

1 A bill to be entitled
2 An act relating to health care facilities;
3 creating s. 400.0712, F.S.; authorizing the
4 Agency for Health Care Administration to issue
5 inactive licenses to nursing homes for all or a
6 portion of their beds under certain
7 circumstances; providing requirements for
8 application for and issuance of such licenses;
9 providing rulemaking authority; amending s.
10 400.071, F.S.; deleting a provision relating to
11 issuance of inactive licenses, to conform;
12 amending s. 400.021, F.S.; redefining the term
13 "resident care plan," as used in part II of ch.
14 400, F.S.; amending s. 400.23, F.S.; providing
15 that certain information from the agency must
16 be promptly updated to reflect the most current
17 agency actions; amending s. 400.211, F.S.;
18 revising inservice training requirements for
19 persons employed as nursing assistants in a
20 nursing home facility; amending s. 464.203,
21 F.S.; providing that a person must pass the
22 required background screening as a part of the
23 certification process for certified nursing
24 assistants; revising the requirements for
25 conducting the background screening; requiring
26 the Agency for Health Care Administration to
27 post information relating to background
28 screening in its database, after January 1,
29 2005; requiring that the database be available
30 to employers and prospective employers;
31 amending s. 400.215, F.S.; providing that a

1 person who has been screened under certain
2 provisions of law is not required to be
3 rescreened to be employed in a nursing home;
4 amending s. 400.441, F.S.; requiring facilities
5 to conduct a minimum number of resident
6 elopement prevention and response drills
7 annually; amending s. 400.619, F.S.; removing
8 the requirement that moneys collected by the
9 Department of Elderly Affairs be used for
10 training and education of adult family-care
11 home providers; amending s. 408.034, F.S.;
12 requiring the nursing-home-bed-need methodology
13 established by the agency by rule to include a
14 goal of maintaining a specified subdistrict
15 average occupancy rate; amending s. 408.036,
16 F.S., relating to health-care-related projects
17 subject to review for a certificate of need;
18 subjecting certain projects relating to
19 replacement of a nursing home and relocation of
20 nursing home beds to expedited review; revising
21 requirements for certain projects relating to
22 the addition of nursing home beds which are
23 exempt from review; exempting from review
24 certain projects relating to replacement of a
25 licensed nursing home bed on the same site or
26 nearby and consolidation or combination of
27 licensed nursing homes or transfer of beds
28 between licensed nursing homes within the same
29 planning subdistrict; providing rulemaking
30 authority; providing for assessment of
31 exemption-request fees; amending s. 52, ch.

1 2001-45, Laws of Florida; specifying
2 nonapplication of a moratorium on certificates
3 of need and authorizing approval of certain
4 certificates of need for certain counties under
5 certain circumstances; providing review
6 requirements and bed limitations; amending s.
7 651.118, F.S.; revising provisions relating to
8 use of sheltered nursing home beds at a
9 continuing care facility by persons who are not
10 residents of the continuing care facility;
11 amending s. 395.003, F.S.; requiring a report
12 by the Agency for Health Care Administration
13 regarding the licensure of emergency
14 departments located off the premises of
15 hospitals; prohibiting the issuance of licenses
16 for such departments before July 1, 2005;
17 amending s. 430.701, F.S.; authorizing the
18 agency to seek federal approval to limit new
19 enrollment to the diversion provider network
20 under certain circumstances; providing that the
21 Department of Elderly Affairs is not
22 constrained from approving certain service
23 expansion by an approved provider; amending s.
24 400.9935, F.S.; providing for posting of signs
25 in health care facilities relating to rewards
26 for information concerning specified crimes
27 investigated by the Division of Insurance
28 Fraud; providing for inspections by an employee
29 of the division; creating s. 395.1053, F.S.;
30 providing for posting of signs in hospitals
31 relating to rewards for information concerning

1 specified crimes investigated by the Division
2 of Insurance Fraud; providing for inspections
3 by an employee of the division; providing for
4 posting of signs in physician-operated walk-in
5 clinics relating to rewards for information
6 concerning specified crimes investigated by the
7 Division of Insurance Fraud; providing for
8 inspections by an employee of the division;
9 amending s. 400.9905, F.S.; revising the
10 definitions of "clinic" and "medical director"
11 and defining "mobile clinic" and "portable
12 equipment provider" for purposes of the Health
13 Care Clinic Act; providing that certain
14 entities providing oncology or radiation
15 therapy services are exempt from the licensure
16 requirements of part XIII of ch. 400, F.S.;
17 providing legislative intent with respect to
18 such exemption; providing for retroactive
19 application; amending s. 400.991, F.S.;
20 requiring each mobile clinic to obtain a health
21 care clinic license; requiring a portable
22 equipment provider to obtain a health care
23 clinic license for a single office and
24 exempting such a provider from submitting
25 certain information to the Agency for Health
26 Care Administration; revising the date by which
27 an initial application for a health care clinic
28 license must be filed with the agency; revising
29 the definition of "applicant"; amending s.
30 400.9935, F.S.; providing that an exemption
31 from licensure is not transferable; providing

1 that the agency may charge a fee of applicants
2 for certificates of exemption; providing that
3 the agency may deny an application or revoke a
4 license under certain circumstances; amending
5 s. 400.995, F.S.; providing that the agency may
6 deny, revoke, or suspend specified licenses and
7 impose fines for certain violations; providing
8 that a temporary license expires after a notice
9 of intent to deny an application is issued by
10 the agency; providing that persons or entities
11 made exempt under the act and which have paid
12 the clinic licensure fee to the agency are
13 entitled to a partial refund from the agency;
14 providing that certain persons or entities are
15 not in violation of part XIII of ch. 400, F.S.,
16 due to failure to apply for a clinic license by
17 a specified date; providing that certain
18 payments may not be denied to such persons or
19 entities for failure to apply for or obtain a
20 clinic license before a specified date;
21 providing a short title; requiring the Agency
22 for Workforce Innovation to establish a pilot
23 program for delivery of certified geriatric
24 specialty nursing education; specifying
25 eligibility requirements for certified nursing
26 assistants to obtain certified geriatric
27 specialty nursing education; specifying
28 requirements for the education of certified
29 nursing assistants to prepare for certification
30 as a certified geriatric specialist; creating a
31 Certified Geriatric Specialty Nursing

1 Initiative Steering Committee; providing for
2 the composition of and manner of appointment to
3 the Certified Geriatric Specialty Nursing
4 Initiative Steering Committee; providing
5 responsibilities of the steering committee;
6 providing for reimbursement for per diem and
7 travel expenses; requiring the Agency for
8 Workforce Innovation to conduct or contract for
9 an evaluation of the pilot program for delivery
10 of certified geriatric specialty nursing
11 education; requiring the evaluation to include
12 recommendations regarding the expansion of the
13 delivery of certified geriatric specialty
14 nursing education in nursing homes; requiring
15 the Agency for Workforce Innovation to report
16 to the Governor and Legislature regarding the
17 status and evaluation of the pilot program;
18 creating s. 464.0125, F.S.; providing
19 definitions; providing requirements for persons
20 to become certified geriatric specialists;
21 specifying fees; providing for articulation of
22 geriatric specialty nursing coursework and
23 practical nursing coursework; providing
24 practice standards and grounds for which
25 certified geriatric specialists may be subject
26 to discipline by the Board of Nursing; creating
27 restrictions on the use of professional nursing
28 titles; prohibiting the use of certain
29 professional titles; providing penalties;
30 authorizing approved nursing programs to
31 provide education for the preparation of

1 certified geriatric specialists without further
2 board approval; authorizing certified geriatric
3 specialists to supervise the activities of
4 others in nursing home facilities according to
5 rules by the Board of Nursing; revising
6 terminology relating to nursing to conform to
7 the certification of geriatric specialists;
8 amending s. 381.00315, F.S.; revising
9 requirements for the reactivation of the
10 licenses of specified health care practitioners
11 in the event of a public health emergency to
12 include certified geriatric specialists;
13 amending s. 400.021, F.S.; including services
14 provided by a certified geriatric specialist
15 within the definition of nursing service;
16 amending s. 400.211, F.S.; revising
17 requirements for persons employed as nursing
18 assistants to conform to the certification of
19 certified geriatric specialists; amending s.
20 400.23, F.S.; specifying that certified
21 geriatric specialists shall be considered
22 licensed nursing staff; authorizing licensed
23 practical nurses to supervise the activities of
24 certified geriatric specialists in nursing home
25 facilities according to rules adopted by the
26 Board of Nursing; amending s. 409.908, F.S.;
27 revising the methodology for reimbursement of
28 Medicaid program providers to include services
29 of certified geriatric specialists; amending s.
30 458.303, F.S.; revising exceptions to the
31 practice of medicine to include services

1 delegated to a certified geriatric specialist
2 under specified circumstances; amending s.
3 1009.65, F.S.; revising eligibility for the
4 Medical Education Reimbursement and Loan
5 Repayment Program to include certified
6 geriatric specialists; amending s. 1009.66,
7 F.S.; revising eligibility requirements for the
8 Nursing Student Loan Forgiveness Program to
9 include certified geriatric specialists;
10 providing an appropriation; amending s.
11 464.201, F.S.; defining terms; amending s.
12 464.202, F.S.; authorizing the Board of Nursing
13 to adopt rules regarding the practice and
14 supervision of certified nursing assistants;
15 providing an effective date.
16

17 Be It Enacted by the Legislature of the State of Florida:
18

19 Section 1. Section 400.0712, Florida Statutes, is
20 created to read:

21 400.0712 Application for inactive license.--

22 (1) As specified in this section, the agency may issue
23 an inactive license to a nursing home facility for all or a
24 portion of its beds. Any request by a licensee that a nursing
25 home or portion of a nursing home become inactive must be
26 submitted to the agency in the format specified by the agency.
27 The facility may not initiate any suspension of services,
28 notify residents, or initiate facility closure before
29 receiving approval from the agency; and a facility that
30 violates this provision shall not be issued an inactive
31 license. Upon agency approval of an inactive license, the

1 nursing home shall notify residents of any necessary discharge
2 or transfer as provided in s. 400.0255.

3 (2) The agency may issue an inactive license to a
4 nursing home that chooses to use an unoccupied contiguous
5 portion of the facility for an alternative use to meet the
6 needs of elderly persons through the use of less restrictive,
7 less institutional services.

8 (a) An inactive license issued under this subsection
9 may be granted for a period not to exceed 12 months but may be
10 renewed annually by the agency for 12 months.

11 (b) A request to extend the inactive license must be
12 submitted to the agency in the format specified by the agency
13 and is not effective unless approved by the agency in writing.

14 (c) Nursing homes that receive an inactive license to
15 provide alternative services shall not receive preference for
16 participation in the Assisted Living for the Elderly Medicaid
17 waiver.

18 (3) The agency may issue an inactive license to a
19 nursing home that will be temporarily unable to provide
20 services but is reasonably expected to resume services.

21 (a) An inactive license issued under this subsection
22 may be issued for a period not to exceed 12 months and may be
23 renewed by the agency for an additional 6 months upon
24 demonstration of progress toward reopening.

25 (b) All licensure fees must be current and paid in
26 full, and may be prorated as provided by agency rule, before
27 the inactive license is issued.

28 (c) Reactivation of an inactive license requires that
29 the applicant pay all licensure fees and the facility be
30 inspected by the agency to confirm compliance with this part
31 and applicable rules.

1 (4) The agency shall adopt rules pursuant to ss.
 2 120.536(1) and 120.54 as necessary to implement this section.

3 Section 2. Subsections (10), (11), and (12) of section
 4 400.071, Florida Statutes, are amended to read:

5 400.071 Application for license.--

6 ~~(10) The agency may issue an inactive license to a~~
 7 ~~nursing home that will be temporarily unable to provide~~
 8 ~~services but that is reasonably expected to resume services.~~
 9 ~~Such designation may be made for a period not to exceed 12~~
 10 ~~months but may be renewed by the agency for up to 6 additional~~
 11 ~~months. Any request by a licensee that a nursing home become~~
 12 ~~inactive must be submitted to the agency and approved by the~~
 13 ~~agency prior to initiating any suspension of service or~~
 14 ~~notifying residents. Upon agency approval, the nursing home~~
 15 ~~shall notify residents of any necessary discharge or transfer~~
 16 ~~as provided in s. 400.0255.~~

17 (10)(11) As a condition of licensure, each facility
 18 must establish and submit with its application a plan for
 19 quality assurance and for conducting risk management.

20 (11)(12) The applicant must provide the agency with
 21 proof of a legal right to occupy the property before a license
 22 may be issued. Proof may include, but is not limited to,
 23 copies of warranty deeds, lease or rental agreements,
 24 contracts for deeds, or quitclaim deeds.

25 Section 3. Subsection (17) of section 400.021, Florida
 26 Statutes, is amended to read:

27 400.021 Definitions.--When used in this part, unless
 28 the context otherwise requires, the term:

29 (17) "Resident care plan" means a written plan
 30 developed, maintained, and reviewed not less than quarterly by
 31 a registered nurse, with participation from other facility

1 staff and the resident or his or her designee or legal
 2 representative, which includes a comprehensive assessment of
 3 the needs of an individual resident; the type and frequency of
 4 services required to provide the necessary care for the
 5 resident to attain or maintain the highest practicable
 6 physical, mental, and psychosocial well-being; a listing of
 7 services provided within or outside the facility to meet those
 8 needs; and an explanation of service goals. The resident care
 9 plan must be signed by the director of nursing or another
 10 registered nurse employed by the facility to whom
 11 institutional responsibilities have been delegated and by the
 12 resident, the resident's designee, or the resident's legal
 13 representative. The facility may not use an agency or
 14 temporary registered nurse to satisfy the foregoing
 15 requirement and must document the institutional
 16 responsibilities that have been delegated to the registered
 17 nurse.

18 Section 4. Subsection (10) is added to section 400.23,
 19 Florida Statutes, to read:

20 400.23 Rules; evaluation and deficiencies; licensure
 21 status.--

22 (10) Agency records, reports, ranking systems,
 23 Internet information, and publications must be promptly
 24 updated to reflect the most current agency actions.

25 Section 5. Subsection (4) of section 400.211, Florida
 26 Statutes, is amended to read:

27 400.211 Persons employed as nursing assistants;
 28 certification requirement.--

29 (4) When employed by a nursing home facility for a
 30 12-month period or longer, a nursing assistant, ~~to maintain~~
 31 ~~certification,~~ shall submit to a performance review every 12

1 months and must receive regular inservice education based on
2 the outcome of these ~~such~~ reviews. The inservice training
3 must:

4 (a) Be sufficient to ensure the continuing competence
5 of nursing assistants and must meet the standard specified in
6 s. 464.203(7), ~~must be at least 18 hours per year, and may~~
7 ~~include hours accrued under s. 464.203(8)~~;

8 (b) Include, at a minimum:

9 1. Techniques for assisting with eating and proper
10 feeding;

11 2. Principles of adequate nutrition and hydration;

12 3. Techniques for assisting and responding to the
13 cognitively impaired resident or the resident with difficult
14 behaviors;

15 4. Techniques for caring for the resident at the
16 end-of-life; and

17 5. Recognizing changes that place a resident at risk
18 for pressure ulcers and falls; and

19 (c) Address areas of weakness as determined in nursing
20 assistant performance reviews and may address the special
21 needs of residents as determined by the nursing home facility
22 staff.

23
24 Costs associated with this training may not be reimbursed from
25 additional Medicaid funding through interim rate adjustments.

26 Section 6. Subsection (1) of section 464.203, Florida
27 Statutes, is amended, and subsections (8) and (9) are added to
28 that section, to read:

29 464.203 Certified nursing assistants; certification
30 requirement.--

31

1 (1) The board shall issue a certificate to practice as
2 a certified nursing assistant to any person who demonstrates a
3 minimum competency to read and write and successfully passes
4 the required background ~~Level I or Level II~~ screening in
5 subsection (8) ~~pursuant to s. 400.215~~ and who meets one of the
6 following requirements:

7 (a) Has successfully completed an approved training
8 program and achieved a minimum score, established by rule of
9 the board, on the nursing assistant competency examination,
10 which consists of a written portion and skills-demonstration
11 portion approved by the board and administered at a site and
12 by personnel approved by the department.

13 (b) Has achieved a minimum score, established by rule
14 of the board, on the nursing assistant competency examination,
15 which consists of a written portion and skills-demonstration
16 portion, approved by the board and administered at a site and
17 by personnel approved by the department and:

- 18 1. Has a high school diploma, or its equivalent; or
- 19 2. Is at least 18 years of age.

20 (c) Is currently certified in another state; is listed
21 on that state's certified nursing assistant registry; and has
22 not been found to have committed abuse, neglect, or
23 exploitation in that state.

24 (d) Has completed the curriculum developed under the
25 Enterprise Florida Jobs and Education Partnership Grant and
26 achieved a minimum score, established by rule of the board, on
27 the nursing assistant competency examination, which consists
28 of a written portion and skills-demonstration portion,
29 approved by the board and administered at a site and by
30 personnel approved by the department.

31

1 (8) For purposes of this section, background screening
 2 shall include:

3 (a) A determination whether the person seeking the
 4 certificate has committed any act that would constitute
 5 grounds for disciplinary sanctions as provided in s.
 6 464.204(1); and

7 (b)1. For persons who have continuously resided in
 8 this state for the 5 years immediately preceding the date of
 9 screening, level 1 screening as set forth in chapter 435; or

10 2. For persons who have not continuously resided in
 11 this state for the 5 years immediately preceding the date of
 12 screening, level 2 screening as set forth in chapter 435.

13 (9) Beginning January 1, 2005, the Department of
 14 Health and the Agency for Health Care Administration shall,
 15 after certification of an applicant, post information relating
 16 to background screening on the agency's background-screening
 17 database, which shall be available only to employers and
 18 prospective employers, who, as a condition of employment, are
 19 required by law to conduct a background check for the
 20 employment of certified nursing assistants.

21 Section 7. Subsection (5) of section 400.215, Florida
 22 Statutes, is amended to read:

23 400.215 Personnel screening requirement.--

24 (5) Any provision of law to the contrary
 25 notwithstanding, persons who have been screened and qualified
 26 as required by this section or s. 464.203 and who have not
 27 been unemployed for more than 180 days thereafter, and who
 28 under penalty of perjury attest to not having been convicted
 29 of a disqualifying offense since the completion of such
 30 screening, shall not be required to be rescreened. For
 31 purposes of this subsection, screened and qualified under s.

1 464.203 means that the person subject to such screening at the
2 time of certification by the Board of Nursing does not have
3 any disqualifying offense under chapter 435 or has received an
4 exemption from any disqualification under chapter 435 from the
5 Board of Nursing. An employer may obtain, under ~~pursuant to~~ s.
6 435.10, written verification of qualifying screening results
7 from the previous employer or other entity which caused the
8 ~~such~~ screening to be performed.

9 Section 8. Paragraph (a) of subsection (1) of section
10 400.441, Florida Statutes, is amended to read:

11 400.441 Rules establishing standards.--

12 (1) It is the intent of the Legislature that rules
13 published and enforced pursuant to this section shall include
14 criteria by which a reasonable and consistent quality of
15 resident care and quality of life may be ensured and the
16 results of such resident care may be demonstrated. Such rules
17 shall also ensure a safe and sanitary environment that is
18 residential and noninstitutional in design or nature. It is
19 further intended that reasonable efforts be made to
20 accommodate the needs and preferences of residents to enhance
21 the quality of life in a facility. In order to provide safe
22 and sanitary facilities and the highest quality of resident
23 care accommodating the needs and preferences of residents, the
24 department, in consultation with the agency, the Department of
25 Children and Family Services, and the Department of Health,
26 shall adopt rules, policies, and procedures to administer this
27 part, which must include reasonable and fair minimum standards
28 in relation to:

29 (a) The requirements for and maintenance of
30 facilities, not in conflict with the provisions of chapter
31 553, relating to plumbing, heating, cooling, lighting,

1 ventilation, living space, and other housing conditions, which
2 will ensure the health, safety, and comfort of residents and
3 protection from fire hazard, including adequate provisions for
4 fire alarm and other fire protection suitable to the size of
5 the structure. Uniform firesafety standards shall be
6 established and enforced by the State Fire Marshal in
7 cooperation with the agency, the department, and the
8 Department of Health.

9 1. Evacuation capability determination.--

10 a. The provisions of the National Fire Protection
11 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
12 for determining the ability of the residents, with or without
13 staff assistance, to relocate from or within a licensed
14 facility to a point of safety as provided in the fire codes
15 adopted herein. An evacuation capability evaluation for
16 initial licensure shall be conducted within 6 months after the
17 date of licensure. For existing licensed facilities that are
18 not equipped with an automatic fire sprinkler system, the
19 administrator shall evaluate the evacuation capability of
20 residents at least annually. The evacuation capability
21 evaluation for each facility not equipped with an automatic
22 fire sprinkler system shall be validated, without liability,
23 by the State Fire Marshal, by the local fire marshal, or by
24 the local authority having jurisdiction over firesafety,
25 before the license renewal date. If the State Fire Marshal,
26 local fire marshal, or local authority having jurisdiction
27 over firesafety has reason to believe that the evacuation
28 capability of a facility as reported by the administrator may
29 have changed, it may, with assistance from the facility
30 administrator, reevaluate the evacuation capability through
31

1 | timed exiting drills. Translation of timed fire exiting drills
2 | to evacuation capability may be determined:

3 | (I) Three minutes or less: prompt.

4 | (II) More than 3 minutes, but not more than 13
5 | minutes: slow.

6 | (III) More than 13 minutes: impractical.

7 | b. The Office of the State Fire Marshal shall provide
8 | or cause the provision of training and education on the proper
9 | application of Chapter 5, NFPA 101A, 1995 edition, to its
10 | employees, to staff of the Agency for Health Care
11 | Administration who are responsible for regulating facilities
12 | under this part, and to local governmental inspectors. The
13 | Office of the State Fire Marshal shall provide or cause the
14 | provision of this training within its existing budget, but may
15 | charge a fee for this training to offset its costs. The
16 | initial training must be delivered within 6 months after July
17 | 1, 1995, and as needed thereafter.

18 | c. The Office of the State Fire Marshal, in
19 | cooperation with provider associations, shall provide or cause
20 | the provision of a training program designed to inform
21 | facility operators on how to properly review bid documents
22 | relating to the installation of automatic fire sprinklers.
23 | The Office of the State Fire Marshal shall provide or cause
24 | the provision of this training within its existing budget, but
25 | may charge a fee for this training to offset its costs. The
26 | initial training must be delivered within 6 months after July
27 | 1, 1995, and as needed thereafter.

28 | d. The administrator of a licensed facility shall sign
29 | an affidavit verifying the number of residents occupying the
30 | facility at the time of the evacuation capability evaluation.

31 | 2. Firesafety requirements.--

1 a. Except for the special applications provided
2 herein, effective January 1, 1996, the provisions of the
3 National Fire Protection Association, Life Safety Code, NFPA
4 101, 1994 edition, Chapter 22 for new facilities and Chapter
5 23 for existing facilities shall be the uniform fire code
6 applied by the State Fire Marshal for assisted living
7 facilities, pursuant to s. 633.022.

8 b. Any new facility, regardless of size, that applies
9 for a license on or after January 1, 1996, must be equipped
10 with an automatic fire sprinkler system. The exceptions as
11 provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as
12 adopted herein, apply to any new facility housing eight or
13 fewer residents. On July 1, 1995, local governmental entities
14 responsible for the issuance of permits for construction shall
15 inform, without liability, any facility whose permit for
16 construction is obtained prior to January 1, 1996, of this
17 automatic fire sprinkler requirement. As used in this part,
18 the term "a new facility" does not mean an existing facility
19 that has undergone change of ownership.

20 c. Notwithstanding any provision of s. 633.022 or of
21 the National Fire Protection Association, NFPA 101A, Chapter
22 5, 1995 edition, to the contrary, any existing facility
23 housing eight or fewer residents is not required to install an
24 automatic fire sprinkler system, nor to comply with any other
25 requirement in Chapter 23, NFPA 101, 1994 edition, that
26 exceeds the firesafety requirements of NFPA 101, 1988 edition,
27 that applies to this size facility, unless the facility has
28 been classified as impractical to evacuate. Any existing
29 facility housing eight or fewer residents that is classified
30 as impractical to evacuate must install an automatic fire
31

1 | sprinkler system within the timeframes granted in this
2 | section.

3 | d. Any existing facility that is required to install
4 | an automatic fire sprinkler system under this paragraph need
5 | not meet other firesafety requirements of Chapter 23, NFPA
6 | 101, 1994 edition, which exceed the provisions of NFPA 101,
7 | 1988 edition. The mandate contained in this paragraph which
8 | requires certain facilities to install an automatic fire
9 | sprinkler system supersedes any other requirement.

10 | e. This paragraph does not supersede the exceptions
11 | granted in NFPA 101, 1988 edition or 1994 edition.

12 | f. This paragraph does not exempt facilities from
13 | other firesafety provisions adopted under s. 633.022 and local
14 | building code requirements in effect before July 1, 1995.

15 | g. A local government may charge fees only in an
16 | amount not to exceed the actual expenses incurred by local
17 | government relating to the installation and maintenance of an
18 | automatic fire sprinkler system in an existing and properly
19 | licensed assisted living facility structure as of January 1,
20 | 1996.

21 | h. If a licensed facility undergoes major
22 | reconstruction or addition to an existing building on or after
23 | January 1, 1996, the entire building must be equipped with an
24 | automatic fire sprinkler system. Major reconstruction of a
25 | building means repair or restoration that costs in excess of
26 | 50 percent of the value of the building as reported on the tax
27 | rolls, excluding land, before reconstruction. Multiple
28 | reconstruction projects within a 5-year period the total costs
29 | of which exceed 50 percent of the initial value of the
30 | building at the time the first reconstruction project was
31 | permitted are to be considered as major reconstruction.

1 Application for a permit for an automatic fire sprinkler
2 system is required upon application for a permit for a
3 reconstruction project that creates costs that go over the
4 50-percent threshold.

5 i. Any facility licensed before January 1, 1996, that
6 is required to install an automatic fire sprinkler system
7 shall ensure that the installation is completed within the
8 following timeframes based upon evacuation capability of the
9 facility as determined under subparagraph 1.:

10 (I) Impractical evacuation capability, 24 months.

11 (II) Slow evacuation capability, 48 months.

12 (III) Prompt evacuation capability, 60 months.

13

14 The beginning date from which the deadline for the automatic
15 fire sprinkler installation requirement must be calculated is
16 upon receipt of written notice from the local fire official
17 that an automatic fire sprinkler system must be installed. The
18 local fire official shall send a copy of the document
19 indicating the requirement of a fire sprinkler system to the
20 Agency for Health Care Administration.

21 j. It is recognized that the installation of an
22 automatic fire sprinkler system may create financial hardship
23 for some facilities. The appropriate local fire official
24 shall, without liability, grant two 1-year extensions to the
25 timeframes for installation established herein, if an
26 automatic fire sprinkler installation cost estimate and proof
27 of denial from two financial institutions for a construction
28 loan to install the automatic fire sprinkler system are
29 submitted. However, for any facility with a class I or class
30 II, or a history of uncorrected class III, firesafety
31 deficiencies, an extension must not be granted. The local

1 fire official shall send a copy of the document granting the
2 time extension to the Agency for Health Care Administration.

3 k. A facility owner whose facility is required to be
4 equipped with an automatic fire sprinkler system under Chapter
5 23, NFPA 101, 1994 edition, as adopted herein, must disclose
6 to any potential buyer of the facility that an installation of
7 an automatic fire sprinkler requirement exists. The sale of
8 the facility does not alter the timeframe for the installation
9 of the automatic fire sprinkler system.

10 l. Existing facilities required to install an
11 automatic fire sprinkler system as a result of
12 construction-type restrictions in Chapter 23, NFPA 101, 1994
13 edition, as adopted herein, or evacuation capability
14 requirements shall be notified by the local fire official in
15 writing of the automatic fire sprinkler requirement, as well
16 as the appropriate date for final compliance as provided in
17 this subparagraph. The local fire official shall send a copy
18 of the document to the Agency for Health Care Administration.

19 m. Except in cases of life-threatening fire hazards,
20 if an existing facility experiences a change in the evacuation
21 capability, or if the local authority having jurisdiction
22 identifies a construction-type restriction, such that an
23 automatic fire sprinkler system is required, it shall be
24 afforded time for installation as provided in this
25 subparagraph.

26 3. Resident elopement requirements.--Facilities are
27 required to conduct a minimum of two resident elopement
28 prevention and response drills per year. All administrators
29 and direct care staff must participate in the drills that
30 shall include a review of procedures to address resident
31 elopement. Facilities shall document the implementation of the

1 drills and ensure that the drills are conducted in a manner
2 consistent with the facility's resident elopement policies and
3 procedures.

4
5 Facilities that are fully sprinkled and in compliance with
6 other firesafety standards are not required to conduct more
7 than one of the required fire drills between the hours of 11
8 p.m. and 7 a.m., per year. In lieu of the remaining drills,
9 staff responsible for residents during such hours may be
10 required to participate in a mock drill that includes a review
11 of evacuation procedures. Such standards must be included or
12 referenced in the rules adopted by the State Fire Marshal.
13 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
14 final administrative authority for firesafety standards
15 established and enforced pursuant to this section. All
16 licensed facilities must have an annual fire inspection
17 conducted by the local fire marshal or authority having
18 jurisdiction.

19 Section 9. Subsection (13) of section 400.619, Florida
20 Statutes, is amended to read:

21 400.619 Licensure application and renewal.--

22 (13) All moneys collected under this section must be
23 deposited into the Department of Elderly Affairs
24 Administrative Trust Fund ~~and used to offset the expenses of~~
25 ~~departmental training and education for adult family care home~~
26 ~~providers.~~

27 Section 10. Subsection (5) of section 408.034, Florida
28 Statutes, is amended to read:

29 408.034 Duties and responsibilities of agency;
30 rules.--

31

1 (5) The agency shall establish by rule a
2 nursing-home-bed-need methodology that has a goal of
3 maintaining a subdistrict average occupancy rate of 94 percent
4 and that reduces the community nursing home bed need for the
5 areas of the state where the agency establishes pilot
6 community diversion programs through the Title XIX aging
7 waiver program.

8 Section 11. Paragraphs (g) and (h) are added to
9 subsection (2) of section 408.036, Florida Statutes, paragraph
10 (p) of subsection (3) is amended, paragraphs (u) and (v) are
11 added to subsection (3) of that section, and subsection (4) of
12 that section is reenacted to read:

13 408.036 Projects subject to review; exemptions.--

14 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
15 exempt pursuant to subsection (3), projects subject to an
16 expedited review shall include, but not be limited to:

17 (g) Replacement of a nursing home within the same
18 district, provided the proposed project site is located within
19 a geographic area that contains at least 65 percent of the
20 facility's current residents and is within a 30-mile radius of
21 the replaced nursing home.

22 (h) Relocation of a portion of a nursing home's
23 licensed beds to a facility within the same district, provided
24 the relocation is within a 30-mile radius of the existing
25 facility and the total number of nursing home beds in the
26 district does not increase.

27
28 The agency shall develop rules to implement the provisions for
29 expedited review, including time schedule, application content
30 which may be reduced from the full requirements of s.
31 408.037(1), and application processing.

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

4 (p) For the addition of nursing home beds licensed
5 under chapter 400 in a number not exceeding 10 total beds or
6 10 percent of the number of beds licensed in the facility
7 being expanded, whichever is greater, or for the addition of
8 nursing home beds licensed under chapter 400 at a facility
9 that has been designated as a Gold Seal nursing home under s.
10 400.235 in a number not exceeding 20 total beds or 10 percent
11 of the number of beds licensed in the facility being expanded,
12 whichever is greater.

13 1. In addition to any other documentation required by
14 the agency, a request for exemption submitted under this
15 paragraph must:

16 a. ~~Effective until June 30, 2001,~~ Certify that the
17 facility has not had any class I or class II deficiencies
18 within the 30 months preceding the request for addition.

19 b. ~~Effective on July 1, 2001, certify that the~~
20 ~~facility has been designated as a Gold Seal nursing home under~~
21 ~~s. 400.235.~~

22 **b.e.** Certify that the prior 12-month average occupancy
23 rate for the nursing home beds at the facility meets or
24 exceeds 96 percent.

25 **c.d.** Certify that any beds authorized for the facility
26 under this paragraph before the date of the current request
27 for an exemption have been licensed and operational for at
28 least 12 months.

29 2. The timeframes and monitoring process specified in
30 s. 408.040(2)(a)-(c) apply to any exemption issued under this
31 paragraph.

1 3. The agency shall count beds authorized under this
2 paragraph as approved beds in the published inventory of
3 nursing home beds until the beds are licensed.

4 (u) For replacement of a licensed nursing home on the
5 same site, or within 3 miles of the same site, provided the
6 number of licensed beds does not increase.

7 (v) For consolidation or combination of licensed
8 nursing homes or transfer of beds between licensed nursing
9 homes within the same planning subdistrict, by providers that
10 operate multiple nursing homes within that planning
11 subdistrict, provided there is no increase in the planning
12 subdistrict total of nursing home beds and the relocation does
13 not exceed 30 miles from the original location.

14 (4) A request for exemption under subsection (3) may
15 be made at any time and is not subject to the batching
16 requirements of this section. The request shall be supported
17 by such documentation as the agency requires by rule. The
18 agency shall assess a fee of \$250 for each request for
19 exemption submitted under subsection (3).

20 Section 12. Section 52 of chapter 2001-45, Laws of
21 Florida, as amended by section 1693 of chapter 2003-261, Laws
22 of Florida, is amended to read:

23 Section 52. (1) Notwithstanding the establishment of
24 need as provided for in chapter 408, Florida Statutes, no
25 certificate of need for additional community nursing home beds
26 shall be approved by the agency until July 1, 2006.

27 (2) The Legislature finds that the continued growth in
28 the Medicaid budget for nursing home care has constrained the
29 ability of the state to meet the needs of its elderly
30 residents through the use of less restrictive and less
31 institutional methods of long-term care. It is therefore the

1 intent of the Legislature to limit the increase in Medicaid
2 nursing home expenditures in order to provide funds to invest
3 in long-term care that is community-based and provides
4 supportive services in a manner that is both more
5 cost-effective and more in keeping with the wishes of the
6 elderly residents of this state.

7 (3) This moratorium on certificates of need shall not
8 apply to sheltered nursing home beds in a continuing care
9 retirement community certified by the former Department of
10 Insurance or by the Office of Insurance Regulation pursuant to
11 chapter 651, Florida Statutes.

12 (4)(a) The moratorium on certificates of need does not
13 apply and a certificate of need for additional community
14 nursing home beds may be approved for a county that meets the
15 following circumstances:

16 1. The county has no community nursing home beds; and
17 2. The lack of community nursing home beds occurs
18 because all nursing home beds in the county which were
19 licensed on July 1, 2001, have subsequently closed.

20 (b) The certificate-of-need review for such
21 circumstances shall be subject to the comparative review
22 process consistent with the provisions of section 408.039,
23 Florida Statutes, and the number of beds may not exceed the
24 number of beds lost by the county after July 1, 2001.

25
26 This subsection shall be repealed upon the expiration of the
27 moratorium established in subsection (1).

28 (5) The moratorium on certificates of need does not
29 apply for the addition of nursing home beds licensed under
30 chapter 400, Florida Statutes, to a nursing home located in a
31 county having up to 50,000 residents, in a number not

1 exceeding 10 total beds or 10 percent of the number of beds
 2 licensed in the facility being expanded, whichever is greater.
 3 In addition to any other documentation required by the agency,
 4 a request submitted under this subsection must:

5 (a) Certify that the facility has not had any class I
 6 or class II deficiencies within the 30 months preceding the
 7 request for addition.

8 (b) Certify that the prior 12-month average occupancy
 9 rate for the nursing home beds at the facility meets or
 10 exceeds 94 percent and the facility has not had any class I or
 11 class II deficiencies since its initial licensure.

12 (c) For a facility that has been licensed for less
 13 than 24 months, certify that the prior 6-month average
 14 occupancy rate for the nursing home beds at the facility meets
 15 or exceeds 94 percent and that the facility has not had any
 16 class I or class II deficiencies since its initial licensure.

17
 18 This subsection shall be repealed upon the expiration of the
 19 moratorium established in subsection (1).

20 Section 13. Subsection (7) of section 651.118, Florida
 21 Statutes, is amended to read:

22 651.118 Agency for Health Care Administration;
 23 certificates of need; sheltered beds; community beds.--

24 (7) Notwithstanding the provisions of subsection (2),
 25 at the discretion of the continuing care provider, sheltered
 26 nursing home beds may be used for persons who are not
 27 residents of the continuing care facility and who are not
 28 parties to a continuing care contract for a period of up to 5
 29 years after the date of issuance of the initial nursing home
 30 license. A provider whose 5-year period has expired or is
 31 expiring may request the Agency for Health Care Administration

1 for an extension, not to exceed 30 percent of the total
2 sheltered nursing home beds, if the utilization by residents
3 of the nursing home facility in the sheltered beds will not
4 generate sufficient income to cover nursing home facility
5 expenses, as evidenced by one of the following:

6 (a) The nursing home facility has a net loss for the
7 most recent fiscal year as determined under generally accepted
8 accounting principles, excluding the effects of extraordinary
9 or unusual items, as demonstrated in the most recently audited
10 financial statement; or

11 (b) The nursing home facility would have had a pro
12 forma loss for the most recent fiscal year, excluding the
13 effects of extraordinary or unusual items, if revenues were
14 reduced by the amount of revenues from persons in sheltered
15 beds who were not residents, as reported on by a certified
16 public accountant.

17
18 The agency shall be authorized to grant an extension to the
19 provider based on the evidence required in this subsection.
20 The agency may request a continuing care facility to use up to
21 25 percent of the patient days generated by new admissions of
22 nonresidents during the extension period to serve Medicaid
23 recipients for those beds authorized for extended use if there
24 is a demonstrated need in the respective service area and if
25 funds are available. A provider who obtains an extension is
26 prohibited from applying for additional sheltered beds under
27 the provision of subsection (2), unless additional residential
28 units are built or the provider can demonstrate need by
29 continuing care facility residents to the Agency for Health
30 Care Administration. The 5-year limit does not apply to up to
31 five sheltered beds designated for inpatient hospice care as

1 part of a contractual arrangement with a hospice licensed
 2 under part VI of chapter 400. A continuing care facility that
 3 uses such beds after the 5-year period shall report such use
 4 to the Agency for Health Care Administration. For purposes of
 5 this subsection, "resident" means a person who, upon admission
 6 to the continuing care facility, initially resides in a part
 7 of the continuing care facility not licensed under part II of
 8 chapter 400.

9 Section 14. Subsection (1) of section 395.003, Florida
 10 Statutes, is amended to read:

11 395.003 Licensure; issuance, renewal, denial,
 12 modification, suspension, and revocation.--

13 (1)(a) ~~A No~~ person may not ~~shall~~ establish, conduct,
 14 or maintain a hospital, ambulatory surgical center, or mobile
 15 surgical facility in this state without first obtaining a
 16 license under this part.

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

22 2. ~~Nothing in~~ This part does not apply ~~applies~~ to
 23 veterinary hospitals or to commercial business establishments
 24 using the word "hospital," "ambulatory surgical center," or
 25 "mobile surgical facility" as a part of a trade name if no
 26 treatment of human beings is performed on the premises of such
 27 establishments.

28 3. By December 31, 2004, the agency shall submit a
 29 report to the President of the Senate and the Speaker of the
 30 House of Representatives recommending whether it is in the
 31 public interest to allow a hospital to license or operate an

1 emergency department located off the premises of the hospital.
2 If the agency finds it to be in the public interest, the
3 report shall also recommend licensure criteria for such
4 medical facilities, including criteria related to quality of
5 care and, if deemed necessary, the elimination of the
6 possibility of confusion related to the service capabilities
7 of such facility in comparison to the service capabilities of
8 an emergency department located on the premises of the
9 hospital. Until July 1, 2005, additional emergency departments
10 located off the premises of licensed hospitals may not be
11 authorized by the agency.

12 Section 15. Section 430.701, Florida Statutes, is
13 amended to read:

14 430.701 Legislative findings and intent.--

15 (1) The Legislature finds that state expenditures for
16 long-term care services continue to increase at a rapid rate
17 and that Florida faces increasing pressure in its efforts to
18 meet the long-term care needs of the public. It is the intent
19 of the Legislature that the Department of Elderly Affairs, in
20 consultation with the Agency for Health Care Administration,
21 implement long-term care community diversion pilot projects to
22 test the effectiveness of managed care and outcome-based
23 reimbursement principles when applied to long-term care.

24 (2) The agency may seek federal approval in advance of
25 approval of its formal waiver application to limit the
26 diversion provider network by freezing enrollment of providers
27 at current levels when an area already has three or more
28 providers or, in an expansion area, when enrollment reaches a
29 level of three providers. This subsection does not prevent
30 the department from approving a provider to expand service to
31

1 additional counties within a planning and service area for
2 which the provider is already approved to serve.

3 Section 16. Subsection (13) is added to section
4 400.9935, Florida Statutes, to read:

5 400.9935 Clinic responsibilities.--

6 (13) The clinic shall display a sign in a conspicuous
7 location within the clinic readily visible to all patients
8 indicating that pursuant to s. 626.9892, the Department of
9 Financial Services may pay rewards of up to \$25,000 to persons
10 providing information leading to the arrest and conviction of
11 persons committing crimes investigated by the Division of
12 Insurance Fraud arising from violations of s. 440.105, s.
13 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
14 employee of the Division of Insurance Fraud may make
15 unannounced inspections of clinics licensed pursuant to this
16 part as are necessary to determine that the clinic is in
17 compliance with this subsection. A licensed clinic shall allow
18 full and complete access to the premises to such authorized
19 employee of the division who makes an inspection to determine
20 compliance with this subsection.

21 Section 17. Section 395.1053, Florida Statutes, is
22 created to read:

23 395.1053 Notice of reward to be posted.--Each hospital
24 shall display a sign in a conspicuous location within the
25 hospital readily visible to all patients indicating that,
26 pursuant to s. 626.9892, the Department of Financial Services
27 may pay rewards of up to \$25,000 to persons providing
28 information leading to the arrest and conviction of persons
29 committing crimes investigated by the Division of Insurance
30 Fraud arising from violations of s. 440.105, s. 624.15, s.
31 626.9541, s. 626.989, or s. 817.234. An authorized employee of

1 the Division of Insurance Fraud may make unannounced
2 inspections of any hospital as are necessary to determine that
3 the hospital is in compliance with this section. A hospital
4 shall allow full and complete access to the premises to such
5 authorized employee of the division who makes an inspection to
6 determine compliance with this section.

7 Section 18. A physician-operated walk-in clinic that
8 operates with or without appointments and with extended hours
9 and that does not hold itself out to the public as an
10 emergency center shall display a sign in a conspicuous
11 location within the clinic readily visible to all patients
12 indicating that, pursuant to section 626.9892, Florida
13 Statutes, the Department of Financial Services may pay rewards
14 of up to \$25,000 to persons providing information leading to
15 the arrest and conviction of persons committing crimes
16 investigated by the Division of Insurance Fraud arising from
17 violations of section 440.105, Florida Statutes, section
18 624.15, Florida Statutes, section 626.9541, Florida Statutes,
19 section 626.989, Florida Statutes, or section 817.234, Florida
20 Statutes. An authorized employee of the Division of Insurance
21 Fraud may make unannounced inspections of any walk-in clinic
22 as are necessary to determine that the clinic is in compliance
23 with this section. A walk-in clinic shall allow full and
24 complete access to the premises to such authorized employee of
25 the division who makes an inspection to determine compliance
26 with this section.

27 Section 19. Subsections (3) and (4) of section
28 400.9905, Florida Statutes, are amended, and subsections (5)
29 and (6) are added to that section, to read:

30 400.9905 Definitions.--

31

1 (3) "Clinic" means an entity at which health care
2 services are provided to individuals and which tenders charges
3 for reimbursement for such services, including a mobile clinic
4 and a portable equipment provider. For purposes of this part,
5 the term does not include and the licensure requirements of
6 this part do not apply to:

7 (a) Entities licensed or registered by the state under
8 chapter 395; or entities licensed or registered by the state
9 and providing only health care services within the scope of
10 services authorized under their respective licenses granted
11 under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter~~
12 ~~395~~, chapter 397, this chapter except part XIII, chapter 463,
13 chapter 465, chapter 466, chapter 478, part I of chapter 483
14 480, chapter 484, or chapter 651, end-stage renal disease
15 providers authorized under 42 C.F.R. part 405, subpart U, or
16 providers certified under 42 C.F.R. part 485, subpart B or
17 subpart H, or any entity that provides neonatal or pediatric
18 hospital-based healthcare services by licensed practitioners
19 solely within a hospital licensed under chapter 395.

20 (b) Entities that own, directly or indirectly,
21 entities licensed or registered by the state pursuant to
22 chapter 395; or entities that own, directly or indirectly,
23 entities licensed or registered by the state and providing
24 only health care services within the scope of services
25 authorized pursuant to their respective licenses granted under
26 ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~,
27 chapter 397, this chapter except part XIII, chapter 463,
28 chapter 465, chapter 466, chapter 478, part I of chapter 483
29 480, chapter 484, or chapter 651, end-stage renal disease
30 providers authorized under 42 C.F.R. part 405, subpart U, or
31 providers certified under 42 C.F.R. part 485, subpart B or

1 subpart H, or any entity that provides neonatal or pediatric
2 hospital-based healthcare services by licensed practitioners
3 solely within a hospital licensed under chapter 395.

4 (c) Entities that are owned, directly or indirectly,
5 by an entity licensed or registered by the state pursuant to
6 chapter 395; or entities that are owned, directly or
7 indirectly, by an entity licensed or registered by the state
8 and providing only health care services within the scope of
9 services authorized pursuant to their respective licenses
10 granted under ss. 383.30-383.335, chapter 390, chapter 394,
11 ~~chapter 395,~~ chapter 397, this chapter except part XIII,
12 chapter 463, chapter 465, chapter 466, chapter 478, part I of
13 chapter ~~483 480~~, chapter 484, or chapter 651, end-stage renal
14 disease providers authorized under 42 C.F.R. part 405, subpart
15 U, or providers certified under 42 C.F.R. part 485, subpart B
16 or subpart H, or any entity that provides neonatal or
17 pediatric hospital-based healthcare services by licensed
18 practitioners solely within a hospital licensed under chapter
19 395.

20 (d) Entities that are under common ownership, directly
21 or indirectly, with an entity licensed or registered by the
22 state pursuant to chapter 395; or entities that are under
23 common ownership, directly or indirectly, with an entity
24 licensed or registered by the state and providing only health
25 care services within the scope of services authorized pursuant
26 to its respective license granted under ss. 383.30-383.335,
27 chapter 390, chapter 394, ~~chapter 395,~~ chapter 397, this
28 chapter except part XIII, chapter 463, chapter 465, chapter
29 466, chapter 478, part I of chapter ~~483 480~~, chapter 484, or
30 chapter 651, end-stage renal disease providers authorized
31 under 42 C.F.R. part 405, subpart U, or providers certified

1 under 42 C.F.R. part 485, subpart B or subpart H, or any
 2 entity that provides neonatal or pediatric hospital-based
 3 services by licensed practitioners solely within a hospital
 4 licensed under chapter 395.

5 (e) An entity that is exempt from federal taxation
 6 under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any
 7 community college or university clinic, and any entity owned
 8 or operated by federal or state government, including
 9 agencies, subdivisions, or municipalities thereof.

10 (f) A sole proprietorship, group practice,
 11 partnership, or corporation that provides health care services
 12 by physicians covered by s. 627.419, that is directly
 13 supervised by one or more of such physicians, and that is
 14 wholly owned by one or more of those physicians or by a
 15 physician and the spouse, parent, child, or sibling of that
 16 physician.

17 ~~(g)(f)~~ A sole proprietorship, group practice,
 18 partnership, or corporation that provides health care services
 19 by licensed health care practitioners under chapter 457,
 20 chapter 458, chapter 459, chapter 460, chapter 461, chapter
 21 462, chapter 463, chapter 466, chapter 467, chapter 480,
 22 chapter 484, chapter 486, chapter 490, chapter 491, or part I,
 23 part III, part X, part XIII, or part XIV of chapter 468, or s.
 24 464.012, which are wholly owned by one or more ~~a~~ licensed
 25 health care practitioners ~~practitioner~~, or the licensed health
 26 care practitioners set forth in this paragraph ~~practitioner~~
 27 and the spouse, parent, ~~or~~ child, or sibling of a licensed
 28 health care practitioner, so long as one of the owners who is
 29 a licensed health care practitioner is supervising the
 30 services performed therein and is legally responsible for the
 31 entity's compliance with all federal and state laws. However,

1 a health care practitioner may not supervise services beyond
2 the scope of the practitioner's license, except that, for the
3 purposes of this part, a clinic owned by a licensee in s.
4 456.053(3)(b) that provides only services authorized pursuant
5 to s. 456.053(3)(b) may be supervised by a licensee specified
6 in s. 456.053(3)(b).

7 ~~(h)(g)~~ Clinical facilities affiliated with an
8 accredited medical school at which training is provided for
9 medical students, residents, or fellows.

10 (i) Entities that provide only oncology or radiation
11 therapy services by physicians licensed under chapter 458 or
12 459.

13 (4) "Medical director" means a physician who is
14 employed or under contract with a clinic and who maintains a
15 full and unencumbered physician license in accordance with
16 chapter 458, chapter 459, chapter 460, or chapter 461.
17 However, if the clinic does not provide services pursuant to
18 the respective physician practice acts listed in this
19 subsection, it is limited to providing health care services
20 pursuant to chapter 457, chapter 484, chapter 486, chapter
21 490, or chapter 491 or part I, part III, part X, part XIII, or
22 part XIV of chapter 468, the clinic may appoint a
23 Florida-licensed health care practitioner who does not provide
24 services pursuant to the respective physician practice acts
25 listed in this subsection licensed under that chapter to serve
26 as a clinic director who is responsible for the clinic's
27 activities. A health care practitioner may not serve as the
28 clinic director if the services provided at the clinic are
29 beyond the scope of that practitioner's license, except that a
30 licensee specified in s. 456.053(3)(b) that provides only
31 services authorized pursuant to s. 456.053(3)(b) may serve as

1 clinic director of an entity providing services as specified
2 in s. 456.053(3)(b).

3 (5) "Mobile clinic" means a movable or detached
4 self-contained health care unit within or from which direct
5 health care services are provided to individuals and that
6 otherwise meets the definition of a clinic in subsection (3).

7 (6) "Portable equipment provider" means an entity that
8 contracts with or employs persons to provide portable
9 equipment to multiple locations performing treatment or
10 diagnostic testing of individuals, that bills third-party
11 payors for those services, and that otherwise meets the
12 definition of a clinic in subsection (3).

13 Section 20. The creation of paragraph 400.9905(3)(i),
14 Florida Statutes, by this act is intended to clarify the
15 legislative intent of this provision as it existed at the time
16 the provision initially took effect as section 456.0375(1)(b),
17 Florida Statutes, and paragraph 400.9905(3)(i), Florida
18 Statutes, as created by this act, shall operate retroactively
19 to October 1, 2001. Nothing in this section shall be construed
20 as amending, modifying, limiting, or otherwise affecting in
21 any way the legislative intent, scope, terms, prohibition, or
22 requirements of section 456.053, Florida Statutes.

23 Section 21. Subsections (1), (2), and (3) and
24 paragraphs (a) and (b) of subsection (7) of section 400.991,
25 Florida Statutes, are amended to read:

26 400.991 License requirements; background screenings;
27 prohibitions.--

28 (1)(a) Each clinic, as defined in s. 400.9905, must be
29 licensed and shall at all times maintain a valid license with
30 the agency. Each clinic location shall be licensed separately
31

1 regardless of whether the clinic is operated under the same
2 business name or management as another clinic.

3 (b) Each mobile clinic must obtain a separate health
4 care clinic license and clinics must provide to the agency, at
5 least quarterly, ~~its their~~ projected street location locations
6 to enable the agency to locate and inspect such clinic
7 ~~clinics~~. A portable equipment provider must obtain a health
8 care clinic license for a single administrative office and is
9 not required to submit quarterly projected street locations.

10 (2) The initial clinic license application shall be
11 filed with the agency by all clinics, as defined in s.
12 400.9905, on or before ~~July March~~ 1, 2004. A clinic license
13 must be renewed biennially.

14 (3) Applicants that submit an application on or before
15 ~~July March~~ 1, 2004, which meets all requirements for initial
16 licensure as specified in this section shall receive a
17 temporary license until the completion of an initial
18 inspection verifying that the applicant meets all requirements
19 in rules authorized by s. 400.9925. However, a clinic engaged
20 in magnetic resonance imaging services may not receive a
21 temporary license unless it presents evidence satisfactory to
22 the agency that such clinic is making a good faith effort and
23 substantial progress in seeking accreditation required under
24 s. 400.9935.

25 (7) Each applicant for licensure shall comply with the
26 following requirements:

27 (a) As used in this subsection, the term "applicant"
28 means individuals owning or controlling, directly or
29 indirectly, 5 percent or more of an interest in a clinic; the
30 medical or clinic director, or a similarly titled person who
31 is responsible for the day-to-day operation of the licensed

1 clinic; the financial officer or similarly titled individual
2 who is responsible for the financial operation of the clinic;
3 and licensed health care practitioners ~~medical providers~~ at
4 the clinic.

5 (b) Upon receipt of a completed, signed, and dated
6 application, the agency shall require background screening of
7 the applicant, in accordance with the level 2 standards for
8 screening set forth in chapter 435. Proof of compliance with
9 the level 2 background screening requirements of chapter 435
10 which has been submitted within the previous 5 years in
11 compliance with any other health care licensure requirements
12 of this state is acceptable in fulfillment of this paragraph.
13 Applicants who own less than 10 percent of a health care
14 clinic are not required to submit fingerprints under this
15 section.

16 Section 22. Subsections (9) and (11) of section
17 400.9935, Florida Statutes, are amended to read:

18 400.9935 Clinic responsibilities.--

19 (9) Any person or entity providing health care
20 services which is not a clinic, as defined under s. 400.9905,
21 may voluntarily apply for a certificate of exemption from
22 licensure under its exempt status with the agency on a form
23 that sets forth its name or names and addresses, a statement
24 of the reasons why it cannot be defined as a clinic, and other
25 information deemed necessary by the agency. An exemption is
26 not transferable. The agency may charge an applicant for a
27 certificate of exemption \$100 or the actual cost, whichever is
28 less, for processing the certificate.

29 (11)(a) Each clinic engaged in magnetic resonance
30 imaging services must be accredited by the Joint Commission on
31 Accreditation of Healthcare Organizations, the American

1 College of Radiology, or the Accreditation Association for
2 Ambulatory Health Care, within 1 year after licensure.
3 However, a clinic may request a single, 6-month extension if
4 it provides evidence to the agency establishing that, for good
5 cause shown, such clinic can not be accredited within 1 year
6 after licensure, and that such accreditation will be completed
7 within the 6-month extension. After obtaining accreditation as
8 required by this subsection, each such clinic must maintain
9 accreditation as a condition of renewal of its license.

10 (b) The agency may deny ~~disallow~~ the application or
11 revoke the license of any entity formed for the purpose of
12 avoiding compliance with the accreditation provisions of this
13 subsection and whose principals were previously principals of
14 an entity that was unable to meet the accreditation
15 requirements within the specified timeframes. The agency may
16 adopt rules as to the accreditation of magnetic resonance
17 imaging clinics.

18 Section 23. Subsections (1) and (3) of section
19 400.995, Florida Statutes, are amended, and subsection (10) is
20 added to said section, to read:

21 400.995 Agency administrative penalties.--

22 (1) The agency may deny the application for a license
23 renewal, revoke or suspend the license, and impose
24 administrative finer penalties against clinics of up to \$5,000
25 per violation for violations of the requirements of this part
26 or rules of the agency. In determining if a penalty is to be
27 imposed and in fixing the amount of the fine, the agency shall
28 consider the following factors:

29 (a) The gravity of the violation, including the
30 probability that death or serious physical or emotional harm
31 to a patient will result or has resulted, the severity of the

1 action or potential harm, and the extent to which the
2 provisions of the applicable laws or rules were violated.

3 (b) Actions taken by the owner, medical director, or
4 clinic director to correct violations.

5 (c) Any previous violations.

6 (d) The financial benefit to the clinic of committing
7 or continuing the violation.

8 (3) Any action taken to correct a violation shall be
9 documented in writing by the owner, medical director, or
10 clinic director of the clinic and verified through followup
11 visits by agency personnel. The agency may impose a fine and,
12 in the case of an owner-operated clinic, revoke or deny a
13 clinic's license when a clinic medical director or clinic
14 director ~~knowingly fraudulently~~ misrepresents actions taken to
15 correct a violation.

16 (10) If the agency issues a notice of intent to deny a
17 license application after a temporary license has been issued
18 pursuant to s. 400.991(3), the temporary license shall expire
19 on the date of the notice and may not be extended during any
20 proceeding for administrative or judicial review pursuant to
21 chapter 120.

22 Section 24. The agency shall refund 90 percent of the
23 license application fee to applicants that submitted their
24 health care clinic licensure fees and applications but were
25 subsequently exempted from licensure by this act.

26 Section 25. Any person or entity defined as a clinic
27 under section 400.9905, Florida Statutes, shall not be in
28 violation of part XIII of chapter 400, Florida Statutes, due
29 to failure to apply for a clinic license by March 1, 2004, as
30 previously required by section 400.991, Florida Statutes.
31 Payment to any such person or entity by an insurer or other

1 person liable for payment to such person or entity may not be
2 denied on the grounds that the person or entity failed to
3 apply for or obtain a clinic license before March 1, 2004.

4 Section 26. Sections 26 through 42 of this act may be
5 cited as the "Clara Ramsey Care of the Elderly Act."

6 Section 27. Certified Geriatric Specialist Preparation
7 Pilot Program.--

8 (1) The Agency for Workforce Innovation shall
9 establish a pilot program for delivery of geriatric nursing
10 education to certified nursing assistants who wish to become
11 certified geriatric specialists. The agency shall select two
12 pilot sites in nursing homes that have received the Gold Seal
13 designation under section 400.235, Florida Statutes; have been
14 designated as a teaching nursing home under section 430.80,
15 Florida Statutes; or have not received a class I or class II
16 deficiency within the 30 months preceding application for this
17 program.

18 (2) To be eligible to receive geriatric nursing
19 education, a certified nursing assistant must have been
20 employed by a participating nursing home for at least 1 year
21 and must have received a high school diploma or its
22 equivalent.

23 (3) The education shall be provided at the worksite
24 and in coordination with the certified nursing assistant's
25 work schedule.

26 (4) Faculty shall provide the instruction under an
27 approved nursing program pursuant to section 464.019, Florida
28 Statutes.

29 (5) The education must be designed to prepare the
30 certified nursing assistant to meet the requirements for
31 certification as a geriatric specialist. The didactic and

1 clinical education must include all portions of the practical
2 nursing curriculum pursuant to section 464.019, Florida
3 Statutes, except for pediatric and obstetric/maternal-child
4 education, and must include additional education in the care
5 of ill, injured, or infirm geriatric patients and the
6 maintenance of health, the prevention of injury, and the
7 provision of palliative care for geriatric patients.

8 Section 28. Certified Geriatric Specialty Nursing
9 Initiative Steering Committee.--

10 (1) In order to guide the implementation of the
11 Certified Geriatric Specialist Preparation Pilot Program,
12 there is created a Certified Geriatric Specialty Nursing
13 Initiative Steering Committee. The steering committee shall be
14 composed of the following members:

15 (a) The chair of the Board of Nursing or his or her
16 designee;

17 (b) A representative of the Agency for Workforce
18 Innovation, appointed by the Director of Workforce Innovation;

19 (c) A representative of Workforce Florida, Inc.,
20 appointed by the chair of the Board of Directors of Workforce
21 Florida, Inc.;

22 (d) A representative of the Department of Education,
23 appointed by the Commissioner of Education;

24 (e) A representative of the Department of Health,
25 appointed by the Secretary of Health;

26 (f) A representative of the Agency for Health Care
27 Administration, appointed by the Secretary of Health Care
28 Administration;

29 (g) The Director of the Florida Center for Nursing;

30 (h) A representative of the Department of Elderly
31 Affairs, appointed by the Secretary of Elderly Affairs; and

1 (i) A representative of a Gold Seal nursing home that
2 is not one of the pilot program sites, appointed by the
3 Secretary of Health Care Administration.

4 (2) The steering committee shall:

5 (a) Provide consultation and guidance to the Agency
6 for Workforce Innovation on matters of policy during the
7 implementation of the pilot program; and

8 (b) Provide oversight to the evaluation of the pilot
9 program.

10 (3) Members of the steering committee are entitled to
11 reimbursement for per diem and travel expenses under section
12 112.061, Florida Statutes.

13 (4) The steering committee shall complete its
14 activities by June 30, 2007, and the authorization for the
15 steering committee ends on that date.

16 Section 29. Evaluation of the Certified Geriatric
17 Specialist Preparation Pilot Program.--The Agency for
18 Workforce Innovation, in consultation with the Certified
19 Geriatric Specialty Nursing Initiative Steering Committee,
20 shall conduct or contract for an evaluation of the pilot
21 program. The agency shall ensure that an evaluation report is
22 submitted to the Governor, the President of the Senate, and
23 the Speaker of the House of Representatives by January 1,
24 2007. The evaluation must address the experience and success
25 of the certified nursing assistants in the pilot program and
26 must contain recommendations regarding the expansion of the
27 delivery of geriatric nursing education in nursing homes.

28 Section 30. Reports.--The Agency for Workforce
29 Innovation shall submit status reports and recommendations
30 regarding legislation necessary to further the implementation
31 of the pilot program to the Governor, the President of the

1 Senate, and the Speaker of the House of Representatives on
2 January 1, 2005, January 1, 2006, and January 1, 2007.

3 Section 31. Section 464.0125, Florida Statutes, is
4 created to read:

5 464.0125 Certified geriatric specialists;
6 certification requirements.--

7 (1) DEFINITIONS; RESPONSIBILITIES.--

8 (a) As used in this section, the term:

9 1. "Certified geriatric specialist" means a person who
10 meets the qualifications specified in this section and who is
11 certified by the board to practice as a certified geriatric
12 specialist.

13 2. "Geriatric patient" means any patient who is 60
14 years of age or older.

15 3. "Practice of certified geriatric specialty nursing"
16 means the performance of selected acts in facilities licensed
17 under part II or part III of chapter 400, including the
18 administration of treatments and medications, in the care of
19 ill, injured, or infirm geriatric patients and the promotion
20 of wellness, maintenance of health, and prevention of illness
21 of geriatric patients under the direction of a registered
22 nurse, a licensed physician, a licensed osteopathic physician,
23 a licensed podiatric physician, or a licensed dentist. The
24 scope of practice of a certified geriatric specialist includes
25 the practice of practical nursing as defined in s. 464.003 for
26 geriatric patients only, except for any act in which
27 instruction and clinical knowledge of pediatric nursing or
28 obstetric/maternal-child nursing is required. A certified
29 geriatric specialist, while providing nursing services in
30 facilities licensed under part II or part III of chapter 400,
31 may supervise the activities of certified nursing assistants

1 and other unlicensed personnel providing services in such
2 facilities in accordance with rules adopted by the board.

3 (b) The certified geriatric specialist shall be
4 responsible and accountable for making decisions that are
5 based upon the individual's educational preparation and
6 experience in performing certified geriatric specialty
7 nursing.

8 (2) CERTIFICATION.--

9 (a) Any certified nursing assistant desiring to be
10 certified as a certified geriatric specialist must apply to
11 the department and submit proof that he or she holds a current
12 certificate as a certified nursing assistant under part II of
13 this chapter and has satisfactorily completed the following
14 requirements:

15 1. Is in good mental and physical health, is a
16 recipient of a high school diploma or its equivalent; has
17 completed the requirements for graduation from an approved
18 program for nursing or its equivalent, as determined by the
19 board, for the preparation of licensed practical nurses,
20 except for instruction and clinical knowledge of pediatric
21 nursing or obstetric/maternal-child nursing; and has completed
22 additional education in the care of ill, injured, or infirm
23 geriatric patients, the maintenance of health, the prevention
24 of injury, and the provision of palliative care for geriatric
25 patients. By September 1, 2004, the Board of Nursing shall
26 adopt rules establishing the core competencies for the
27 additional education in geriatric care. Any program that is
28 approved on July 1, 2004, by the board for the preparation of
29 registered nurses or licensed practical nurses may provide
30 education for the preparation of certified geriatric
31 specialists without further board approval.

1 2. Has the ability to communicate in the English
2 language, which may be determined by an examination given by
3 the department.

4 3. Has provided sufficient information, which must be
5 submitted by the department for a statewide criminal records
6 correspondence check through the Department of Law
7 Enforcement.

8 (b) Each applicant who meets the requirements of this
9 subsection is, unless denied pursuant to s. 464.018, entitled
10 to certification as a certified geriatric specialist. The
11 board must certify, and the department must issue a
12 certificate to practice as a certified geriatric specialist
13 to, any certified nursing assistant who meets the
14 qualifications set forth in this section. The board shall
15 establish an application fee not to exceed \$100 and a biennial
16 renewal fee not to exceed \$50. The board may adopt rules to
17 administer this section.

18 (c) A person receiving certification under this
19 section shall:

20 1. Work only within the confines of a facility
21 licensed under part II or part III of chapter 400.

22 2. Care for geriatric patients only.

23 3. Comply with the minimum standards of practice for
24 nurses and be subject to disciplinary action for violations of
25 s. 464.018.

26 (3) ARTICULATION.--Any certified geriatric specialist
27 who completes the additional instruction and coursework in an
28 approved nursing program pursuant to s. 464.019 for the
29 preparation of practical nursing in the areas of pediatric
30 nursing and obstetric/maternal-child nursing is, unless denied
31 pursuant to s. 464.018, entitled to licensure as a licensed

1 practical nurse if the applicant otherwise meets the
 2 requirements of s. 464.008.

3 (4) TITLES AND ABBREVIATIONS; RESTRICTIONS;
 4 PENALTIES.--

5 (a) Only persons who hold certificates to practice as
 6 certified geriatric specialists in this state or who are
 7 performing services within the practice of certified geriatric
 8 specialty nursing pursuant to the exception set forth in s.
 9 464.022(8) may use the title "Certified Geriatric Specialist"
 10 and the abbreviation "C.G.S."

11 (b) A person may not practice or advertise as, or
 12 assume the title of, certified geriatric specialist or use the
 13 abbreviation "C.G.S." or take any other action that would lead
 14 the public to believe that person is certified as such or is
 15 performing services within the practice of certified geriatric
 16 specialty nursing pursuant to the exception set forth in s.
 17 464.022(8), unless that person is certified to practice as
 18 such.

19 (c) A violation of this subsection is a misdemeanor of
 20 the first degree, punishable as provided in s. 775.082 or s.
 21 775.083.

22 (5) VIOLATIONS AND PENALTIES.--Practicing certified
 23 geriatric specialty nursing, as defined in this section,
 24 without holding an active certificate to do so constitutes a
 25 felony of the third degree, punishable as provided in s.
 26 775.082, s. 775.083, or s. 775.084.

27 Section 32. Paragraph (b) of subsection (1) of section
 28 381.00315, Florida Statutes, is amended to read:

29 381.00315 Public health advisories; public health
 30 emergencies.--The State Health Officer is responsible for
 31

1 declaring public health emergencies and issuing public health
2 advisories.

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

4 (b) "Public health emergency" means any occurrence, or
5 threat thereof, whether natural or man made, which results or
6 may result in substantial injury or harm to the public health
7 from infectious disease, chemical agents, nuclear agents,
8 biological toxins, or situations involving mass casualties or
9 natural disasters. Prior to declaring a public health
10 emergency, the State Health Officer shall, to the extent
11 possible, consult with the Governor and shall notify the Chief
12 of Domestic Security Initiatives as created in s. 943.03. The
13 declaration of a public health emergency shall continue until
14 the State Health Officer finds that the threat or danger has
15 been dealt with to the extent that the emergency conditions no
16 longer exist and he or she terminates the declaration.
17 However, a declaration of a public health emergency may not
18 continue for longer than 60 days unless the Governor concurs
19 in the renewal of the declaration. The State Health Officer,
20 upon declaration of a public health emergency, may take
21 actions that are necessary to protect the public health. Such
22 actions include, but are not limited to:

23 1. Directing manufacturers of prescription drugs or
24 over-the-counter drugs who are permitted under chapter 499 and
25 wholesalers of prescription drugs located in this state who
26 are permitted under chapter 499 to give priority to the
27 shipping of specified drugs to pharmacies and health care
28 providers within geographic areas that have been identified by
29 the State Health Officer. The State Health Officer must
30 identify the drugs to be shipped. Manufacturers and
31 wholesalers located in the state must respond to the State

1 Health Officer's priority shipping directive before shipping
2 the specified drugs.

3 2. Notwithstanding chapters 465 and 499 and rules
4 adopted thereunder, directing pharmacists employed by the
5 department to compound bulk prescription drugs and provide
6 these bulk prescription drugs to physicians and nurses of
7 county health departments or any qualified person authorized
8 by the State Health Officer for administration to persons as
9 part of a prophylactic or treatment regimen.

10 3. Notwithstanding s. 456.036, temporarily
11 reactivating the inactive license of the following health care
12 practitioners, when such practitioners are needed to respond
13 to the public health emergency: physicians licensed under
14 chapter 458 or chapter 459; physician assistants licensed
15 under chapter 458 or chapter 459; certified geriatric
16 specialists certified under part I of chapter 464; licensed
17 practical nurses, registered nurses, and advanced registered
18 nurse practitioners licensed under part I of chapter 464;
19 respiratory therapists licensed under part V of chapter 468;
20 and emergency medical technicians and paramedics certified
21 under part III of chapter 401. Only those health care
22 practitioners specified in this paragraph who possess an
23 unencumbered inactive license and who request that such
24 license be reactivated are eligible for reactivation. An
25 inactive license that is reactivated under this paragraph
26 shall return to inactive status when the public health
27 emergency ends or prior to the end of the public health
28 emergency if the State Health Officer determines that the
29 health care practitioner is no longer needed to provide
30 services during the public health emergency. Such licenses may
31 only be reactivated for a period not to exceed 90 days without

1 meeting the requirements of s. 456.036 or chapter 401, as
2 applicable.

3 4. Ordering an individual to be examined, tested,
4 vaccinated, treated, or quarantined for communicable diseases
5 that have significant morbidity or mortality and present a
6 severe danger to public health. Individuals who are unable or
7 unwilling to be examined, tested, vaccinated, or treated for
8 reasons of health, religion, or conscience may be subjected to
9 quarantine.

10 a. Examination, testing, vaccination, or treatment may
11 be performed by any qualified person authorized by the State
12 Health Officer.

13 b. If the individual poses a danger to the public
14 health, the State Health Officer may subject the individual to
15 quarantine. If there is no practical method to quarantine the
16 individual, the State Health Officer may use any means
17 necessary to vaccinate or treat the individual.

18
19 Any order of the State Health Officer given to effectuate this
20 paragraph shall be immediately enforceable by a law
21 enforcement officer under s. 381.0012.

22 Section 33. Subsection (14) of section 400.021,
23 Florida Statutes, is amended to read:

24 400.021 Definitions.--When used in this part, unless
25 the context otherwise requires, the term:

26 (14) "Nursing service" means such services or acts as
27 may be rendered, directly or indirectly, to and in behalf of a
28 person by individuals as defined in ss. s- 464.003 and
29 464.0125.

30 Section 34. Subsection (1) of section 400.211, Florida
31 Statutes, is amended to read:

1 400.211 Persons employed as nursing assistants;
2 certification requirement.--

3 (1) To serve as a nursing assistant in any nursing
4 home, a person must be certified as a nursing assistant under
5 part II of chapter 464, unless the person is a registered
6 nurse, ~~a or~~ practical nurse, or a certified geriatric
7 specialist certified or licensed in accordance with part I of
8 chapter 464 or an applicant for such licensure who is
9 permitted to practice nursing in accordance with rules adopted
10 by the Board of Nursing pursuant to part I of chapter 464.

11 Section 35. Paragraphs (a) and (c) of subsection (3)
12 of section 400.23, Florida Statutes, are amended to read:

13 400.23 Rules; evaluation and deficiencies; licensure
14 status.--

15 (3)(a) The agency shall adopt rules providing for the
16 minimum staffing requirements for nursing homes. These
17 requirements shall include, for each nursing home facility, a
18 minimum certified nursing assistant staffing of 2.3 hours of
19 direct care per resident per day beginning January 1, 2002,
20 increasing to 2.6 hours of direct care per resident per day
21 beginning January 1, 2003, and increasing to 2.9 hours of
22 direct care per resident per day beginning May 1, 2004.

23 Beginning January 1, 2002, no facility shall staff below one
24 certified nursing assistant per 20 residents, and a minimum
25 licensed nursing staffing of 1.0 hour of direct resident care
26 per resident per day but never below one licensed nurse per 40
27 residents. For purposes of computing nursing staffing minimums
28 and ratios, certified geriatric specialists shall be
29 considered licensed nursing staff. ~~Nursing assistants employed~~
30 ~~never below one licensed nurse per 40 residents.~~ Nursing
31 assistants employed under s. 400.211(2) may be included in

1 computing the staffing ratio for certified nursing assistants
2 only if they provide nursing assistance services to residents
3 on a full-time basis. Each nursing home must document
4 compliance with staffing standards as required under this
5 paragraph and post daily the names of staff on duty for the
6 benefit of facility residents and the public. The agency shall
7 recognize the use of licensed nurses for compliance with
8 minimum staffing requirements for certified nursing
9 assistants, provided that the facility otherwise meets the
10 minimum staffing requirements for licensed nurses and that the
11 licensed nurses so recognized are performing the duties of a
12 certified nursing assistant. Unless otherwise approved by the
13 agency, licensed nurses counted towards the minimum staffing
14 requirements for certified nursing assistants must exclusively
15 perform the duties of a certified nursing assistant for the
16 entire shift and shall not also be counted towards the minimum
17 staffing requirements for licensed nurses. If the agency
18 approved a facility's request to use a licensed nurse to
19 perform both licensed nursing and certified nursing assistant
20 duties, the facility must allocate the amount of staff time
21 specifically spent on certified nursing assistant duties for
22 the purpose of documenting compliance with minimum staffing
23 requirements for certified and licensed nursing staff. In no
24 event may the hours of a licensed nurse with dual job
25 responsibilities be counted twice.

26 (c) Licensed practical nurses licensed under chapter
27 464 who are providing nursing services in nursing home
28 facilities under this part may supervise the activities of
29 other licensed practical nurses, certified geriatric
30 specialists, certified nursing assistants, and other
31

1 unlicensed personnel providing services in such facilities in
2 accordance with rules adopted by the Board of Nursing.

3 Section 36. Paragraph (b) of subsection (2) of section
4 409.908, Florida Statutes, is amended to read:

5 409.908 Reimbursement of Medicaid providers.--Subject
6 to specific appropriations, the agency shall reimburse
7 Medicaid providers, in accordance with state and federal law,
8 according to methodologies set forth in the rules of the
9 agency and in policy manuals and handbooks incorporated by
10 reference therein. These methodologies may include fee
11 schedules, reimbursement methods based on cost reporting,
12 negotiated fees, competitive bidding pursuant to s. 287.057,
13 and other mechanisms the agency considers efficient and
14 effective for purchasing services or goods on behalf of
15 recipients. If a provider is reimbursed based on cost
16 reporting and submits a cost report late and that cost report
17 would have been used to set a lower reimbursement rate for a
18 rate semester, then the provider's rate for that semester
19 shall be retroactively calculated using the new cost report,
20 and full payment at the recalculated rate shall be affected
21 retroactively. Medicare-granted extensions for filing cost
22 reports, if applicable, shall also apply to Medicaid cost
23 reports. Payment for Medicaid compensable services made on
24 behalf of Medicaid eligible persons is subject to the
25 availability of moneys and any limitations or directions
26 provided for in the General Appropriations Act or chapter 216.
27 Further, nothing in this section shall be construed to prevent
28 or limit the agency from adjusting fees, reimbursement rates,
29 lengths of stay, number of visits, or number of services, or
30 making any other adjustments necessary to comply with the
31 availability of moneys and any limitations or directions

1 provided for in the General Appropriations Act, provided the
2 adjustment is consistent with legislative intent.

3 (2)

4 (b) Subject to any limitations or directions provided
5 for in the General Appropriations Act, the agency shall
6 establish and implement a Florida Title XIX Long-Term Care
7 Reimbursement Plan (Medicaid) for nursing home care in order
8 to provide care and services in conformance with the
9 applicable state and federal laws, rules, regulations, and
10 quality and safety standards and to ensure that individuals
11 eligible for medical assistance have reasonable geographic
12 access to such care.

13 1. Changes of ownership or of licensed operator do not
14 qualify for increases in reimbursement rates associated with
15 the change of ownership or of licensed operator. The agency
16 shall amend the Title XIX Long Term Care Reimbursement Plan to
17 provide that the initial nursing home reimbursement rates, for
18 the operating, patient care, and MAR components, associated
19 with related and unrelated party changes of ownership or
20 licensed operator filed on or after September 1, 2001, are
21 equivalent to the previous owner's reimbursement rate.

22 2. The agency shall amend the long-term care
23 reimbursement plan and cost reporting system to create direct
24 care and indirect care subcomponents of the patient care
25 component of the per diem rate. These two subcomponents
26 together shall equal the patient care component of the per
27 diem rate. Separate cost-based ceilings shall be calculated
28 for each patient care subcomponent. The direct care
29 subcomponent of the per diem rate shall be limited by the
30 cost-based class ceiling, and the indirect care subcomponent
31 shall be limited by the lower of the cost-based class ceiling,

1 by the target rate class ceiling, or by the individual
2 provider target. The agency shall adjust the patient care
3 component effective January 1, 2002. The cost to adjust the
4 direct care subcomponent shall be net of the total funds
5 previously allocated for the case mix add-on. The agency shall
6 make the required changes to the nursing home cost reporting
7 forms to implement this requirement effective January 1, 2002.

8 3. The direct care subcomponent shall include salaries
9 and benefits of direct care staff providing nursing services
10 including registered nurses, licensed practical nurses,
11 certified geriatric specialists certified under part I of
12 chapter 464, and certified nursing assistants who deliver care
13 directly to residents in the nursing home facility. This
14 excludes nursing administration, MDS, and care plan
15 coordinators, staff development, and staffing coordinator.

16 4. All other patient care costs shall be included in
17 the indirect care cost subcomponent of the patient care per
18 diem rate. There shall be no costs directly or indirectly
19 allocated to the direct care subcomponent from a home office
20 or management company.

21 5. On July 1 of each year, the agency shall report to
22 the Legislature direct and indirect care costs, including
23 average direct and indirect care costs per resident per
24 facility and direct care and indirect care salaries and
25 benefits per category of staff member per facility.

26 6. In order to offset the cost of general and
27 professional liability insurance, the agency shall amend the
28 plan to allow for interim rate adjustments to reflect
29 increases in the cost of general or professional liability
30 insurance for nursing homes. This provision shall be
31

1 implemented to the extent existing appropriations are
2 available.

3
4 It is the intent of the Legislature that the reimbursement
5 plan achieve the goal of providing access to health care for
6 nursing home residents who require large amounts of care while
7 encouraging diversion services as an alternative to nursing
8 home care for residents who can be served within the
9 community. The agency shall base the establishment of any
10 maximum rate of payment, whether overall or component, on the
11 available moneys as provided for in the General Appropriations
12 Act. The agency may base the maximum rate of payment on the
13 results of scientifically valid analysis and conclusions
14 derived from objective statistical data pertinent to the
15 particular maximum rate of payment.

16 Section 37. Subsection (2) of section 458.303, Florida
17 Statutes, is amended to read:

18 458.303 Provisions not applicable to other
19 practitioners; exceptions, etc.--

20 (2) Nothing in s. 458.301, s. 458.303, s. 458.305, s.
21 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s.
22 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s.
23 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347
24 shall be construed to prohibit any service rendered by a
25 registered nurse, ~~or~~ a licensed practical nurse, or a
26 certified geriatric specialist certified under part I of
27 chapter 464, if such service is rendered under the direct
28 supervision and control of a licensed physician who provides
29 specific direction for any service to be performed and gives
30 final approval to all services performed. Further, nothing in
31 this or any other chapter shall be construed to prohibit any

1 service rendered by a medical assistant in accordance with the
2 provisions of s. 458.3485.

3 Section 38. Subsection (1) and paragraph (a) of
4 subsection (2) of section 1009.65, Florida Statutes, are
5 amended to read:

6 1009.65 Medical Education Reimbursement and Loan
7 Repayment Program.--

8 (1) To encourage qualified medical professionals to
9 practice in underserved locations where there are shortages of
10 such personnel, there is established the Medical Education
11 Reimbursement and Loan Repayment Program. The function of the
12 program is to make payments that offset loans and educational
13 expenses incurred by students for studies leading to a medical
14 or nursing degree, medical or nursing licensure, or advanced
15 registered nurse practitioner certification or physician
16 assistant licensure. The following licensed or certified
17 health care professionals are eligible to participate in this
18 program: medical doctors with primary care specialties,
19 doctors of osteopathic medicine with primary care specialties,
20 physician's assistants, certified geriatric specialists
21 certified under part I of chapter 464, licensed practical
22 nurses and registered nurses, and advanced registered nurse
23 practitioners with primary care specialties such as certified
24 nurse midwives. Primary care medical specialties for
25 physicians include obstetrics, gynecology, general and family
26 practice, internal medicine, pediatrics, and other specialties
27 which may be identified by the Department of Health.

28 (2) From the funds available, the Department of Health
29 shall make payments to selected medical professionals as
30 follows:

31

1 (a) Up to \$4,000 per year for certified geriatric
2 specialists certified under part I of chapter 464, licensed
3 practical nurses, and registered nurses, up to \$10,000 per
4 year for advanced registered nurse practitioners and
5 physician's assistants, and up to \$20,000 per year for
6 physicians. Penalties for noncompliance shall be the same as
7 those in the National Health Services Corps Loan Repayment
8 Program. Educational expenses include costs for tuition,
9 matriculation, registration, books, laboratory and other fees,
10 other educational costs, and reasonable living expenses as
11 determined by the Department of Health.

12 Section 39. Subsection (2) of section 1009.66, Florida
13 Statutes, is amended to read:

14 1009.66 Nursing Student Loan Forgiveness Program.--

15 (2) To be eligible, a candidate must have graduated
16 from an accredited or approved nursing program and have
17 received a Florida license as a licensed practical nurse, a
18 certified geriatric specialist certified under part I of
19 chapter 464, or a registered nurse or a Florida certificate as
20 an advanced registered nurse practitioner.

21 Section 40. The sum of \$157,017 is appropriated from
22 the General Revenue Fund to the Agency for Workforce
23 Innovation to support the work of the Certified Geriatric
24 Specialty Nursing Initiative Steering Committee, to administer
25 the pilot sites, contract for an evaluation, and to the extent
26 that funds are available, and if necessary, to provide nursing
27 faculty, substitute certified nursing assistants for those who
28 are in clinical education, and technical support to the pilot
29 sites during the 2004-2005 fiscal year.

30 Section 41. Subsection (6) is added to section
31 464.201, Florida Statutes, to read:

1 464.201 Definitions.--As used in this part, the term:
2 (6) "Practice of a certified nursing assistant" means
3 providing care and assisting persons with tasks relating to
4 the activities of daily living. Such tasks are those
5 associated with personal care, maintaining mobility, nutrition
6 and hydration, toileting and elimination, assistive devices,
7 safety and cleanliness, data gathering, reporting abnormal
8 signs and symptoms, post mortem care, patient socialization
9 and reality orientation, end-of-life care, CPR and emergency
10 care, residents' or patients' rights, documentation of nursing
11 assistant services, and other tasks that a certified nurse
12 assistant may perform after training beyond that required for
13 initial certification and upon validation of competence in
14 that skill by a registered nurse. This section does not
15 restrict the ability of any person who is otherwise trained
16 and educated from performing such tasks.

17 Section 42. Section 464.202, Florida Statutes, is
18 amended to read:

19 464.202 Duties and powers of the board.--The board
20 shall maintain, or contract with or approve another entity to
21 maintain, a state registry of certified nursing assistants.
22 The registry must consist of the name of each certified
23 nursing assistant in this state; other identifying information
24 defined by board rule; certification status; the effective
25 date of certification; other information required by state or
26 federal law; information regarding any crime or any abuse,
27 neglect, or exploitation as provided under chapter 435; and
28 any disciplinary action taken against the certified nursing
29 assistant. The registry shall be accessible to the public, the
30 certificateholder, employers, and other state agencies. The
31 board shall adopt by rule testing procedures for use in

1 certifying nursing assistants and shall adopt rules regulating
2 the practice of certified nursing assistants which specify the
3 scope of practice authorized and level of supervision required
4 for the practice of certified nursing assistants to enforce
5 ~~this part~~. The board may contract with or approve another
6 entity or organization to provide the examination services,
7 including the development and administration of examinations.
8 The board shall require that the contract provider offer
9 certified nursing assistant applications via the Internet, and
10 may require the contract provider to accept certified nursing
11 assistant applications for processing via the Internet. The
12 board shall require the contract provider to provide the
13 preliminary results of the certified nursing examination on
14 the date the test is administered. The provider shall pay all
15 reasonable costs and expenses incurred by the board in
16 evaluating the provider's application and performance during
17 the delivery of services, including examination services and
18 procedures for maintaining the certified nursing assistant
19 registry.

20 Section 43. This act shall take effect upon becoming a
21 law, and section 21 shall apply retroactively to March 1,
22 2004.

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