

CHAMBER ACTION

1 The Health Care General Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5  
6 A bill to be entitled

7 An act relating to emergency management; amending s.  
8 252.355, F.S.; providing that the Department of Community  
9 Affairs shall be the designated lead agency responsible  
10 for community education and outreach to the general  
11 public, including special needs clients, regarding  
12 registration as a person with special needs, special needs  
13 shelters, and general information regarding shelter stays;  
14 requiring the department to disseminate educational and  
15 outreach information through local emergency management  
16 offices; amending s. 381.0303, F.S.; removing a condition  
17 of specified funding as a prerequisite to the assumption  
18 of lead responsibility by the Department of Health for  
19 specified coordination with respect to the development of  
20 a plan for the staffing and medical management of special  
21 needs shelters; providing that the local Children's  
22 Medical Services offices shall assume lead responsibility  
23 for specified coordination with respect to the development

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24 | of a plan for the staffing and medical management of  
25 | pediatric special needs shelters; requiring such plans to  
26 | be in conformance with the local comprehensive emergency  
27 | management plan; requiring county governments to assist in  
28 | the process of coordinating the recruitment of health care  
29 | practitioners to staff local special needs shelters;  
30 | providing that the appropriate county health department,  
31 | Children's Medical Services, and local emergency  
32 | management agency shall jointly determine the  
33 | responsibility for medical supervision in a special needs  
34 | shelter; providing that the Department of Elderly Affairs  
35 | shall be the lead agency responsible for ensuring the  
36 | placement of special needs residents rendered homeless due  
37 | to a disaster event and for appropriate discharge  
38 | planning; providing that the Agency for Persons with  
39 | Disabilities shall be the lead agency responsible for  
40 | ensuring the placement of developmentally disabled special  
41 | needs residents; providing that the Department of Elderly  
42 | Affairs shall be the lead agency responsible for ensuring  
43 | the placement of elderly residents in programs,  
44 | Alzheimer's patients, and adult special needs residents  
45 | rendered homeless due to a disaster event; providing that  
46 | the Department of Children and Family Services shall be  
47 | the lead agency responsible for ensuring the placement of  
48 | children within the welfare system and individuals  
49 | receiving mental health services from the department;  
50 | providing that the appropriate agency shall provide  
51 | necessary discharge planning for their respective clients;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 providing that state employees with a preestablished role  
53 in disaster response may be called upon to serve in times  
54 of disaster in specified capacities; requiring hospitals  
55 that are used to shelter special needs persons during and  
56 after an evacuation to submit invoices for reimbursement  
57 from the state for expenses incurred for medical care  
58 provided at the request of the Department of Health in  
59 special needs shelters or at other locations during times  
60 of emergency or major disaster; revising the role of the  
61 special needs shelter interagency committee with respect  
62 to the planning and operation of special needs shelters;  
63 providing required functions of the committee; providing  
64 that the Department of Health shall establish a statewide  
65 database to capture and disseminate special needs  
66 registration information; revising the composition of the  
67 special needs shelter interagency committee; providing for  
68 the inclusion of specified rules with respect to health  
69 practitioner recruitment for special needs shelters;  
70 providing requirements with respect to emergency  
71 management plans submitted by home health agencies, nurse  
72 registries, and hospice programs to county health  
73 departments for review; removing a condition of specified  
74 funding as a prerequisite to the submission of such plans;  
75 amending s. 252.385, F.S.; requiring inspection of public  
76 hurricane evacuation shelter facilities by local emergency  
77 management agencies prior to activation of such  
78 facilities; requiring the Department of Management  
79 Services to annually review the registry of persons with

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80 special needs to ensure that the construction of special  
81 needs shelters is sufficient and suitable to house such  
82 persons during and after an evacuation; amending s.  
83 400.492, F.S.; providing that home health, hospice, and  
84 durable medical equipment provider agencies shall not be  
85 required to continue to provide care to patients in  
86 emergency situations that are beyond their control and  
87 that make it impossible to provide services; authorizing  
88 home health agencies and durable medical equipment  
89 providers to establish links to local emergency operations  
90 centers to determine a mechanism to approach areas within  
91 a disaster area in order for the agency to reach its  
92 clients; providing that the presentation of home care  
93 clients to the special needs shelter without the home  
94 health agency making a good faith effort to provide  
95 services in the shelter setting constitutes abandonment of  
96 the client; requiring regulatory review in such cases;  
97 amending s. 408.831, F.S.; providing that entities  
98 regulated or licensed by the Agency for Health Care  
99 Administration may exceed their licensed capacity to act  
100 as a receiving facility under specified circumstances;  
101 providing requirements while such entities are in an  
102 overcapacity status; providing for issuance of an inactive  
103 license to such licensees under specified conditions;  
104 providing requirements and procedures with respect to the  
105 issuance and reactivation of an inactive license;  
106 providing fees; providing an effective date.

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

109

110 Section 1. Section 252.355, Florida Statutes, is amended  
111 to read:

112 252.355 Registry of persons with special needs; notice.--

113 (1) In order to meet the special needs of persons who  
114 would need assistance during evacuations and sheltering because  
115 of physical, mental, or sensory disabilities, each local  
116 emergency management agency in the state shall maintain a  
117 registry of persons with special needs located within the  
118 jurisdiction of the local agency. The registration shall  
119 identify those persons in need of assistance and plan for  
120 resource allocation to meet those identified needs. To assist  
121 the local emergency management agency in identifying such  
122 persons, the Department of Children and Family Services,  
123 Department of Health, Agency for Health Care Administration,  
124 Department of Labor and Employment Security, and Department of  
125 Elderly Affairs shall provide registration information to all of  
126 their special needs clients and to all incoming clients as a  
127 part of the intake process. The registry shall be updated  
128 annually. The registration program shall give persons with  
129 special needs the option of preauthorizing emergency response  
130 personnel to enter their homes during search and rescue  
131 operations if necessary to assure their safety and welfare  
132 following disasters.

133 (2) The Department of Community Affairs shall be the  
134 designated lead agency responsible for community education and  
135 outreach to the general public, including special needs clients,

136 regarding registration and special needs shelters and general  
 137 information regarding shelter stays. The Department of Community  
 138 Affairs shall disseminate such educational and outreach  
 139 information through the local emergency management offices.

140 (3)~~(2)~~ On or before May 1 of each year each electric  
 141 utility in the state shall annually notify residential customers  
 142 in its service area of the availability of the registration  
 143 program available through their local emergency management  
 144 agency.

145 (4)~~(3)~~ All records, data, information, correspondence, and  
 146 communications relating to the registration of persons with  
 147 special needs as provided in subsection (1) are confidential and  
 148 exempt from the provisions of s. 119.07(1), except that such  
 149 information shall be available to other emergency response  
 150 agencies, as determined by the local emergency management  
 151 director.

152 (5)~~(4)~~ All appropriate agencies and community-based  
 153 service providers, including home health care providers, and  
 154 hospices shall assist emergency management agencies by  
 155 collecting registration information for persons with special  
 156 needs as part of program intake processes, establishing programs  
 157 to increase the awareness of the registration process, and  
 158 educating clients about the procedures that may be necessary for  
 159 their safety during disasters. Clients of state or federally  
 160 funded service programs with physical, mental, or sensory  
 161 disabilities who need assistance in evacuating, or when in  
 162 shelters, must register as persons with special needs.

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163 Section 2. Section 381.0303, Florida Statutes, is amended  
164 to read:

165 381.0303 Health practitioner recruitment for special needs  
166 shelters.--

167 (1) PURPOSE.--The purpose of this section is to designate  
168 the Department of Health, through its county health departments,  
169 as the lead agency for coordination of the recruitment of health  
170 care practitioners, as defined in s. 456.001(4), to staff  
171 special needs shelters in times of emergency or disaster and to  
172 provide resources to the department to carry out this  
173 responsibility. However, nothing in this section prohibits a  
174 county health department from entering into an agreement with a  
175 local emergency management agency to assume the lead  
176 responsibility for recruiting health care practitioners.

177 (2) SPECIAL NEEDS SHELTER PLAN AND STAFFING.--~~Provided~~  
178 ~~funds have been appropriated to support medical services~~  
179 ~~disaster coordinator positions in county health departments,~~ The  
180 department shall assume lead responsibility for the local  
181 coordination of local medical and health care providers, the  
182 American Red Cross, and other interested parties in developing a  
183 plan for the staffing and medical management of special needs  
184 shelters. The local Children's Medical Services offices shall  
185 assume lead responsibility for the local coordination of local  
186 medical and health care providers, the American Red Cross, and  
187 other interested parties in developing a plan for the staffing  
188 and medical management of pediatric special needs shelters.  
189 Plans ~~The plan~~ shall be in conformance with the local  
190 comprehensive emergency management plan.

191 (a) County health departments shall, in conjunction with  
 192 the local emergency management agencies, have the lead  
 193 responsibility for coordination of the recruitment of health  
 194 care practitioners to staff local special needs shelters. County  
 195 health departments shall assign their employees to work in  
 196 special needs shelters when needed to protect the health of  
 197 patients. County governments shall assist in this process.

198 (b) The appropriate county health department, Children's  
 199 Medical Services, and local emergency management agency shall  
 200 jointly determine who has responsibility for medical supervision  
 201 in a special needs shelter.

202 (c) The Department of Elderly Affairs shall be the lead  
 203 agency responsible for ensuring the placement of special needs  
 204 residents rendered homeless due to a disaster event and for  
 205 appropriate and necessary discharge planning for special needs  
 206 shelter residents. Other elder service agencies and  
 207 organizations shall assist Department of Elderly Affairs in this  
 208 effort.

209 (d)1. The Agency for Persons with Disabilities shall be  
 210 the lead agency responsible for ensuring the placement of  
 211 developmentally disabled special needs residents.

212 2. The Department of Elderly Affairs shall be the lead  
 213 agency responsible for ensuring the placement of elderly  
 214 residents in programs, Alzheimer's patients, and adult special  
 215 needs residents rendered homeless due to a disaster event.

216 3. The Department of Children and Family Services shall be  
 217 the lead agency responsible for ensuring the placement of



218 children within the welfare system and individuals receiving  
 219 mental health services from the department.

220  
 221 In all cases, the appropriate agency shall provide the  
 222 appropriate and necessary discharge planning for their  
 223 respective clients. Other social service agencies or  
 224 organizations shall assist the aforementioned agencies in this  
 225 effort.

226 (e) State employees with a preestablished role in disaster  
 227 response may be called upon to serve in times of disaster  
 228 commensurate with their knowledge, skills, and abilities and any  
 229 needed activities related to the situation.

230 (f)~~(e)~~ Local emergency management agencies shall be  
 231 responsible for the designation and operation of special needs  
 232 shelters during times of emergency or disaster. County health  
 233 departments shall assist the local emergency management agency  
 234 with regard to the management of medical services in special  
 235 needs shelters.

236 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.--The  
 237 Department of Health shall reimburse, subject to the  
 238 availability of funds for this purpose, health care  
 239 practitioners, as defined in s. 456.001, provided the  
 240 practitioner is not providing care to a patient under an  
 241 existing contract, and emergency medical technicians and  
 242 paramedics licensed pursuant to chapter 401 for medical care  
 243 provided at the request of the department in special needs  
 244 shelters or at other locations during times of emergency or  
 245 major disaster. Reimbursement for health care practitioners,

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246 | except for physicians licensed pursuant to chapter 458 or  
 247 | chapter 459, shall be based on the average hourly rate that such  
 248 | practitioners were paid according to the most recent survey of  
 249 | Florida hospitals conducted by the Florida Hospital Association.  
 250 | Reimbursement shall be requested on forms prepared by the  
 251 | Department of Health. If a Presidential Disaster Declaration has  
 252 | been made, and the Federal Government makes funds available, the  
 253 | department shall use such funds for reimbursement of eligible  
 254 | expenditures. In other situations, or if federal funds do not  
 255 | fully compensate the department for reimbursement made pursuant  
 256 | to this section, the department shall submit to the Cabinet or  
 257 | Legislature, as appropriate, a budget amendment to obtain  
 258 | reimbursement from the working capital fund. Hospitals that are  
 259 | used to shelter special needs persons during and after an  
 260 | evacuation shall submit invoices for reimbursement from the  
 261 | state for expenses incurred in this effort. Travel expense and  
 262 | per diem costs shall be reimbursed pursuant to s. 112.061.

263 |       (4) HEALTH CARE PRACTITIONER REGISTRY.--The department may  
 264 | use the registries established in ss. 401.273 and 456.38 when  
 265 | health care practitioners are needed to staff special needs  
 266 | shelters or to staff disaster medical assistance teams.

267 |       (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The  
 268 | Department of Health may establish a special needs shelter  
 269 | interagency committee, to be chaired and staffed by the  
 270 | department. The committee shall resolve problems related to  
 271 | special needs shelters not addressed in the state comprehensive  
 272 | emergency medical plan and shall serve in a consultative role in

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273 | ~~as an oversight committee to monitor~~ the planning and operation  
 274 | of special needs shelters.

275 | (a) The committee shall ~~may~~:

276 | 1. Develop and negotiate any necessary interagency  
 277 | agreements.

278 | 2. Undertake other such activities as the department deems  
 279 | necessary to facilitate the implementation of this section.

280 | 3. Submit recommendations to the Legislature as necessary.  
 281 | Such recommendations shall include, but not be limited to, the  
 282 | following:

283 | a. Defining "special needs shelter."

284 | b. Defining "special needs person."

285 | c. Development of a uniform registration form.

286 | d. The improvement of public awareness regarding the  
 287 | registration process.

288 | e. The improvement of overall communications with special  
 289 | needs persons both before and after a disaster.

290 | f. The establishment of special needs shelter guidelines  
 291 | for staffing, supplies, including durable medical, emergency  
 292 | power, and transportation.

293 |  
 294 | The Department of Health shall establish a statewide database  
 295 | designed to collect and disseminate timely and appropriate  
 296 | special needs registration information.

297 | (b) The special needs shelter interagency committee shall  
 298 | be composed of representatives of emergency management, health,  
 299 | medical, and social services organizations. Membership shall  
 300 | include, but shall not be limited to, the Departments of

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301 Community Affairs, Children and Family Services, Elderly  
 302 Affairs, ~~Labor and Employment Security~~, and Education; the  
 303 Agency for Health Care Administration; the Agency for Workforce  
 304 Innovation; the Florida Medical Association; the Florida  
 305 Osteopathic Medical Association; Associated Home Health  
 306 Industries of Florida, Inc.; the Florida Nurses Association; the  
 307 Florida Health Care Association; the Florida Assisted Living  
 308 Association; the Florida Hospital Association; the Florida  
 309 Statutory Teaching Hospital Council; the Florida Association of  
 310 Homes for the Aging; the Florida Emergency Preparedness  
 311 Association; the American Red Cross; Florida Hospices, Inc.; the  
 312 Association of Community Hospitals and Health Systems; the  
 313 Florida Association of Health Maintenance Organizations; the  
 314 Florida League of Health Systems; Private Care Association; ~~and~~  
 315 the Salvation Army; the Florida Association of Aging Services  
 316 Providers; and the American Association of Retired Persons.

317 (c) Meetings of the committee shall be held in  
 318 Tallahassee, and members of the committee shall serve at the  
 319 expense of the agencies or organizations they represent. The  
 320 committee shall make every effort to use teleconference or video  
 321 conference capabilities in order to ensure widespread input and  
 322 to accommodate persons from other areas of the state.

323 (6) RULES.--The department has the authority to adopt  
 324 rules necessary to implement this section. Rules shall ~~may~~  
 325 include a definition of a special needs patient, specification  
 326 with respect to ~~specify~~ physician reimbursement, and the  
 327 designation of ~~designate which~~ county health departments which

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328 will have responsibility for the implementation of subsections  
329 (2) and (3).

330 (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--~~The submission~~  
331 ~~of~~ Emergency management plans submitted to county health  
332 departments by home health agencies pursuant to s. 400.497(8)(c)  
333 and (d) and by nurse registries pursuant to s. 400.506(16)(e)  
334 and by hospice programs pursuant to s. 400.610(1)(b) shall  
335 specifically address an agency's functional staffing plan for  
336 the shelters to ensure continuity of care and services for  
337 clients ~~is conditional upon the receipt of an appropriation by~~  
338 ~~the department to establish medical services disaster~~  
339 ~~coordinator positions in county health departments unless the~~  
340 ~~secretary of the department and a local county commission~~  
341 ~~jointly determine to require such plans to be submitted based on~~  
342 ~~a determination that there is a special need to protect public~~  
343 ~~health in the local area during an emergency.~~

344 Section 3. Subsection (4) of section 252.385, Florida  
345 Statutes, is amended to read:

346 252.385 Public shelter space.--

347 (4)(a) Public facilities, including schools, postsecondary  
348 education facilities, and other facilities owned or leased by  
349 the state or local governments, but excluding hospitals or  
350 nursing homes, which are suitable for use as public hurricane  
351 evacuation shelters shall be made available at the request of  
352 the local emergency management agencies. The local emergency  
353 management agency shall inspect a facility prior to activating  
354 such facility for a specific hurricane or disaster. Such  
355 agencies shall coordinate with the appropriate school board,

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356 university, community college, or local governing board when  
357 requesting the use of such facilities as public hurricane  
358 evacuation shelters.

359 (b) The Department of Management Services shall  
360 incorporate provisions for the use of suitable leased public  
361 facilities as public hurricane evacuation shelters into lease  
362 agreements for state agencies. Suitable leased public facilities  
363 include leased public facilities that are solely occupied by  
364 state agencies and have at least 2,000 square feet of net floor  
365 area in a single room or in a combination of rooms having a  
366 minimum of 400 square feet in each room. The net square footage  
367 of floor area must be determined by subtracting from the gross  
368 square footage the square footage of spaces such as mechanical  
369 and electrical rooms, storage rooms, open corridors, restrooms,  
370 kitchens, science or computer laboratories, shop or mechanical  
371 areas, administrative offices, records vaults, and crawl spaces.

372 (c) The Department of Management Services shall annually  
373 review the registry of persons with special needs to ensure that  
374 the construction of special needs shelters is sufficient and  
375 suitable to house such persons during and after an evacuation.

376 ~~(d)(e)~~ The Department of Management Services shall, in  
377 consultation with local and state emergency management agencies,  
378 assess Department of Management Services facilities to identify  
379 the extent to which each facility has public hurricane  
380 evacuation shelter space. The Department of Management Services  
381 shall submit proposed facility retrofit projects that  
382 incorporate hurricane protection enhancements to the department

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383 | for assessment and inclusion in the annual report prepared in  
384 | accordance with subsection (3).

385 |       Section 4. Subsection (3) of section 400.492, Florida  
386 | Statutes, is amended to read:

387 |       400.492 Provision of services during an emergency.--Each  
388 | home health agency shall prepare and maintain a comprehensive  
389 | emergency management plan that is consistent with the standards  
390 | adopted by national accreditation organizations and consistent  
391 | with the local special needs plan. The plan shall be updated  
392 | annually and shall provide for continuing home health services  
393 | during an emergency that interrupts patient care or services in  
394 | the patient's home. The plan shall describe how the home health  
395 | agency establishes and maintains an effective response to  
396 | emergencies and disasters, including: notifying staff when  
397 | emergency response measures are initiated; providing for  
398 | communication between staff members, county health departments,  
399 | and local emergency management agencies, including a backup  
400 | system; identifying resources necessary to continue essential  
401 | care or services or referrals to other organizations subject to  
402 | written agreement; and prioritizing and contacting patients who  
403 | need continued care or services.

404 |       (3) Home health, hospice, and durable medical equipment  
405 | provider agencies shall not be required to continue to provide  
406 | care to patients in emergency situations that are beyond their  
407 | control and that make it impossible to provide services, such as  
408 | when roads are impassable or when patients do not go to the  
409 | location specified in their patient records. Home health  
410 | agencies and durable medical equipment providers may establish

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411 links to local emergency operations centers to determine a  
 412 mechanism to approach areas within the disaster area in order  
 413 for the agency to reach its clients. The presentation of home  
 414 care clients to a special needs shelter without the home health  
 415 agency making a good faith effort to provide the home health  
 416 services in the shelter setting, which the agency is currently  
 417 providing in the client's home, will constitute abandonment of  
 418 the client and will result in regulatory review.

419 Section 5. Section 408.831, Florida Statutes, is amended  
 420 to read:

421 408.831 Denial, suspension, or revocation of a license,  
 422 registration, certificate, or application.--

423 (1) In addition to any other remedies provided by law, the  
 424 agency may deny each application or suspend or revoke each  
 425 license, registration, or certificate of entities regulated or  
 426 licensed by it:

427 (a) If the applicant, licensee, registrant, or  
 428 certificateholder, or, in the case of a corporation,  
 429 partnership, or other business entity, if any officer, director,  
 430 agent, or managing employee of that business entity or any  
 431 affiliated person, partner, or shareholder having an ownership  
 432 interest equal to 5 percent or greater in that business entity,  
 433 has failed to pay all outstanding fines, liens, or overpayments  
 434 assessed by final order of the agency or final order of the  
 435 Centers for Medicare and Medicaid Services, not subject to  
 436 further appeal, unless a repayment plan is approved by the  
 437 agency; or

438 (b) For failure to comply with any repayment plan.



439           (2) In reviewing any application requesting a change of  
 440 ownership or change of the licensee, registrant, or  
 441 certificateholder, the transferor shall, prior to agency  
 442 approval of the change, repay or make arrangements to repay any  
 443 amounts owed to the agency. Should the transferor fail to repay  
 444 or make arrangements to repay the amounts owed to the agency,  
 445 the issuance of a license, registration, or certificate to the  
 446 transferee shall be delayed until repayment or until  
 447 arrangements for repayment are made.

448           (3) Entities subject to this section may exceed their  
 449 licensed capacity to act as a receiving facility in accordance  
 450 with an emergency operations plan for clients of evacuating  
 451 providers from a geographic area where an evacuation order has  
 452 been issued by a local authority having jurisdiction. While in  
 453 an overcapacity status, each provider must furnish or arrange  
 454 for appropriate care and services to all clients and comply with  
 455 all firesafety requirements of state and local authorities.  
 456 Overcapacity status in excess of 30 days requires prior written  
 457 approval by the agency, which shall be based upon satisfactory  
 458 justification and need.

459           (4) An inactive license may be issued to a licensee  
 460 subject to this section when the provider is located in a  
 461 geographic area where a state of emergency was declared by the  
 462 Governor of Florida if the provider:

463           (a) Suffered damage to the provider's operation during  
 464 that state of emergency.

465           (b) Is currently licensed.

466           (c) Does not have a provisional license.

467        (d) Will be temporarily unable to provide services but is  
 468 reasonably expected to resume services within 12 months.

469  
 470 An inactive license may be issued for a period not to exceed 12  
 471 months but may be renewed by the agency for up to 6 additional  
 472 months upon demonstration to the agency of progress toward  
 473 reopening. A request by a licensee for an inactive license or to  
 474 extend the previously approved inactive period must be submitted  
 475 in writing to the agency, accompanied by written justification  
 476 for the inactive license which states the beginning and ending  
 477 dates of inactivity and includes a plan for the transfer of any  
 478 clients to other providers and appropriate licensure fees. Upon  
 479 agency approval, the licensee shall notify clients of any  
 480 necessary discharge or transfer as required by authorizing  
 481 statutes or applicable rules. The beginning of the inactive  
 482 licensure period shall be the date the provider ceases  
 483 operations. The end of the inactive period shall become the  
 484 licensee expiration date and all licensure fees must be current,  
 485 paid in full, and may be prorated. Reactivation of an inactive  
 486 license requires the prior approval by the agency of a renewal  
 487 application, including payment of licensure fees and agency  
 488 inspections indicating compliance with all requirements of this  
 489 part and applicable rules and statutes.

490        ~~(5)(3)~~ This section provides standards of enforcement  
 491 applicable to all entities licensed or regulated by the Agency  
 492 for Health Care Administration. This section controls over any  
 493 conflicting provisions of chapters 39, 381, 383, 390, 391, 393,

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494 | 394, 395, 400, 408, 468, 483, and 641 or rules adopted pursuant  
495 | to those chapters.

496 |       Section 6. This act shall take effect July 1, 2005.