board
612 of directors, and has no financial interest and no family



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613 members having a financial interest in the corporation or
614 organization, if the director and the not-for-profit corporation
615 or organization include in the application a statement affirming
616 that the director's relationship to the corporation satisfies
617 the requirements of this paragraph.

618 (g) A registration may not be granted to an applicant if
619 the applicant or managing employee has been found guilty of,
620 regardless of adjudication, or has entered a plea of nolo
621 contendere or guilty to, any offense prohibited under the level
622 2 standards for screening set forth in chapter 435, unless an
623 exemption from disqualification has been granted by the agency
624 as set forth in chapter 435.

625 ~~(h) The provisions of this section which require an~~
626 ~~applicant for registration to undergo background screening shall~~
627 ~~stand repealed on June 30, 2001, unless reviewed and saved from~~
628 ~~repeal through reenactment by the Legislature.~~

629 (h)(i) Failure to provide all required documentation
630 within 30 days after a written request from the agency will
631 result in denial of the application for registration.

632 (i)(j) The agency must take final action on an application
633 for registration within 60 days after receipt of all required
634 documentation.

635 (j)(k) The agency may deny, revoke, or suspend the
636 registration of any applicant or registrant who:

637 1. Has falsely represented a material fact in the
638 application required by paragraph (e) or paragraph (f), or has
639 omitted any material fact from the application required by
640 paragraph (e) or paragraph (f); or



- 641 2. Has had prior action taken against the applicant under
- 642 the Medicaid or Medicare program as set forth in paragraph (e).
- 643 3. Fails to comply with this section or applicable rules.
- 644 4. Commits an intentional, reckless, or negligent act that
- 645 materially affects the health or safety of a person receiving
- 646 services.

647 Section 14. Section 408.061, Florida Statutes, is amended
648 to read:

649 408.061 Data collection; uniform systems of financial
650 reporting; information relating to physician charges;
651 confidential information; immunity.--

652 (1) The agency may require the submission by health care
653 facilities, health care providers, and health insurers of data
654 necessary to carry out the agency's duties. Specifications for
655 data to be collected under this section shall be developed by
656 the agency with the assistance of technical advisory panels
657 including representatives of affected entities, consumers,
658 purchasers, and such other interested parties as may be
659 determined by the agency.

660 (a) Data to be submitted by health care facilities may
661 include, but are not limited to: case-mix data, patient
662 admission or discharge data with patient and provider-specific
663 identifiers included, actual charge data by diagnostic groups,
664 financial data, accounting data, operating expenses, expenses
665 incurred for rendering services to patients who cannot or do not
666 pay, interest charges, depreciation expenses based on the
667 expected useful life of the property and equipment involved, and
668 demographic data. Data may be obtained from documents such as,



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669 but not limited to: leases, contracts, debt instruments,
670 itemized patient bills, medical record abstracts, and related
671 diagnostic information.

672 (b) Data to be submitted by health care providers may
673 include, but are not limited to: Medicare and Medicaid
674 participation, types of services offered to patients, amount of
675 revenue and expenses of the health care provider, and such other
676 data which are reasonably necessary to study utilization
677 patterns.

678 (c) Data to be submitted by health insurers may include,
679 but are not limited to: claims, premium, administration, and
680 financial information.

681 (d) Data required to be submitted by health care
682 facilities, health care providers, or health insurers shall not
683 include specific provider contract reimbursement information.
684 However, such specific provider reimbursement data shall be
685 reasonably available for onsite inspection by the agency as is
686 necessary to carry out the agency's regulatory duties. Any such
687 data obtained by the agency as a result of onsite inspections
688 may not be used by the state for purposes of direct provider
689 contracting and are confidential and exempt from the provisions
690 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

691 (e) A requirement to submit data shall be adopted by rule
692 if the submission of data is being required of all members of
693 any type of health care facility, health care provider, or
694 health insurer. Rules are not required, however, for the
695 submission of data for a special study mandated by the



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696 Legislature or when information is being requested for a single
697 health care facility, health care provider, or health insurer.

698 (2) The agency shall, by rule, after consulting with
699 appropriate professional and governmental advisory bodies and
700 holding public hearings and considering existing and proposed
701 systems of accounting and reporting utilized by health care
702 facilities, specify a uniform system of financial reporting for
703 each type of facility based on a uniform chart of accounts
704 developed after considering any chart of accounts developed by
705 the national association for such facilities and generally
706 accepted accounting principles. Such systems shall, to the
707 extent feasible, use existing accounting systems and shall
708 minimize the paperwork required of facilities. This provision
709 shall not be construed to authorize the agency to require health
710 care facilities to adopt a uniform accounting system. As a part
711 of such uniform system of financial reporting, the agency may
712 require the filing of any information relating to the cost to
713 the provider and the charge to the consumer of any service
714 provided in such facility, except the cost of a physician's
715 services which is billed independently of the facility.

716 (3) When more than one licensed facility is operated by
717 the reporting organization, the information required by this
718 section shall be reported for each facility separately.

719 (4)~~(a)~~ Within 120 days after the end of its fiscal year,
720 each health care facility, excluding continuing care facilities
721 and nursing homes as defined in s. 408.07(14) and (36), shall
722 file with the agency, on forms adopted by the agency and based
723 on the uniform system of financial reporting, its actual



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724 financial experience for that fiscal year, including
725 expenditures, revenues, and statistical measures. Such data may
726 be based on internal financial reports which are certified to be
727 complete and accurate by the provider. However, hospitals'
728 actual financial experience shall be their audited actual
729 experience. ~~Nursing homes that do not participate in the~~
730 ~~Medicare or Medicaid programs shall also submit audited actual~~
731 ~~experience.~~ Every nursing home shall submit to the agency, in a
732 format designated by the agency, a statistical profile of the
733 nursing home residents. The agency, in conjunction with the
734 Department of Elderly Affairs and the Department of Health,
735 shall review these statistical profiles and develop
736 recommendations for the types of residents who might more
737 appropriately be placed in their homes or other noninstitutional
738 settings.

739 ~~(b) Each nursing home shall also submit a schedule of the~~
740 ~~charges in effect at the beginning of the fiscal year and any~~
741 ~~changes that were made during the fiscal year. A nursing home~~
742 ~~which is certified under Title XIX of the Social Security Act~~
743 ~~and files annual Medicaid cost reports may substitute copies of~~
744 ~~such reports and any Medicaid audits to the agency in lieu of a~~
745 ~~report and audit required under this subsection. For such~~
746 ~~facilities, the agency may require only information in~~
747 ~~compliance with this chapter that is not contained in the~~
748 ~~Medicaid cost report. Facilities that are certified under Title~~
749 ~~XVIII, but not Title XIX, of the Social Security Act must submit~~
750 ~~a report as developed by the agency. This report shall be~~
751 ~~substantially the same as the Medicaid cost report and shall not~~



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752 ~~require any more information than is contained in the Medicare~~
753 ~~cost report unless that information is required of all nursing~~
754 ~~homes. The audit under Title XVIII shall satisfy the audit~~
755 ~~requirement under this subsection.~~

756 (5) In addition to information submitted in accordance
757 with subsection (4), each nursing home shall track and file with
758 the agency, on a form adopted by the agency, data related to
759 each resident's admission, discharge, or conversion to Medicaid;
760 health and functional status; plan of care; and other
761 information pertinent to the resident's placement in a nursing
762 home.

763 ~~(6) Any nursing home which assesses residents a separate~~
764 ~~charge for personal laundry services shall submit to the agency~~
765 ~~data on the monthly charge for such services, excluding~~
766 ~~drycleaning. For facilities that charge based on the amount of~~
767 ~~laundry, the most recent schedule of charges and the average~~
768 ~~monthly charge shall be submitted to the agency.~~

769 (6)~~(7)~~ The agency may require other reports based on the
770 uniform system of financial reporting necessary to accomplish
771 the purposes of this chapter.

772 (7)~~(8)~~ Portions of patient records obtained or generated
773 by the agency containing the name, residence or business
774 address, telephone number, social security or other identifying
775 number, or photograph of any person or the spouse, relative, or
776 guardian of such person, or any other identifying information
777 which is patient-specific or otherwise identifies the patient,
778 either directly or indirectly, are confidential and exempt from



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779 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
780 Constitution.

781 (8)~~(9)~~ The identity of any health care provider, health
782 care facility, or health insurer who submits any data which is
783 proprietary business information to the agency pursuant to the
784 provisions of this section shall remain confidential and exempt
785 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
786 State Constitution. As used in this section, "proprietary
787 business information" shall include, but not be limited to,
788 information relating to specific provider contract reimbursement
789 information; information relating to security measures, systems,
790 or procedures; and information concerning bids or other
791 contractual data, the disclosure of which would impair efforts
792 to contract for goods or services on favorable terms or would
793 injure the affected entity's ability to compete in the
794 marketplace. Notwithstanding the provisions of this subsection,
795 any information obtained or generated pursuant to the provisions
796 of former s. 407.61, either by the former Health Care Cost
797 Containment Board or by the Agency for Health Care
798 Administration upon transfer to that agency of the duties and
799 functions of the former Health Care Cost Containment Board, is
800 not confidential and exempt from the provisions of s. 119.07(1)
801 and s. 24(a), Art. I of the State Constitution. Such proprietary
802 business information may be used in published analyses and
803 reports or otherwise made available for public disclosure in
804 such manner as to preserve the confidentiality of the identity
805 of the provider. This exemption shall not limit the use of any



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806 information used in conjunction with investigation or
807 enforcement purposes under the provisions of s. 456.073.

808 (9)~~(10)~~ No health care facility, health care provider,
809 health insurer, or other reporting entity or its employees or
810 agents shall be held liable for civil damages or subject to
811 criminal penalties either for the reporting of patient data to
812 the agency or for the release of such data by the agency as
813 authorized by this chapter.

814 (10)~~(11)~~ The agency shall be the primary source for
815 collection and dissemination of health care data. No other
816 agency of state government may gather data from a health care
817 provider licensed or regulated under this chapter without first
818 determining if the data is currently being collected by the
819 agency and affirmatively demonstrating that it would be more
820 cost-effective for an agency of state government other than the
821 agency to gather the health care data. The director shall ensure
822 that health care data collected by the divisions within the
823 agency is coordinated. It is the express intent of the
824 Legislature that all health care data be collected by a single
825 source within the agency and that other divisions within the
826 agency, and all other agencies of state government, obtain data
827 for analysis, regulation, and public dissemination purposes from
828 that single source. Confidential information may be released to
829 other governmental entities or to parties contracting with the
830 agency to perform agency duties or functions as needed in
831 connection with the performance of the duties of the receiving
832 entity. The receiving entity or party shall retain the
833 confidentiality of such information as provided for herein.



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834 (11)~~(12)~~ The agency shall cooperate with local health
835 councils and the state health planning agency with regard to
836 health care data collection and dissemination and shall
837 cooperate with state agencies in any efforts to establish an
838 integrated health care database.

839 (12)~~(13)~~ It is the policy of this state that philanthropic
840 support for health care should be encouraged and expanded,
841 especially in support of experimental and innovative efforts to
842 improve the health care delivery system.

843 (13)~~(14)~~ For purposes of determining reasonable costs of
844 services furnished by health care facilities, unrestricted
845 grants, gifts, and income from endowments shall not be deducted
846 from any operating costs of such health care facilities, and, in
847 addition, the following items shall not be deducted from any
848 operating costs of such health care facilities:

849 (a) An unrestricted grant or gift, or income from such a
850 grant or gift, which is not available for use as operating funds
851 because of its designation by the health care facility's
852 governing board.

853 (b) A grant or similar payment which is made by a
854 governmental entity and which is not available, under the terms
855 of the grant or payment, for use as operating funds.

856 (c) The sale or mortgage of any real estate or other
857 capital assets of the health care facility which the health care
858 facility acquired through a gift or grant and which is not
859 available for use as operating funds under the terms of the gift
860 or grant or because of its designation by the health care
861 facility's governing board, except for recovery of the



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862 appropriate share of gains and losses realized from the disposal
863 of depreciable assets.

864 Section 15. Section 408.062, Florida Statutes, is amended
865 to read:

866 408.062 Research, analyses, studies, and reports.--

867 (1) The agency shall have the authority to conduct
868 research, analyses, and studies relating to health care costs
869 and access to and quality of health care services as access and
870 quality are affected by changes in health care costs. Such
871 research, analyses, and studies shall include, but not be
872 limited to, research and analysis relating to:

873 (a) The financial status of any health care facility or
874 facilities subject to the provisions of this chapter.

875 (b) The impact of uncompensated charity care on health
876 care facilities and health care providers.

877 (c) The state's role in assisting to fund indigent care.

878 (d) The availability and affordability of health insurance
879 for small businesses.

880 (e) Total health care expenditures in the state according
881 to the sources of payment and the type of expenditure.

882 (f) The quality of health services, using techniques such
883 as small area analysis, severity adjustments, and risk-adjusted
884 mortality rates.

885 (g) The development of physician payment systems which are
886 capable of taking into account the amount of resources consumed
887 and the outcomes produced in the delivery of care.



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888 (h) The impact of subacute admissions on hospital revenues
889 and expenses for purposes of calculating adjusted admissions as
890 defined in s. 408.07.

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

893 ~~(a) Total revenues, annual change in revenues, and~~
894 ~~revenues by source and classification, including contributions~~
895 ~~for a resident's care from the resident's resources and from the~~
896 ~~family and contributions not directed toward any specific~~
897 ~~resident's care.~~

898 ~~(b) Average resident charges by geographic region, payor,~~
899 ~~and type of facility ownership.~~

900 ~~(c) Profit margins by geographic region and type of~~
901 ~~facility ownership.~~

902 ~~(d) Amount of charity care provided by geographic region~~
903 ~~and type of facility ownership.~~

904 ~~(e) Resident days by payor category.~~

905 ~~(f) Experience related to Medicaid conversion as reported~~
906 ~~under s. 408.061.~~

907 ~~(g) Other information pertaining to nursing home revenues~~
908 ~~and expenditures.~~

909
910 ~~The findings of the agency shall be included in an annual report~~
911 ~~to the Governor and Legislature by January 1 each year.~~

912 (2)~~(3)~~ The agency may assess annually the caesarean
913 section rate in Florida hospitals using the analysis methodology
914 that the agency determines most appropriate. To assist the
915 agency in determining the impact of this chapter on Florida



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916 hospitals' caesarean section rates, each provider hospital, as
917 defined in s. 383.336, shall notify the agency of the date of
918 implementation of the practice parameters and the date of the
919 first meeting of the hospital peer review board created pursuant
920 to this chapter. The agency shall use these dates in monitoring
921 any change in provider hospital caesarean section rates. An
922 annual report based on this monitoring and assessment shall be
923 submitted to the Governor, the Speaker of the House of
924 Representatives, and the President of the Senate by the agency,
925 with the first annual report due January 1, 1993.

926 (3)~~(4)~~ The agency may also prepare such summaries and
927 compilations or other supplementary reports based on the
928 information analyzed by the agency under this section, as will
929 advance the purposes of this chapter.

930 (4)~~(5)~~(a) The agency may conduct data-based studies and
931 evaluations and make recommendations to the Legislature and the
932 Governor concerning exemptions, the effectiveness of limitations
933 of referrals, restrictions on investment interests and
934 compensation arrangements, and the effectiveness of public
935 disclosure. Such analysis may include, but need not be limited
936 to, utilization of services, cost of care, quality of care, and
937 access to care. The agency may require the submission of data
938 necessary to carry out this duty, which may include, but need
939 not be limited to, data concerning ownership, Medicare and
940 Medicaid, charity care, types of services offered to patients,
941 revenues and expenses, patient-encounter data, and other data
942 reasonably necessary to study utilization patterns and the
943 impact of health care provider ownership interests in health-



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944 care-related entities on the cost, quality, and accessibility of
945 health care.

946 (b) The agency may collect such data from any health
947 facility as a special study.

948 Section 16. Subsection (2) of section 408.831, Florida
949 Statutes, is renumbered as subsection (3) and a new subsection
950 (2) is added to said section to read:

951 408.831 Denial, suspension, or revocation of a license,
952 registration, certificate, or application.--

953 (2) In reviewing any application requesting a change of
954 ownership or change of the licensee, registrant, or certificate
955 holder, the transferor shall, prior to agency approval of the
956 change, repay or make arrangements to repay any amounts owed to
957 the agency. Should the transferor fail to repay or make
958 arrangements to repay the amounts owed to the agency, the
959 issuance of a license, registration, or certificate to the
960 transferee shall be delayed until repayment or until
961 arrangements for repayment are made.

962 Section 17. Subsection (1) of section 409.9116, Florida
963 Statutes, is amended to read:

964 409.9116 Disproportionate share/financial assistance
965 program for rural hospitals.--In addition to the payments made
966 under s. 409.911, the Agency for Health Care Administration
967 shall administer a federally matched disproportionate share
968 program and a state-funded financial assistance program for
969 statutory rural hospitals. The agency shall make
970 disproportionate share payments to statutory rural hospitals
971 that qualify for such payments and financial assistance payments



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972 to statutory rural hospitals that do not qualify for
 973 disproportionate share payments. The disproportionate share
 974 program payments shall be limited by and conform with federal
 975 requirements. Funds shall be distributed quarterly in each
 976 fiscal year for which an appropriation is made. Notwithstanding
 977 the provisions of s. 409.915, counties are exempt from
 978 contributing toward the cost of this special reimbursement for
 979 hospitals serving a disproportionate share of low-income
 980 patients.

981 (1) The following formula shall be used by the agency to
 982 calculate the total amount earned for hospitals that participate
 983 in the rural hospital disproportionate share program or the
 984 financial assistance program:

985
 986
$$\text{TAERH} = (\text{CCD} + \text{MDD}) / \text{TPD}$$

987
 988 Where:

989 CCD = total charity care-other, plus charity care-Hill-
 990 Burton, minus 50 percent of unrestricted tax revenue from local
 991 governments, and restricted funds for indigent care, divided by
 992 gross revenue per adjusted patient day; however, if CCD is less
 993 than zero, then zero shall be used for CCD.

994 MDD = Medicaid inpatient days plus Medicaid HMO inpatient
 995 days.

996 TPD = total inpatient days.

997 TAERH = total amount earned by each rural hospital.
 998



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999 | In computing the total amount earned by each rural hospital, the
1000 | agency must use the most recent actual data reported in
1001 | accordance with s. 408.061(4)~~(a)~~.

1002 | Section 18. This act shall take effect upon becoming a
1003 | law.