

1                                   A bill to be entitled  
2       An act relating to the licensure of health care providers;  
3       creating pts. I, II, III, and IV of ch. 408, F.S.;  
4       creating s. 408.801, F.S.; providing a popular name;  
5       providing legislative findings and purpose; creating s.  
6       408.802, F.S.; providing applicability; creating s.  
7       408.803, F.S.; providing definitions; creating s. 408.804,  
8       F.S.; requiring providers to have and display a license;  
9       providing limitations; creating s. 408.805, F.S.;  
10      establishing license fees; providing a method for  
11      calculating annual adjustment of fees; creating s.  
12      408.806, F.S.; providing a license application process;  
13      requiring specified information to be included on the  
14      application; requiring payment of late fees under certain  
15      circumstances; requiring inspections; providing an  
16      exception; authorizing the Agency for Health Care  
17      Administration to establish procedures and rules for  
18      electronic transmission of required information; creating  
19      s. 408.807, F.S.; providing procedures for change of  
20      ownership; requiring the transferor to notify the agency  
21      in writing within a specified time period; providing for  
22      duties and liability of the transferor; providing for  
23      maintenance of records; creating s. 408.808, F.S.;  
24      providing license categories and requirements therefor;  
25      creating s. 408.809, F.S.; requiring background screening  
26      of specified employees; providing for submission of proof  
27      of compliance, under certain circumstances; providing  
28      conditions for granting provisional and standard licenses;

29 providing an exception to screening requirements; creating  
30 s. 408.810, F.S.; providing minimum licensure  
31 requirements; providing procedures for discontinuance of  
32 operation and surrender of license; requiring forwarding  
33 of client records; requiring publication of a notice of  
34 discontinuance of operation of a provider; providing  
35 penalties; providing for statewide toll-free telephone  
36 numbers for reporting complaints and abusive, neglectful,  
37 and exploitative practices; requiring proof of legal right  
38 to occupy property, proof of insurance, and proof of  
39 financial viability, under certain circumstances;  
40 requiring disclosure of information relating to financial  
41 instability; providing a penalty; prohibiting the agency  
42 from licensing a health care provider that does not have a  
43 certificate of need or an exemption; creating s. 408.811,  
44 F.S.; providing for inspections and investigations to  
45 determine compliance; providing that inspection reports  
46 are public records; requiring retention of records for a  
47 specified period of time; creating s. 408.812, F.S.;  
48 prohibiting certain unlicensed activity by a provider;  
49 requiring unlicensed providers to cease activity;  
50 providing penalties; requiring reporting of unlicensed  
51 providers; creating s. 408.813, F.S.; authorizing the  
52 agency to impose administrative fines; creating s.  
53 408.814, F.S.; providing conditions for the agency to  
54 impose a moratorium or emergency suspension on a provider;  
55 requiring notice; creating s. 408.815, F.S.; providing  
56 grounds for denial or revocation of a license or change-

57 of-ownership application; providing conditions to continue  
58 operation; exempting renewal applications from provisions  
59 requiring the agency to approve or deny an application  
60 within a specified period of time, under certain  
61 circumstances; creating s. 408.816, F.S.; authorizing the  
62 agency to institute injunction proceedings, under certain  
63 circumstances; creating s. 408.817, F.S.; providing basis  
64 for review of administrative proceedings challenging  
65 agency licensure enforcement action; creating s. 408.818,  
66 F.S.; requiring fees and fines related to health care  
67 licensing to be deposited into the Health Care Trust Fund;  
68 creating s. 408.819, F.S.; authorizing the agency to adopt  
69 rules; providing a timeframe for compliance; amending s.  
70 112.0455, F.S.; providing applicability of licensure  
71 requirements under pt. II of ch. 408, F.S., to drug-  
72 testing laboratories; establishing fees for license  
73 applications; amending ss. 381.0303 and 381.78, F.S.;  
74 conforming cross references; amending ss. 383.301,  
75 383.305, and 383.309, F.S.; providing applicability of  
76 licensure requirements under pt. II of ch. 408, F.S., to  
77 birth centers; repealing s. 383.304, F.S., relating to  
78 licensure requirement for birth centers; amending s.  
79 383.315, F.S.; revising a provision relating to birth  
80 center consultation agreements; repealing s. 383.332,  
81 F.S., relating to establishing, managing, or operating a  
82 birth center without a license and penalties therefor;  
83 amending s. 383.324, F.S.; conforming provisions relating  
84 to inspections and investigations of birth centers to

85 | changes made by the act; repealing s. 383.325, F.S.,  
 86 | relating to inspection reports; amending s. 383.33, F.S.,  
 87 | relating to administrative fines, penalties, emergency  
 88 | orders , and moratoriums on admissions; conforming  
 89 | provisions to changes made by the act; repealing s.  
 90 | 383.331, F.S., relating to injunctive relief; amending s.  
 91 | 383.335, F.S., relating to partial exemptions; conforming  
 92 | provisions to changes made by the act; amending s. 383.50,  
 93 | F.S.; conforming a cross reference; amending s. 390.011,  
 94 | F.S.; revising a definition; amending s. 390.012, F.S.,  
 95 | relating to rulemaking power of the agency; conforming  
 96 | provisions to changes made by the act; repealing s.  
 97 | 390.013, F.S., relating to effective date of rules  
 98 | governing abortion clinics; amending s. 390.014, F.S.;  
 99 | providing applicability of licensure requirements under  
 100 | pt. II of ch. 408, F.S., to abortion clinics; increasing  
 101 | fees for licensing of abortion clinics; repealing s.  
 102 | 390.015, F.S., relating to application for license to  
 103 | operate an abortion clinic; repealing s. 390.016, F.S.,  
 104 | relating to expiration and renewal of license; repealing  
 105 | s. 390.017, F.S., relating to grounds for suspension or  
 106 | revocation of license; amending s. 390.018, F.S.;  
 107 | providing applicability of pt. II of ch. 408, F.S., to  
 108 | administrative fines; repealing s. 390.019, F.S., relating  
 109 | to inspections and investigations of abortion clinics;  
 110 | repealing s. 390.021, F.S., relating to injunctive relief;  
 111 | amending s. 393.501, F.S.; revising provisions relating to  
 112 | rulemaking; amending s. 394.455, F.S.; revising a

113 definition; amending s. 394.4787, F.S.; conforming a cross  
 114 reference; amending s. 394.67, F.S.; deleting and revising  
 115 and providing definitions; conforming cross references;  
 116 amending ss. 394.74 and 394.82, F.S.; conforming cross  
 117 references; amending s. 394.875, F.S.; providing purpose  
 118 of short-term residential treatment facilities; providing  
 119 applicability of licensure requirements under pt. II of  
 120 ch. 408, F.S., to crisis stabilization units, short-term  
 121 residential treatment facilities, residential treatment  
 122 facilities, and residential treatment centers for children  
 123 and adolescents; providing an exemption from licensure  
 124 requirements for hospitals licensed under ch. 395, F.S.,  
 125 and certain programs operated therein; repealing s.  
 126 394.876, F.S., relating to license applications; amending  
 127 s. 394.877, F.S.; providing applicability of pt. II of ch.  
 128 408, F.S., to license fees; amending s. 394.878, F.S.,  
 129 relating to issuance and renewal of licenses; conforming  
 130 provisions to changes made by the act; amending s.  
 131 394.879, F.S.; providing for rulemaking authority;  
 132 conforming provisions to changes made by the act; amending  
 133 s. 394.90, F.S.; conforming provisions relating to  
 134 inspections of crisis stabilization units and residential  
 135 treatment facilities to changes made by the act; repealing  
 136 s. 394.902, F.S., relating to denial, suspension, and  
 137 revocation of licenses of certain mental health  
 138 facilities; amending s. 394.907, F.S., relating to access  
 139 to records of community mental health centers; providing  
 140 for the department to determine licensee compliance with

141 quality assurance programs; amending s. 395.002, F.S.;

142 deleting a definition; conforming cross references;

143 amending ss. 395.003, 395.004, and 395.0161, F.S.;

144 providing applicability of licensure requirements under

145 pt. II of ch. 408, F.S., to hospitals, ambulatory surgical

146 centers, and mobile surgical facilities; repealing s.

147 395.0055, F.S., relating to background screening;

148 repealing s. 395.0162, F.S., relating to inspection

149 reports; amending s. 395.0163, F.S.; revising provisions

150 relating to deposit of fees; conforming provisions to

151 changes made by the act; providing an exception to Florida

152 Building Code requirements for a licensed facility under

153 specified circumstances; amending s. 395.0191, F.S.;

154 requiring the presence of certain registered nurses in the

155 operating room of a facility licensed under ch. 395, F.S.,

156 during specified procedures; amending s. 395.0193, F.S.;

157 requiring that reports concerning disciplinary actions be

158 reported to the Department of Health and that final

159 disciplinary actions be reported to the Division of Health

160 Quality Assurance; conforming a cross reference; amending

161 s. 395.0197, F.S.; conforming a cross reference; amending

162 ss. 395.0199 and 395.1046, F.S.; providing applicability

163 of licensure requirements under pt. II of ch. 408, F.S.,

164 to health care utilization review and complaint

165 investigation procedures; amending s. 395.1055, F.S.;

166 providing applicability of licensure requirements under

167 pt. II of ch. 408, F.S., to adoption and enforcement of

168 rules; requiring the agency to enforce compliance with

169 provisions relating to specified immunizations; amending  
 170 ss. 395.1065, 395.10973, and 395.10974, F.S.; providing  
 171 applicability of licensure requirements under pt. II of  
 172 ch. 408, F.S., to administrative penalties and  
 173 injunctions, rulemaking, and health care risk managers;  
 174 amending ss. 395.602 and 395.701, F.S.; conforming cross  
 175 references; amending s. 400.021, F.S.; deleting  
 176 definitions; amending s. 400.022, F.S.; providing  
 177 applicability of licensure requirements under pt. II of  
 178 ch. 408, F.S., to grounds for action for a violation of  
 179 residents' rights; amending s. 400.051, F.S.; conforming a  
 180 cross reference; amending s. 400.062, F.S.; providing  
 181 applicability of licensure requirements under pt. II of  
 182 ch. 408, F.S., to nursing homes and related health care  
 183 facilities; revising provisions relating to license fees;  
 184 amending s. 400.063, F.S.; conforming a cross reference;  
 185 amending ss. 400.071 and 400.0712, F.S.; providing  
 186 applicability of licensure requirements under pt. II of  
 187 ch. 408, F.S., to license applications; amending s.  
 188 400.102, F.S.; providing applicability of licensure  
 189 requirements under pt. II of ch. 408, F.S., to grounds for  
 190 action by the agency against a licensee; amending s.  
 191 400.111, F.S.; providing applicability of licensure  
 192 requirements under pt. II of ch. 408, F.S.; requiring a  
 193 licensee to disclose certain holdings of a controlling  
 194 interest; amending s. 400.1183, F.S.; revising a provision  
 195 requiring facilities to report resident grievances to the  
 196 agency; amending s. 400.121, F.S., relating to denial,

197 suspension, and revocation of licenses and administrative  
198 fines; conforming provisions to changes made by the act;  
199 repealing s. 400.125, F.S., relating to injunction  
200 proceedings; amending s. 400.141, F.S.; revising timeframe  
201 for submission of information related to staffing  
202 requirements and number of vacant beds in a facility;  
203 conforming a cross reference; amending s. 400.162, F.S.;  
204 providing for payment of a deceased resident's funeral  
205 services under certain circumstances; amending s. 400.179,  
206 F.S.; revising provisions relating to liability for  
207 Medicaid underpayments and overpayments; conforming  
208 provisions to changes made by the act; amending s. 400.18,  
209 F.S.; revising provisions relating to the closing of a  
210 nursing home facility; conforming provisions to changes  
211 made by the act; amending s. 400.19, F.S.; providing  
212 applicability of licensure requirements under pt. II of  
213 ch. 408, F.S., to nursing home facility inspections;  
214 revising a provision relating to a fine; amending s.  
215 400.191, F.S.; authorizing the agency to provide  
216 electronic access to inspection reports; requiring the  
217 agency to publish the Nursing Home Guide in printed and  
218 electronic formats and providing information to be  
219 included therein; revising information to be included on  
220 the agency Internet site; revising provisions relating to  
221 availability of nursing home facility records; amending s.  
222 400.20, F.S.; revising language relating to nursing home  
223 administrators; amending s. 400.23, F.S.; providing  
224 applicability of pt. II of ch. 408, F.S., to rulemaking



225 for nursing home facilities; providing an alternative to  
226 nursing home room requirements under the Florida Building  
227 Code; amending s. 400.241, F.S.; providing applicability  
228 of licensure requirements under pt. II of ch. 408, F.S.,  
229 to prohibited acts relating to establishment, operation,  
230 or advertisement of nursing home facilities; amending s.  
231 400.402, F.S.; revising and deleting definitions; amending  
232 s. 400.407, F.S.; providing applicability of licensure  
233 requirements under pt. II of ch. 408, F.S., to assisted  
234 living facilities; conforming provisions to changes made  
235 by the act; providing an exemption; amending s. 400.4075,  
236 F.S.; providing applicability of licensure requirements  
237 under pt. II of ch. 408, F.S., to limited mental health  
238 licenses; amending s. 400.408, F.S., relating to penalties  
239 imposed on unlicensed assisted living facilities;  
240 conforming provisions to changes made by the act; amending  
241 ss. 400.411, 400.412, 400.414, 400.417, and 400.4174,  
242 F.S.; providing applicability of licensure requirements  
243 under pt. II of ch. 408, F.S., to assisted living  
244 facilities; conforming provisions to changes made by the  
245 act; repealing s. 400.415, F.S., relating to a moratorium  
246 on admissions and notice thereof; amending s. 400.4176,  
247 F.S.; conforming provisions to changes made by the act;  
248 amending s. 400.4178, F.S.; deleting provisions exempting  
249 specified nursing home facilities from fees for training  
250 and education programs relating to special care for  
251 persons with Alzheimer's disease or other related  
252 disorders; amending ss. 400.418 and 400.419, F.S.;

253 providing applicability of pt. II of ch. 408, F.S., to  
254 provisions relating to disposition and imposition of fees  
255 and fines collected under pt. III of ch. 400, F.S.;  
256 conforming provisions to changes made by the act;  
257 repealing s. 400.421, F.S., relating to injunctive  
258 proceedings; amending s. 400.422, F.S.; conforming a cross  
259 reference; amending s. 400.423, F.S.; transferring  
260 rulemaking authority from the Department of Elderly  
261 Affairs to the agency; amending s. 400.424, F.S.;  
262 providing that fines on assisted living facilities for  
263 failure to comply with certain refund provisions are not  
264 subject to s. 400.419(3), F.S.; amending ss. 400.4255,  
265 400.4256, 400.427, and 400.4275, F.S.; conforming  
266 provisions to changes made by the act; amending s.  
267 400.426, F.S.; conforming a cross reference; amending ss.  
268 400.431 and 400.434, F.S.; providing applicability of  
269 licensure requirements under pt. II of ch. 408, F.S., to  
270 the closing of and right of entry and inspection of  
271 assisted living facilities; amending s. 400.435, F.S.;  
272 revising provisions relating to maintenance of records of  
273 inspection reports for a specified period of time;  
274 amending s. 400.441, F.S.; transferring rulemaking  
275 authority from the Department of Elderly Affairs to the  
276 agency; deleting provisions requiring submission of  
277 proposed rules and a report to the Legislature; deleting a  
278 fee for copies of rules and standards; conforming  
279 provisions to changes made by the act; amending ss.  
280 400.442 and 400.444, F.S.; conforming provisions to

281 changes made by the act; amending s. 400.447, F.S. ;  
282 providing applicability of licensure requirements under  
283 pt. II of ch. 408, F.S., to prohibited acts and penalties  
284 for violation of said requirements; repealing s. 400.451,  
285 F.S., relating to compliance by existing facilities with  
286 applicable rules and standards; amending ss. 400.452 and  
287 400.454, F.S.; conforming provisions to changes made by  
288 the act; amending ss. 400.464, 400.471, 400.474, and  
289 400.484, F.S.; providing applicability of licensure  
290 requirements under pt. II of ch. 408, F.S., to home health  
291 agencies; amending s. 400.487, F.S.; revising contents of  
292 home health service agreements; authorizing physician  
293 assistants and advanced registered nurse practitioners to  
294 establish treatment orders; amending s. 400.494, F.S.;  
295 conforming provisions to changes made by the act; amending  
296 ss. 400.495 and 400.497, F.S.; providing applicability of  
297 licensure requirements under pt. II of ch. 408, F.S., to  
298 the toll-free central abuse hotline and rules establishing  
299 minimum standards for home health aides; amending s.  
300 400.506, F.S.; providing applicability of licensure  
301 requirements under pt. II of ch. 408, F.S., to nurse  
302 registries; requiring a nurse registry to notify patients  
303 or their families of the availability and costs of visits  
304 by registered nurses; permitting physician assistants and  
305 advanced registered nurse practitioners to sign a plan of  
306 treatment; revising provisions relating to assessment of  
307 costs related to certain investigations; amending s.  
308 400.509, F.S.; providing applicability of pt. II of ch.

309 408, F.S., to the registration of companion or homemaker  
310 service providers exempt from licensure; providing a fee  
311 for registration; conforming provisions to changes made by  
312 the act; amending s. 400.512, F.S.; conforming provisions  
313 relating to the screening of home health agency, nurse  
314 registry, companion, and homemaker personnel to changes  
315 made by the act; repealing s. 400.515, F.S., relating to  
316 injunction proceedings; amending s. 400.551, F.S.;  
317 revising definitions; amending ss. 400.554, 400.555,  
318 400.5565, 400.557, and 400.5572, F.S.; providing  
319 applicability of licensure requirements under pt. II of  
320 ch. 408, F.S., to adult day care centers; amending s.  
321 400.556, F.S.; authorizing the agency to impose an  
322 emergency action against an owner, operator, or employee  
323 of an adult day care facility; revising grounds for action  
324 by the agency against an owner, operator, or employee of  
325 an adult day care facility; providing applicability of  
326 licensure requirements under pt. II of ch. 408, F.S.;  
327 repealing s. 400.5575, F.S., relating to disposition of  
328 fees and fines; repealing s. 400.558, F.S., relating to  
329 injunctive relief; amending ss. 400.559 and 400.56, F.S.;  
330 providing applicability of licensure requirements under  
331 pt. II of ch. 408, F.S., to the closing of and right of  
332 entry and inspection of adult day care centers; amending  
333 s. 400.562, F.S.; transferring rulemaking authority from  
334 the Department of Elderly Affairs to the agency; deleting  
335 a fee for copies of rules and standards; conforming  
336 provisions to changes made by the act; repealing s.

337 400.564, F.S., relating to prohibited acts and penalties  
338 therefor; amending ss. 400.602, 400.605, 400.606,  
339 400.6065, and 400.607, F.S.; providing applicability of  
340 licensure requirements under pt. II of ch. 408, F.S., to  
341 hospices; conforming provisions to changes made by the  
342 act; amending s. 400.6095, F.S.; conforming provisions  
343 relating to rulemaking to changes made by the act;  
344 amending ss. 400.617, 400.6211, and 400.625, F.S.;  
345 conforming provisions relating to legislative intent and  
346 purpose, rulemaking, training and education programs, and  
347 residency agreements for adult family-care homes to  
348 changes made by the act; amending ss. 400.619, 400.6194,  
349 400.6196, and 400.621, F.S.; providing applicability of  
350 licensure requirements under pt. II of ch. 408, F.S., to  
351 adult family-care homes; repealing s. 400.622, F.S.,  
352 relating to injunctive proceedings; amending s. 400.801,  
353 F.S.; conforming provisions relating to homes for special  
354 services to changes made by the act; providing a fee;  
355 amending s. 400.805, F.S.; providing applicability of  
356 licensure requirements under pt. II of ch. 408, F.S., to  
357 transitional living facilities; providing a fee; amending  
358 s. 400.902, F.S.; revising a definition; amending ss.  
359 400.903, 400.905, 400.907, and 400.908, F.S.; providing  
360 applicability of licensure requirements under pt. II of  
361 ch. 408, F.S., to prescribed pediatric extended care  
362 centers; repealing s. 400.906, F.S., relating to initial  
363 application for a license; repealing s. 400.910, F.S.,  
364 relating to expiration or renewal of a license and

365 conditional licenses; repealing s. 400.911, F.S., relating  
366 to injunction proceedings; amending s. 400.912, F.S.;  
367 conforming provisions relating to the closing of a  
368 prescribed pediatric extended care center to changes made  
369 by the act; repealing s. 400.913, F.S., relating to right  
370 of entry and inspection; amending ss. 400.914 and 400.915,  
371 F.S.; providing applicability of licensure requirements  
372 under pt. II of ch. 408, F.S., to rules establishing  
373 standards for and requirements for construction and  
374 renovation of prescribed pediatric extended care centers;  
375 repealing s. 400.916, F.S., relating to penalties for  
376 prohibited acts; repealing s. 400.917, F.S., relating to  
377 disposition of moneys from fines and fees; amending s.  
378 400.925, F.S.; deleting and revising definitions; amending  
379 ss. 400.93, 400.931, 400.932, 400.933, and 400.935, F.S.;  
380 providing applicability of licensure requirements under  
381 pt. II of ch. 408, F.S., to home medical equipment  
382 providers; repealing s. 400.95, F.S., relating to notice  
383 of toll-free telephone number for the central abuse  
384 hotline; amending ss. 400.953 and 400.955, F.S.; revising  
385 provisions relating to background screening of home  
386 medical equipment provider personnel; repealing s.  
387 400.956, F.S., relating to injunction proceedings;  
388 amending s. 400.960, F.S.; deleting and revising  
389 definitions; amending s. 400.962, F.S.; providing  
390 applicability of licensure requirements under pt. II of  
391 ch. 408, F.S., to intermediate care facilities for persons  
392 with developmental disabilities; providing a fee;

393 |       repealing s. 400.963, F.S., relating to injunctive  
 394 |       proceedings; repealing s. 400.965, F.S., relating to  
 395 |       grounds for actions by the agency against the licensee;  
 396 |       amending s. 400.967, F.S.; providing applicability of  
 397 |       licensure requirements under pt. II of ch. 408, F.S., to  
 398 |       intermediate care facilities for persons with  
 399 |       developmental disabilities; requiring facilities to adhere  
 400 |       to the Bill of Rights of Persons Who are Developmentally  
 401 |       Disabled; amending s. 400.968, F.S.; conforming provisions  
 402 |       relating to injunctive proceedings and a moratorium on  
 403 |       admissions to changes made by the act; amending s.  
 404 |       400.9685, F.S.; conforming language to changes made by the  
 405 |       act; amending s. 400.969, F.S.; providing applicability of  
 406 |       pt. II of ch. 408, F.S., to penalties relating to  
 407 |       intermediate care facilities for persons with  
 408 |       developmental disabilities; amending s. 400.980, F.S.;  
 409 |       providing applicability of licensure requirements under  
 410 |       pt. II of ch. 408, F.S., to health care services pools;  
 411 |       amending ss. 400.991, 400.9915, 400.9925, 400.993, and  
 412 |       400.9935, F.S.; providing applicability of licensure  
 413 |       requirements under pt. II of ch. 408, F.S., to health care  
 414 |       clinics; providing a fee; repealing s. 400.992, F.S.,  
 415 |       relating to license renewal, transfer of ownership, and  
 416 |       provisional licenses; repealing s. 400.994, F.S., relating  
 417 |       to injunctive proceedings; repealing s. 400.9945, F.S.,  
 418 |       relating to agency actions; amending s. 400.995, F.S.;  
 419 |       conforming provisions relating to agency administrative  
 420 |       penalties to changes made by the act; amending s. 401.265,

421 F.S.; requiring license requirements for emergency medical  
 422 technicians and paramedics; amending s. 408.831, F.S.;  
 423 revising provisions relating to agency action to deny,  
 424 suspend, or revoke a license, registration, certificate,  
 425 or application; amending s. 440.102, F.S.; providing  
 426 applicability of licensure requirements under pt. II of  
 427 ch. 408, F.S., to drug testing standards for laboratories;  
 428 amending s. 464.015, F.S.; providing restrictions on the  
 429 use of the title "Certified Registered Nurse Anesthetist";  
 430 amending s. 464.016, F.S.; providing a penalty for misuse  
 431 of the title "Certified Registered Nurse Anesthetist";  
 432 amending ss. 483.035, 483.051, 483.061, 483.091, 483.101,  
 433 483.111, 483.172, 483.201, 483.221, and 483.23, F.S.;  
 434 providing applicability of licensure requirements under  
 435 pt. II of ch. 408, F.S., to clinical laboratories;  
 436 repealing s. 483.131, F.S., relating to the display of a  
 437 license; repealing s. 483.25, F.S., relating to injunctive  
 438 proceedings; amending ss. 483.291, 483.294, 483.30,  
 439 483.302, 483.317, 483.32, and 483.322, F.S.; providing  
 440 applicability of licensure requirements under pt. II of  
 441 ch. 408, F.S., to multiphasic health testing centers;  
 442 repealing s. 483.311, F.S., relating to the display of a  
 443 license; repealing s. 483.328, F.S., relating to  
 444 injunctive relief; amending s. 765.541, F.S.; conforming  
 445 provisions relating to cadaveric organ and tissue  
 446 procurement to changes made by the act; amending s.  
 447 765.542, F.S.; providing applicability of licensure  
 448 requirements under pt. II of ch. 408, F.S., to organ



449 procurement organizations and tissue and eye banks;  
 450 amending s. 765.544, F.S.; conforming provisions relating  
 451 to application fees from organizations and tissue and eye  
 452 banks to changes made by the act; amending ss. 402.164,  
 453 409.815, 409.905, 409.907, 468.505, 483.106, 766.118,  
 454 766.316, and 812.014, F.S.; conforming cross references;  
 455 providing for priority of application in case of conflict;  
 456 transferring rules adopted by the Department of Elderly  
 457 Affairs under pts. III, V, VI, and VII of ch. 400, F.S.,  
 458 to the agency; authorizing the agency to issue licenses  
 459 for less than a specified time period and providing  
 460 conditions therefor; providing an effective date.

461

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

463

464 Section 1. Part I of chapter 408, Florida Statutes,  
 465 consisting of sections 408.031, 408.032, 408.033, 408.034,  
 466 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040,  
 467 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05,  
 468 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10,  
 469 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302,  
 470 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071,  
 471 Florida Statutes, is created and entitled "Health Facility and  
 472 Services Planning."

473

474 Section 2. Part II of chapter 408, Florida Statutes,  
 475 consisting of sections 408.801, 408.802, 408.803, 408.804,  
 476 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,

477 408.819, and 408.831, Florida Statutes, is created and entitled  
 478 "Health Care Licensing: General Provisions."

479 Section 3. Part III of chapter 408, Florida Statutes,  
 480 consisting of sections 408.90, 408.901, 408.902, 408.903,  
 481 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909,  
 482 Florida Statutes, is created and entitled "Health Insurance  
 483 Access."

484 Section 4. Part IV of chapter 408, Florida Statutes,  
 485 consisting of sections 408.911, 408.913, 408.914, 408.915,  
 486 408.916, 408.917, and 408.918, Florida Statutes, is created and  
 487 entitled "Health and Human Services Eligibility Access System."

488 Section 5. Sections 408.801, 408.802, 408.803, 408.804,  
 489 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
 490 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,  
 491 and 408.819, Florida Statutes, are created to read:

492 408.801 Popular name; purpose.--

493 (1) This part may be cited as the "Health Care Licensing  
 494 Procedures Act."

495 (2) The Legislature finds that there is unnecessary  
 496 duplication and variation in the requirements for licensure by  
 497 the Agency for Health Care Administration brought about by the  
 498 historical pattern of legislative action focused exclusively on  
 499 a single type of regulated provider. It is the intent of the  
 500 Legislature to provide a streamlined and consistent set of basic  
 501 licensing requirements for all such providers in order to  
 502 minimize confusion, standardize terminology, and include issues  
 503 that are otherwise not adequately addressed in the Florida  
 504 Statutes pertaining to specific providers.

505           408.802 Applicability.--The provisions of this part apply  
 506 to the provision of services that require licensure as defined  
 507 in this part and to the following entities licensed, registered,  
 508 or certified by the Agency for Health Care Administration, as  
 509 described in chapters 112, 383, 390, 394, 395, 400, 440, 483,  
 510 and 765:

511           (1) Laboratories authorized to perform testing under the  
 512 Drug-Free Workplace Act, as provided under ss. 112.0455 and  
 513 440.102.

514           (2) Birth centers, as provided under chapter 383.

515           (3) Abortion clinics, as provided under chapter 390.

516           (4) Crisis stabilization units, as provided under parts I  
 517 and IV of chapter 394.

518           (5) Short-term residential treatment facilities, as  
 519 provided under parts I and IV of chapter 394.

520           (6) Residential treatment facilities, as provided under  
 521 part IV of chapter 394.

522           (7) Residential treatment centers for children and  
 523 adolescents, as provided under part IV of chapter 394.

524           (8) Hospitals, as provided under part I of chapter 395.

525           (9) Ambulatory surgical centers, as provided under part I  
 526 of chapter 395.

527           (10) Mobile surgical facilities, as provided under part I  
 528 of chapter 395.

529           (11) Private review agents, as provided under part I of  
 530 chapter 395.

531           (12) Health care risk managers, as provided under part I  
 532 of chapter 395.

533           (13) Nursing homes, as provided under part II of chapter  
 534 400.

535           (14) Assisted living facilities, as provided under part  
 536 III of chapter 400.

537           (15) Home health agencies, as provided under part IV of  
 538 chapter 400.

539           (16) Nurse registries, as provided under part IV of  
 540 chapter 400.

541           (17) Companion services or homemaker services providers,  
 542 as provided under part IV of chapter 400.

543           (18) Adult day care centers, as provided under part V of  
 544 chapter 400.

545           (19) Hospices, as provided under part VI of chapter 400.

546           (20) Adult family-care homes, as provided under part VII  
 547 of chapter 400.

548           (21) Homes for special services, as provided under part  
 549 VIII of chapter 400.

550           (22) Transitional living facilities, as provided under  
 551 part VIII of chapter 400.

552           (23) Prescribed pediatric extended care centers, as  
 553 provided under part IX of chapter 400.

554           (24) Home medical equipment providers, as provided under  
 555 part X of chapter 400.

556           (25) Intermediate care facilities for persons with  
 557 developmental disabilities, as provided under part XI of chapter  
 558 400.

559           (26) Health care services pools, as provided under part  
 560 XII of chapter 400.

561           (27) Health care clinics, as provided under part XIII of  
 562 chapter 400.

563           (28) Clinical laboratories, as provided under part I of  
 564 chapter 483.

565           (29) Multiphasic health testing centers, as provided under  
 566 part II of chapter 483.

567           (30) Organ and tissue procurement agencies, as provided  
 568 under chapter 765.

569           408.803 Definitions.--As used in this part, the term:

570           (1) "Agency" means the Agency for Health Care  
 571 Administration, which is the licensing agency under this part.

572           (2) "Applicant" means an individual, corporation,  
 573 partnership, firm, association, or governmental entity that  
 574 submits an application to the agency for a license.

575           (3) "Authorizing statute" means the statute authorizing  
 576 the licensed operation of a provider listed in s. 408.802,  
 577 including chapters 112, 383, 390, 394, 395, 400, 440, 483, and  
 578 765.

579           (4) "Certification" means certification as a Medicare or  
 580 Medicaid provider of the services that require licensure or  
 581 certification pursuant to the federal Clinical Laboratory  
 582 Improvement Amendment (CLIA).

583           (5) "Change in ownership" means an event in which the  
 584 licensee changes to a different legal entity or in which 45  
 585 percent or more of the ownership, voting shares, or interest in  
 586 a corporation whose shares are not publicly traded on a  
 587 recognized stock exchange is transferred or assigned, including  
 588 the final transfer or assignment of multiple transfers or

589 assignments over a 2-year period that cumulatively total 45  
 590 percent or greater. However, a change solely in the management  
 591 company is not a change of ownership.

592 (6) "Client" means any person receiving services from a  
 593 provider listed in s. 408.802.

594 (7) "Controlling interest" means:

595 (a) The applicant or licensee;

596 (b) A person or entity that serves as an officer of, is on  
 597 the board of directors of, or has a 5 percent or greater  
 598 ownership interest in the applicant or licensee; or

599 (c) A person or entity that serves as an officer of, is on  
 600 the board of directors of, or has a 5 percent or greater  
 601 ownership interest in the management company or other entity,  
 602 related or unrelated, with which the applicant or licensee  
 603 contracts to manage the provider.

604  
 605 The term does not include a voluntary board member.

606 (8) "License" means any permit, registration, certificate,  
 607 or license issued by the agency.

608 (9) "Licensee" means an individual, corporation,  
 609 partnership, firm, association, or governmental entity that is  
 610 issued a permit, registration, certificate, or license by the  
 611 agency. The licensee is legally responsible for all aspects of  
 612 the provider operation.

613 (10) "Moratorium" means a prohibition on the acceptance of  
 614 new clients.

615 (11) "Provider" means any activity, service, agency, or  
 616 facility regulated by the agency and listed in s. 408.802.

617           (12) "Services that require licensure" means those  
 618 services, including residential services, that require a valid  
 619 license before those services may be provided in accordance with  
 620 authorizing statutes and agency rules.

621           (13) "Voluntary board member" means a board member of a  
 622 not-for-profit corporation or organization who serves solely in  
 623 a voluntary capacity, does not receive any remuneration for his  
 624 or her services on the board of directors, and has no financial  
 625 interest in the corporation or organization. The agency shall  
 626 recognize a person as a voluntary board member following  
 627 submission of a statement to the agency by the board member and  
 628 the not-for-profit corporation or organization that affirms that  
 629 the board member conforms to this definition. The statement  
 630 affirming the status of the board member must be submitted to  
 631 the agency on a form provided by the agency.

632           408.804 License required; display.--

633           (1) It is unlawful to provide services that require  
 634 licensure, or operate or maintain a provider that offers or  
 635 provides services that require licensure, without first  
 636 obtaining from the agency a license authorizing the provision of  
 637 such services or the operation or maintenance of such provider.

638           (2) A license must be displayed in a conspicuous place  
 639 readily visible to clients who enter at the address that appears  
 640 on the license and is valid only in the hands of the licensee to  
 641 whom it is issued and may not be sold, assigned, or otherwise  
 642 transferred, voluntarily or involuntarily. The license is valid  
 643 only for the licensee, provider, and location for which the  
 644 license is issued.

645       408.805 Fees required; adjustments.--Unless otherwise  
646 limited by authorizing statutes, license fees must be reasonably  
647 calculated by the agency to cover its costs in carrying out its  
648 responsibilities under this part, authorizing statutes, and  
649 applicable rules, including the cost of licensure, inspection,  
650 and regulation of providers.

651       (1) Licensure fees shall be adjusted to provide for  
652 biennial licensure in agency rules.

653       (2) The agency shall annually adjust licensure fees,  
654 including fees paid per bed, by not more than the change in the  
655 Consumer Price Index based on the 12 months immediately  
656 preceding the increase.

657       (3) The agency may, by rule, adjust licensure fees to  
658 cover the cost of administering this part, authorizing statutes,  
659 and applicable rules.

660       (4) An inspection fee must be paid as required in  
661 authorizing statutes.

662       (5) Fees are nonrefundable.

663       (6) When a change is reported that requires issuance of a  
664 license, a fee may be assessed. The fee must be based on the  
665 actual cost of processing and issuing the license.

666       (7) A fee may be charged to a licensee requesting a  
667 duplicate license. The fee may not exceed the actual cost of  
668 duplication and postage.

669       (8) Total fees collected may not exceed the cost of  
670 administering this part, authorizing statutes, and applicable  
671 rules.

672       408.806 License application process.--



673       (1) An application for licensure must be made to the  
674 agency on forms furnished by the agency, submitted under oath,  
675 and accompanied by the appropriate fee in order to be accepted  
676 and considered timely. The application must contain information  
677 required by authorizing statutes and applicable rules and must  
678 include:

679       (a) The name, address, and social security number of the  
680 applicant and each controlling interest if the applicant or  
681 controlling interest is an individual.

682       (b) The name, address, and federal employer identification  
683 number or taxpayer identification number of the applicant and  
684 each controlling interest if the applicant or controlling  
685 interest is not an individual.

686       (c) The name by which the provider is to be known.

687       (d) The total number of beds or capacity requested, as  
688 applicable.

689       (e) The following information regarding the location of  
690 the provider for which the application is made:

691       1. A report or letter from the zoning authority indicating  
692 that the location is zoned appropriately for its use. If the  
693 provider is a community residential home under chapter 419, the  
694 zoning requirement must be satisfied by proof of compliance with  
695 chapter 419. The zoning report or letter is not required for a  
696 renewal application if the provider location did not change  
697 since the date on which the most recent license was issued.

698       2. A satisfactory fire safety report from the local  
699 authority having jurisdiction or the state fire marshal.

700       (f) The name of the person or persons under whose

701 management or supervision the provider will be operated and the  
702 name of the administrator, if required.

703 (g) If the applicant offers continuing care agreements as  
704 defined in chapter 651, proof shall be furnished that the  
705 applicant has obtained a certificate of authority as required  
706 for operation under chapter 651.

707 (h) Other information, including satisfactory inspection  
708 results, that the agency finds necessary to determine the  
709 ability of the applicant to carry out its responsibilities under  
710 this part, authorizing statutes, and applicable rules.

711 (2)(a) The applicant for a renewal license must submit an  
712 application that must be received by the agency at least 60 days  
713 prior to the expiration of the current license.

714 (b) The applicant for initial licensure due to a change of  
715 ownership must submit an application that must be received by  
716 the agency at least 60 days prior to the date of change of  
717 ownership.

718 (c) For any other application or request, the applicant  
719 must submit an application or request that must be received by  
720 the agency at least 60 days prior to the requested effective  
721 date, unless otherwise specified in authorizing statutes or  
722 rules.

723 (d) The agency shall notify the licensee by mail or  
724 electronically at least 90 days prior to the expiration of a  
725 license that a renewal license is necessary to continue  
726 operation. The failure to timely file an application and submit  
727 a license fee shall result in a late fee charged to the licensee  
728 by the agency in an amount equal to 50 percent of the licensure

729 fee but in no event shall the aggregate amount of the fine  
 730 exceed \$5,000. If an application is received after the required  
 731 filing date and exhibits a hand-canceled postmark obtained from  
 732 a United States Post Office dated on or before the required  
 733 filing date, no fine will be levied.

734 (3)(a) Upon receipt of an application for a license, the  
 735 agency shall examine the application and, within 30 days after  
 736 receipt, notify the applicant in writing of any apparent errors  
 737 or omissions and request any additional information required.

738 (b) Requested information omitted from an application for  
 739 licensure, license renewal, or change of ownership, other than  
 740 an inspection, must be filed with the agency within 21 days  
 741 after the agency's request for omitted information or the  
 742 application shall be deemed incomplete and shall be withdrawn  
 743 from further consideration and the fees shall be forfeited.

744 (c) Within 60 days after the receipt of a complete  
 745 application, the agency shall approve or deny the application.

746 (4)(a) Licensees subject to the provisions of this part  
 747 shall be issued biennial licenses unless conditions of the  
 748 license category specify a shorter license period.

749 (b) Each license issued shall indicate the name of the  
 750 licensee, the type of provider or service that the licensee is  
 751 required or authorized to operate or offer, the date the license  
 752 is effective, the expiration date of the license, the maximum  
 753 capacity of the licensed premises, if applicable, and any other  
 754 information required or deemed necessary by the agency.

755 (5) In accordance with authorizing statutes and applicable  
 756 rules, proof of compliance with s. 408.810 must be submitted

757 with an application for licensure.

758 (6) The agency may not issue an initial license to a  
759 health care provider subject to the certificate-of-need  
760 provisions in part I of this chapter if the licensee has not  
761 been issued a certificate of need or certificate-of-need  
762 exemption, when applicable. Failure to apply for the renewal of  
763 a license prior to the expiration date renders the license null  
764 and void and the former licensee may not be issued a new license  
765 unless the licensee reapplies for an initial license and meets  
766 all current qualifications for licensure, including construction  
767 standards for facilities, where applicable, and complies with  
768 certificate-of-need requirements if the applicant is subject to  
769 the provisions of part I of this chapter.

770 (7)(a) An applicant must demonstrate compliance with the  
771 requirements in this part, authorizing statutes, and applicable  
772 rules during an inspection pursuant to s. 408.811, as required  
773 by authorizing statutes.

774 (b) An initial inspection is not required for companion  
775 services or homemaker services providers, as provided under part  
776 IV of chapter 400, or for health care services pools, as  
777 provided under part XII of chapter 400.

778 (c) If an inspection is required by the authorizing  
779 statute for a license application other than an initial  
780 application, the inspection must be unannounced. This paragraph  
781 does not apply to inspections required pursuant to ss. 383.324,  
782 395.0161(4), and 483.061(2).

783 (d) If a provider is not available when an inspection is  
784 attempted, the application shall be denied.

785           (8) The agency may establish procedures for the electronic  
 786 submission of required information, including, but not limited  
 787 to:

- 788           (a) Licensure applications.
- 789           (b) Required signatures.
- 790           (c) Payment of fees.
- 791           (d) Notarization of applications.

792

793 Requirements for electronic submission of any documents required  
 794 by this part or authorizing statutes may be established by rule.

795           408.807 Change of ownership.--Whenever a change of  
 796 ownership occurs:

797           (1) The transferor shall notify the agency in writing at  
 798 least 60 days before the anticipated date of the change of  
 799 ownership.

800           (2) The transferee shall make application to the agency  
 801 for a license within the timeframes required in s. 408.806.

802           (3) The transferor shall be responsible and liable for:

803           (a) The lawful operation of the provider and the welfare  
 804 of the clients served until the date the transferee is licensed  
 805 by the agency.

806           (b) Any and all penalties imposed against the transferor  
 807 for violations occurring before the date of change of ownership.

808           (4) Any restriction on licensure, including a conditional  
 809 license existing at the time of a change of ownership, shall  
 810 remain in effect until removed by the agency.

811           (5) The transferee shall maintain records of the  
 812 transferor as required in this part, authorizing statutes, and

813 applicable rules, including:

814 (a) All client records.

815 (b) Inspection reports.

816 (c) All records required to be maintained pursuant to s.  
 817 409.913, if applicable.

818 408.808 License categories.--

819 (1) STANDARD LICENSE.--A standard license may be issued to  
 820 an applicant at the time of initial licensure, license renewal,  
 821 or change of ownership. A standard license shall be issued when  
 822 the applicant is in compliance with all statutory requirements  
 823 and agency rules. Unless sooner revoked, a standard license  
 824 expires 2 years after the date of issue.

825 (2) PROVISIONAL LICENSE.--A provisional license may be  
 826 issued to an applicant pursuant to s. 408.809(3). An applicant  
 827 against whom a proceeding denying or revoking a license is  
 828 pending at the time of license renewal may be issued a  
 829 provisional license effective until final disposition by the  
 830 agency of the proceeding. If judicial relief is sought under  
 831 this section, the court having jurisdiction may issue such  
 832 orders regarding the issuance of a provisional license during  
 833 the pendency of the judicial proceeding.

834 (3) INACTIVE LICENSE.--An inactive license may be issued  
 835 to a health care provider subject to the certificate-of-need  
 836 provisions in part I of this chapter when the provider is  
 837 currently licensed, does not have a provisional license, and  
 838 will be temporarily unable to provide services but is reasonably  
 839 expected to resume services within 12 months. Such designation  
 840 may be made for a period not to exceed 12 months but may be

841 renewed by the agency for up to 6 additional months upon  
 842 demonstration by the licensee of the provider's progress toward  
 843 reopening. A request by a licensee for an inactive license or to  
 844 extend the previously approved inactive period must be submitted  
 845 to the agency and include a written justification for the  
 846 inactive license with the beginning and ending dates of  
 847 inactivity specified, a plan for the transfer of any clients to  
 848 other providers, and the appropriate licensure fees. The agency  
 849 may not accept a request that is submitted after initiating  
 850 closure, after any suspension of service, or after notifying  
 851 clients of closure or suspension of service. Upon agency  
 852 approval, the provider shall notify clients of any necessary  
 853 discharge or transfer as required by authorizing statutes or  
 854 applicable rules. The beginning of the inactive license period  
 855 is the date the provider ceases operations. The end of the  
 856 inactive license period shall become the license expiration  
 857 date. All licensure fees must be current, must be paid in full,  
 858 and may be prorated. Reactivation of an inactive license  
 859 requires the approval of a renewal application, including  
 860 payment of licensure fees and agency inspections indicating  
 861 compliance with all requirements of this part, authorizing  
 862 statutes, and applicable rules.

863 (4) OTHER LICENSES.--Other types of license categories may  
 864 be issued pursuant to authorizing statutes or applicable rules.

865 408.809 Background screening; prohibited offenses.--

866 (1) Level 2 background screening pursuant to chapter 435  
 867 must be conducted through the agency on each of the following  
 868 persons, who shall be considered an employee for the purposes of

869 conducting screening under chapter 435:

870 (a) The licensee, if an individual.

871 (b) The administrator or a similarly titled person who is  
 872 responsible for the day-to-day operation of the provider.

873 (c) The financial officer or similarly titled individual  
 874 who is responsible for the financial operation of the licensee  
 875 or provider.

876 (d) Any person who is a controlling interest if the agency  
 877 has reason to believe that such person has been convicted of any  
 878 offense prohibited by s. 435.04. For each controlling interest  
 879 who has been convicted of any such offense, the licensee shall  
 880 submit to the agency a description and explanation of the  
 881 conviction at the time of license application.

882 (2) Proof of compliance with level 2 screening standards  
 883 submitted within the previous 5 years to meet any provider or  
 884 professional licensure requirements of the agency, the  
 885 Department of Health, the Agency for Persons with Disabilities,  
 886 or the Department of Children and Family Services satisfies the  
 887 requirements of this section, provided that such proof is  
 888 accompanied, under penalty of perjury, by an affidavit of  
 889 compliance with the provisions of chapter 435 using forms  
 890 provided by the agency. Proof of compliance with the background  
 891 screening requirements of the Department of Financial Services  
 892 submitted within the previous 5 years for an applicant for a  
 893 certificate of authority to operate a continuing care retirement  
 894 community under chapter 651 satisfies the Department of Law  
 895 Enforcement and Federal Bureau of Investigation portions of a  
 896 level 2 background check.



897       (3) A provisional license may be granted to an applicant  
 898 when each individual required by this section to undergo  
 899 background screening has met the standards for the Department of  
 900 Law Enforcement background check but the agency has not yet  
 901 received background screening results from the Federal Bureau of  
 902 Investigation. A standard license may be granted to the licensee  
 903 upon the agency's receipt of a report of the results of the  
 904 Federal Bureau of Investigation background screening for each  
 905 individual required by this section to undergo background  
 906 screening that confirms that all standards have been met or upon  
 907 the granting of an exemption from disqualification by the agency  
 908 as set forth in chapter 435.

909       (4) When a change of any person required to be screened  
 910 under this section occurs, the licensee must notify the agency  
 911 of the change within the time period specified in the  
 912 authorizing statute or rules and must submit to the agency  
 913 information necessary to conduct level 2 screening or provide  
 914 evidence of compliance with background screening requirements of  
 915 this section. The person may serve in his or her capacity  
 916 pending the agency's receipt of the report from the Federal  
 917 Bureau of Investigation if he or she has met the standards for  
 918 the Department of Law Enforcement background check. However, the  
 919 person may not continue to serve if the report indicates any  
 920 violation of background screening standards unless an exemption  
 921 from disqualification has been granted by the agency as set  
 922 forth in chapter 435.

923       (5) Background screening is not required to obtain a  
 924 certificate of exemption issued under s. 483.106.

925 408.810 Minimum licensure requirements.--In addition to  
 926 the licensure requirements specified in this part, authorizing  
 927 statutes, and applicable rules, each applicant and licensee must  
 928 comply with the requirements of this section in order to obtain  
 929 and maintain a license.

930 (1) An applicant for licensure must comply with the  
 931 background screening requirements of s. 408.809.

932 (2) An applicant for licensure must provide a description  
 933 and explanation of any exclusions, suspensions, or terminations  
 934 of the applicant from the Medicare, Medicaid, or federal  
 935 Clinical Laboratory Improvement Amendment (CLIA) programs.

936 (3) Unless otherwise specified in this part, authorizing  
 937 statutes, or applicable rules, any information required to be  
 938 reported to the agency must be submitted within 21 calendar days  
 939 after the report period or effective date of the information.

940 (4) Whenever a licensee discontinues operation of a  
 941 provider:

942 (a) The licensee must inform the agency not less than 30  
 943 days prior to the discontinuance of operation and inform clients  
 944 of discharge as required by authorizing statutes. Immediately  
 945 upon discontinuance of operation of a provider, the licensee  
 946 shall surrender the license to the agency and the license shall  
 947 be canceled.

948 (b) Upon closure of a provider, the licensee shall remain  
 949 responsible for retaining and appropriately distributing all  
 950 records within the timeframes prescribed in authorizing statutes  
 951 and applicable rules. In addition, the licensee or, in the event  
 952 of death or dissolution of a licensee, the estate or agent of

953 the licensee shall:

954 1. Make arrangements to forward records for each client to  
 955 one of the following, based upon the client's choice: the client  
 956 or the client's legal representative, the client's attending  
 957 physician, or the health care provider where the client  
 958 currently receives services; or

959 2. Cause a notice to be published in the newspaper of  
 960 greatest general circulation in the county where the provider  
 961 was located that advises clients of the discontinuance of the  
 962 provider operation. The notice must inform clients that they may  
 963 obtain copies of their records and specify the name, address,  
 964 and telephone number of the person from whom the copies of  
 965 records may be obtained. The notice must appear at least once a  
 966 week for 4 consecutive weeks. Failure to comply with this  
 967 paragraph is a misdemeanor of the second degree, punishable as  
 968 provided in s. 775.082 or s. 775.083.

969 (5)(a) On or before the first day services are provided to  
 970 a client, a licensee must inform the client and his or her  
 971 immediate family or representative, if appropriate, of the right  
 972 to report:

973 1. Complaints. The statewide toll-free telephone number  
 974 for reporting complaints to the agency must be provided to  
 975 clients in a manner that is clearly legible and must include the  
 976 words: "To report a complaint regarding the services you  
 977 receive, please call toll-free (phone number)."

978 2. Abusive, neglectful, or exploitative practices. The  
 979 statewide toll-free telephone number for the central abuse  
 980 hotline must be provided to clients in a manner that is clearly

981 legible and must include the words: "To report abuse, neglect,  
 982 or exploitation, please call toll-free (phone number)." The  
 983 agency shall publish a minimum of a 90-day advance notice of a  
 984 change in the toll-free telephone numbers.

985 (b) Each licensee shall establish appropriate policies and  
 986 procedures for providing such notice to clients.

987 (6) An applicant must provide the agency with proof of the  
 988 applicant's legal right to occupy the property before a license  
 989 may be issued. Proof may include, but need not be limited to,  
 990 copies of warranty deeds, lease or rental agreements, contracts  
 991 for deeds, quitclaim deeds, or other such documentation.

992 (7) If proof of insurance is required by the authorizing  
 993 statute, that insurance must be in compliance with chapter 624,  
 994 chapter 626, chapter 627, or chapter 628 and with agency rules.

995 (8) Upon application for initial licensure or change-of-  
 996 ownership licensure, the applicant shall furnish satisfactory  
 997 proof of the applicant's financial ability to operate in  
 998 accordance with the requirements of this part, authorizing  
 999 statutes, and applicable rules. The agency shall establish  
 1000 standards for this purpose, including information concerning the  
 1001 applicant's controlling interests. The agency shall also  
 1002 establish documentation requirements, to be completed by each  
 1003 applicant, that show anticipated provider revenues and  
 1004 expenditures, the basis for financing the anticipated cash-flow  
 1005 requirements of the provider, and an applicant's access to  
 1006 contingency financing. A current certificate of authority,  
 1007 pursuant to chapter 651, may be provided as proof of financial  
 1008 ability to operate. The agency may require a licensee to provide

1009 proof of financial ability to operate at any time if there is  
 1010 evidence of financial instability, including, but not limited  
 1011 to, unpaid expenses necessary for the basic operations of the  
 1012 provider.

1013 (9) A controlling interest may not withhold from the  
 1014 agency any evidence of financial instability of a licensed  
 1015 provider, including, but not limited to, checks returned due to  
 1016 insufficient funds, delinquent accounts, nonpayment of  
 1017 withholding taxes, unpaid utility expenses, nonpayment for  
 1018 essential services, or adverse court action concerning the  
 1019 financial viability of the provider or any other provider  
 1020 licensed under this part that is under the control of the  
 1021 controlling interest. Any person who violates this subsection  
 1022 commits a misdemeanor of the second degree, punishable as  
 1023 provided in s. 775.082 or s. 775.083. Each day of continuing  
 1024 violation is a separate offense.

1025 (10) The agency may not issue a license to a health care  
 1026 provider subject to the certificate-of-need provisions in part I  
 1027 of this chapter if the health care provider has not been issued  
 1028 a certificate of need or an exemption. Upon initial licensure of  
 1029 any such provider, the authorization contained in the  
 1030 certificate of need shall be considered fully implemented and  
 1031 merged into the license and shall have no force and effect upon  
 1032 termination of the license for any reason.

1033 408.811 Right of inspection; copies; inspection reports.--

1034 (1) An authorized officer or employee of the agency may  
 1035 make or cause to be made any inspection or investigation deemed  
 1036 necessary by the agency to determine the state of compliance

1037 with this part, authorizing statutes, and applicable rules. The  
 1038 right of inspection extends to any business that the agency has  
 1039 reason to believe is being operated as a provider without a  
 1040 license, but inspection of any business suspected of being  
 1041 operated without the appropriate license may not be made without  
 1042 the permission of the owner or person in charge unless a warrant  
 1043 is first obtained from a circuit court. Any application for a  
 1044 license issued under this part, authorizing statutes, or  
 1045 applicable rules constitutes permission for an appropriate  
 1046 inspection to verify the information submitted on or in  
 1047 connection with the application.

1048 (a) All inspections shall be unannounced, except as  
 1049 specified in s. 408.806.

1050 (b) Inspections for relicensure shall be conducted  
 1051 biennially unless otherwise specified by authorizing statutes or  
 1052 applicable rules.

1053 (2) Inspections conducted in conjunction with  
 1054 certification may be accepted in lieu of a complete licensure  
 1055 inspection. However, a licensure inspection may also be  
 1056 conducted to review any licensure requirements that are not also  
 1057 requirements for certification.

1058 (3) The agency shall have access to and the licensee shall  
 1059 provide copies of all provider records required during an  
 1060 inspection at no cost to the agency.

1061 (4)(a) Each licensee shall maintain as public information,  
 1062 available upon request, records of all inspection reports  
 1063 pertaining to that provider that have been filed by the agency  
 1064 unless those reports are exempt from or contain information that

1065 is exempt from s. 119.07(1) or is otherwise made confidential by  
 1066 law. Effective October 1, 2005, copies of such reports shall be  
 1067 retained in the records of the provider for at least 3 years  
 1068 following the date the reports are filed and issued, regardless  
 1069 of a change of ownership.

1070 (b) A licensee shall, upon the request of any person who  
 1071 has completed a written application with intent to be admitted  
 1072 by such provider, any person who is a client of such provider,  
 1073 or any relative, spouse, or guardian of any such person, furnish  
 1074 to the requester a copy of the last inspection report pertaining  
 1075 to the licensed provider that was issued by the agency or by an  
 1076 accrediting organization if such report is used in lieu of a  
 1077 licensure inspection.

1078 408.812 Unlicensed activity.--

1079 (1) A person or entity may not offer or advertise services  
 1080 that require licensure as defined by this part, authorizing  
 1081 statutes, or applicable rules to the public without obtaining a  
 1082 valid license from the agency. A licenseholder may not advertise  
 1083 or hold out to the public that he or she holds a license for  
 1084 other than that for which he or she actually holds the license.

1085 (2) The operation or maintenance of an unlicensed provider  
 1086 or the performance of any services that require licensure  
 1087 without proper licensure is a violation of this part and  
 1088 authorizing statutes. Unlicensed activity constitutes harm that  
 1089 materially affects the health, safety, and welfare of clients.  
 1090 The agency or any state attorney may, in addition to other  
 1091 remedies provided in this part, bring an action for an  
 1092 injunction to restrain such violation or to enjoin the future

1093 operation or maintenance of any such provider or the provision  
 1094 of services that require licensure in violation of this part and  
 1095 authorizing statutes until compliance with this part,  
 1096 authorizing statutes, and agency rules has been demonstrated to  
 1097 the satisfaction of the agency.

1098 (3) Any person or entity that owns, operates, or maintains  
 1099 an unlicensed provider and that, after receiving notification  
 1100 from the agency, fails to cease operation and apply for a  
 1101 license under this part and authorizing statutes commits a  
 1102 felony of the third degree, punishable as provided in s.  
 1103 775.082, s. 775.083, or s. 775.084. Each day of continued  
 1104 operation is a separate offense.

1105 (4) Any person or entity found who violates subsection (3)  
 1106 a second or subsequent time commits a felony of the second  
 1107 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1108 775.084. Each day of continued operation is a separate offense.

1109 (5) Any person or entity that fails to cease operation  
 1110 after agency notification may be fined \$1,000 for each day of  
 1111 noncompliance.

1112 (6) When a controlling interest or licensee has an  
 1113 interest in more than one provider and fails to license a  
 1114 provider rendering services that require licensure, the agency  
 1115 may revoke all licenses, impose actions under s. 408.814, and  
 1116 impose a fine of \$1,000 per day unless otherwise specified by  
 1117 authorizing statutes against each licensee until such time as  
 1118 the appropriate license is obtained for the unlicensed  
 1119 operation.

1120 (7) In addition to granting injunctive relief pursuant to



1121 subsection (2), if the agency determines that a person or entity  
 1122 is operating or maintaining a provider without obtaining a  
 1123 license and determines that a condition exists that poses a  
 1124 threat to the health, safety, or welfare of a client of the  
 1125 provider, the person or entity is subject to the same actions  
 1126 and fines imposed against a licensee as specified in this part,  
 1127 authorizing statutes, and agency rules.

1128 (8) Any person aware of the operation of an unlicensed  
 1129 provider must report that provider to the agency.

1130 408.813 Administrative fines.--As a penalty for any  
 1131 violation of this part, authorizing statutes, or applicable  
 1132 rules, the agency may impose an administrative fine. Unless the  
 1133 amount of the fine is prescribed by authorizing statutes or  
 1134 applicable rules, the agency may establish criteria by rule for  
 1135 the amount of administrative fines applicable to this part,  
 1136 authorizing statutes, and applicable rules. Each day of  
 1137 violation constitutes a separate violation and is subject to a  
 1138 separate fine. For fines imposed by final order of the agency  
 1139 and not subject to further appeal, the violator shall pay the  
 1140 fine plus interest at the rate specified in s. 55.03 for each  
 1141 day beyond the date set by the agency for payment of the fine.

1142 408.814 Moratoriums; emergency suspensions.--

1143 (1) The agency may impose an immediate moratorium or  
 1144 emergency suspension as defined in s. 120.60 on any provider if  
 1145 the agency determines that any condition related to the provider  
 1146 or licensee presents a threat to the health, safety, or welfare  
 1147 of a client.

1148 (2) A provider or licensee, the license of which is denied

1149 or revoked, may be subject to immediate imposition of a  
 1150 moratorium or emergency suspension to run concurrently with  
 1151 licensure denial, revocation, or injunction.

1152 (3) A moratorium or emergency suspension remains in effect  
 1153 after a change of ownership, unless the agency has determined  
 1154 that the conditions that created the moratorium, emergency  
 1155 suspension, or denial of licensure have been corrected.

1156 (4) When a moratorium or emergency suspension is placed on  
 1157 a provider or licensee, notice of the action shall be posted and  
 1158 visible to the public at the location of the provider until the  
 1159 action is lifted.

1160 408.815 License or application denial; revocation.--

1161 (1) In addition to the grounds provided in authorizing  
 1162 statutes, grounds that may be used by the agency for denying and  
 1163 revoking a license or change-of-ownership application include  
 1164 any of the following actions by a controlling interest:

1165 (a) False representation of a material fact in the license  
 1166 application or intentional omission of any material fact from  
 1167 the application.

1168 (b) An intentional or negligent act materially affecting  
 1169 the health or safety of a client of the provider.

1170 (c) A violation of this part, authorizing statutes, or  
 1171 applicable rules.

1172 (d) A demonstrated pattern of deficient performance.

1173 (e) The applicant, licensee, or controlling interest has  
 1174 been or is currently excluded, suspended, terminated from  
 1175 participation in the state Medicaid program, the Medicaid  
 1176 program of any other state, or the Medicare program.

1177        (2) If a licensee lawfully continues to operate while a  
 1178 denial or revocation is pending in litigation, the licensee must  
 1179 continue to meet all other requirements of this part,  
 1180 authorizing statutes, and applicable rules and must file  
 1181 subsequent renewal applications for licensure and pay all  
 1182 licensure fees. The provisions of ss. 120.60(1) and  
 1183 408.806(3)(c) shall not apply to renewal applications filed  
 1184 during the time period in which the litigation of the denial or  
 1185 revocation is pending until that litigation is final.

1186        (3) An action under s. 408.814 or denial of the license of  
 1187 the transferor may be grounds for denial of a change-of-  
 1188 ownership application of the transferee.

1189        408.816 Injunctions.--

1190        (1) In addition to the other powers provided by this part  
 1191 and authorizing statutes, the agency may institute injunction  
 1192 proceedings in a court of competent jurisdiction to:

1193        (a) Restrain or prevent the establishment or operation of  
 1194 a provider that does not have a license or is in violation of  
 1195 any provision of this part, authorizing statutes, or applicable  
 1196 rules. The agency may also institute injunction proceedings in a  
 1197 court of competent jurisdiction when a violation of this part,  
 1198 authorizing statutes, or applicable rules constitutes an  
 1199 emergency affecting the immediate health and safety of a client.

1200        (b) Enforce the provisions of this part, authorizing  
 1201 statutes, or any minimum standard, rule, or order issued or  
 1202 entered into pursuant thereto when the attempt by the agency to  
 1203 correct a violation through administrative sanctions has failed  
 1204 or when the violation materially affects the health, safety, or

1205 welfare of clients or involves any operation of an unlicensed  
 1206 provider.

1207 (c) Terminate the operation of a provider when a violation  
 1208 of any provision of this part, authorizing statutes, or any  
 1209 standard or rule adopted pursuant thereto exists that materially  
 1210 affects the health, safety, or welfare of clients.

1211  
 1212 Such injunctive relief may be temporary or permanent.

1213 (2) If action is necessary to protect clients of providers  
 1214 from immediate, life-threatening situations, the court may allow  
 1215 a temporary injunction without bond upon proper proof being  
 1216 made. If it appears by competent evidence or a sworn,  
 1217 substantiated affidavit that a temporary injunction should be  
 1218 issued, the court, pending the determination on final hearing,  
 1219 shall enjoin the operation of the provider.

1220 408.817 Administrative proceedings.--Administrative  
 1221 proceedings challenging agency licensure enforcement action  
 1222 shall be reviewed on the basis of the facts and conditions that  
 1223 resulted in the agency action.

1224 408.818 Health Care Trust Fund.--Unless otherwise  
 1225 prescribed by authorizing statutes, all fees and fines collected  
 1226 under this part, authorizing statutes, and applicable rules  
 1227 shall be deposited into the Health Care Trust Fund, created in  
 1228 s. 408.16, and used to pay the costs of the agency in  
 1229 administering the provider program paying the fees or fines.

1230 408.819 Rules.--The agency is authorized to adopt rules as  
 1231 necessary to administer this part. Any licensed provider that is  
 1232 in operation at the time of adoption of any applicable rule

1233 under this part or authorizing statutes shall be given a  
 1234 reasonable time under the particular circumstances, not to  
 1235 exceed 6 months after the date of such adoption, within which to  
 1236 comply with such rule, unless otherwise specified by rule.

1237 Section 6. Subsections (12) and (17) and paragraph (a) of  
 1238 subsection (13) of section 112.0455, Florida Statutes, are  
 1239 amended to read:

1240 112.0455 Drug-Free Workplace Act.--

1241 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

1242 (a) The requirements of part II of chapter 408 shall apply  
 1243 to the provision of services that require licensure pursuant to  
 1244 this section and part II of chapter 408 and to entities licensed  
 1245 by or applying for such licensure from the Agency for Health  
 1246 Care Administration pursuant to this section.

1247 (b)(a) A laboratory may analyze initial or confirmation  
 1248 drug specimens only if:

1249 1. The laboratory is licensed and approved by the Agency  
 1250 for Health Care Administration using criteria established by the  
 1251 United States Department of Health and Human Services as general  
 1252 guidelines for modeling the state drug testing program and in  
 1253 accordance with part II of chapter 408. Each applicant for  
 1254 licensure and licensee must comply with all requirements of part  
 1255 II of chapter 408 except s. 408.810(5)-(10). ~~the following~~  
 1256 ~~requirements:~~

1257 ~~a. Upon receipt of a completed, signed, and dated~~  
 1258 ~~application, the agency shall require background screening, in~~  
 1259 ~~accordance with the level 2 standards for screening set forth in~~  
 1260 ~~chapter 435, of the managing employee, or other similarly titled~~

1261 ~~individual responsible for the daily operation of the~~  
1262 ~~laboratory, and of the financial officer, or other similarly~~  
1263 ~~titled individual who is responsible for the financial operation~~  
1264 ~~of the laboratory, including billings for services. The~~  
1265 ~~applicant must comply with the procedures for level 2 background~~  
1266 ~~screening as set forth in chapter 435, as well as the~~  
1267 ~~requirements of s. 435.03(3).~~

1268 ~~b. The agency may require background screening of any~~  
1269 ~~other individual who is an applicant if the agency has probable~~  
1270 ~~cause to believe that he or she has been convicted of an offense~~  
1271 ~~prohibited under the level 2 standards for screening set forth~~  
1272 ~~in chapter 435.~~

1273 ~~e. Proof of compliance with the level 2 background~~  
1274 ~~screening requirements of chapter 435 which has been submitted~~  
1275 ~~within the previous 5 years in compliance with any other health~~  
1276 ~~care licensure requirements of this state is acceptable in~~  
1277 ~~fulfillment of screening requirements.~~

1278 ~~d. A provisional license may be granted to an applicant~~  
1279 ~~when each individual required by this section to undergo~~  
1280 ~~background screening has met the standards for the Department of~~  
1281 ~~Law Enforcement background check, but the agency has not yet~~  
1282 ~~received background screening results from the Federal Bureau of~~  
1283 ~~Investigation, or a request for a disqualification exemption has~~  
1284 ~~been submitted to the agency as set forth in chapter 435, but a~~  
1285 ~~response has not yet been issued. A license may be granted to~~  
1286 ~~the applicant upon the agency's receipt of a report of the~~  
1287 ~~results of the Federal Bureau of Investigation background~~  
1288 ~~screening for each individual required by this section to~~

1289 ~~undergo background screening which confirms that all standards~~  
1290 ~~have been met, or upon the granting of a disqualification~~  
1291 ~~exemption by the agency as set forth in chapter 435. Any other~~  
1292 ~~person who is required to undergo level 2 background screening~~  
1293 ~~may serve in his or her capacity pending the agency's receipt of~~  
1294 ~~the report from the Federal Bureau of Investigation. However,~~  
1295 ~~the person may not continue to serve if the report indicates any~~  
1296 ~~violation of background screening standards and a~~  
1297 ~~disqualification exemption has not been requested of and granted~~  
1298 ~~by the agency as set forth in chapter 435.~~

1299 ~~e. Each applicant must submit to the agency, with its~~  
1300 ~~application, a description and explanation of any exclusions,~~  
1301 ~~permanent suspensions, or terminations of the applicant from the~~  
1302 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
1303 ~~requirements for disclosure of ownership and control interests~~  
1304 ~~under the Medicaid or Medicare programs shall be accepted in~~  
1305 ~~lieu of this submission.~~

1306 ~~f. Each applicant must submit to the agency a description~~  
1307 ~~and explanation of any conviction of an offense prohibited under~~  
1308 ~~the level 2 standards of chapter 435 by a member of the board of~~  
1309 ~~directors of the applicant, its officers, or any individual~~  
1310 ~~owning 5 percent or more of the applicant. This requirement does~~  
1311 ~~not apply to a director of a not-for-profit corporation or~~  
1312 ~~organization if the director serves solely in a voluntary~~  
1313 ~~capacity for the corporation or organization, does not regularly~~  
1314 ~~take part in the day-to-day operational decisions of the~~  
1315 ~~corporation or organization, receives no remuneration for his or~~  
1316 ~~her services on the corporation or organization's board of~~

1317 ~~directors, and has no financial interest and has no family~~  
 1318 ~~members with a financial interest in the corporation or~~  
 1319 ~~organization, provided that the director and the not-for-profit~~  
 1320 ~~corporation or organization include in the application a~~  
 1321 ~~statement affirming that the director's relationship to the~~  
 1322 ~~corporation satisfies the requirements of this sub-subparagraph.~~

1323 ~~g. A license may not be granted to any applicant if the~~  
 1324 ~~applicant or managing employee has been found guilty of,~~  
 1325 ~~regardless of adjudication, or has entered a plea of nolo~~  
 1326 ~~contendere or guilty to, any offense prohibited under the level~~  
 1327 ~~2 standards for screening set forth in chapter 435, unless an~~  
 1328 ~~exemption from disqualification has been granted by the agency~~  
 1329 ~~as set forth in chapter 435.~~

1330 ~~h. The agency may deny or revoke licensure if the~~  
 1331 ~~applicant:~~

1332 ~~(I) Has falsely represented a material fact in the~~  
 1333 ~~application required by sub-subparagraph e. or sub-subparagraph~~  
 1334 ~~f., or has omitted any material fact from the application~~  
 1335 ~~required by sub-subparagraph e. or sub-subparagraph f.; or~~

1336 ~~(II) Has had prior action taken against the applicant~~  
 1337 ~~under the Medicaid or Medicare program as set forth in sub-~~  
 1338 ~~paragraph e.~~

1339 ~~i. An application for license renewal must contain the~~  
 1340 ~~information required under sub-subparagraphs e. and f.~~

1341 2. The laboratory has written procedures to ensure chain  
 1342 of custody.

1343 3. The laboratory follows proper quality control  
 1344 procedures, including, but not limited to:



1345           a. The use of internal quality controls including the use  
 1346 of samples of known concentrations which are used to check the  
 1347 performance and calibration of testing equipment, and periodic  
 1348 use of blind samples for overall accuracy.

1349           b. An internal review and certification process for drug  
 1350 test results, conducted by a person qualified to perform that  
 1351 function in the testing laboratory.

1352           c. Security measures implemented by the testing laboratory  
 1353 to preclude adulteration of specimens and drug test results.

1354           d. Other necessary and proper actions taken to ensure  
 1355 reliable and accurate drug test results.

1356           (c)~~(b)~~ A laboratory shall disclose to the employer a  
 1357 written test result report within 7 working days after receipt  
 1358 of the sample. All laboratory reports of a drug test result  
 1359 shall, at a minimum, state:

1360           1. The name and address of the laboratory which performed  
 1361 the test and the positive identification of the person tested.

1362           2. Positive results on confirmation tests only, or  
 1363 negative results, as applicable.

1364           3. A list of the drugs for which the drug analyses were  
 1365 conducted.

1366           4. The type of tests conducted for both initial and  
 1367 confirmation tests and the minimum cutoff levels of the tests.

1368           5. Any correlation between medication reported by the  
 1369 employee or job applicant pursuant to subparagraph (8)(b)2. and  
 1370 a positive confirmed drug test result.

1371

1372 No report shall disclose the presence or absence of any drug  
 1373 other than a specific drug and its metabolites listed pursuant  
 1374 to this section.

1375 (d)~~(e)~~ The laboratory shall submit to the Agency for  
 1376 Health Care Administration a monthly report with statistical  
 1377 information regarding the testing of employees and job  
 1378 applicants. The reports shall include information on the methods  
 1379 of analyses conducted, the drugs tested for, the number of  
 1380 positive and negative results for both initial and confirmation  
 1381 tests, and any other information deemed appropriate by the  
 1382 Agency for Health Care Administration. No monthly report shall  
 1383 identify specific employees or job applicants.

1384 (e)~~(d)~~ Laboratories shall provide technical assistance to  
 1385 the employer, employee, or job applicant for the purpose of  
 1386 interpreting any positive confirmed test results which could  
 1387 have been caused by prescription or nonprescription medication  
 1388 taken by the employee or job applicant.

1389 (13) RULES.--

1390 (a) The Agency for Health Care Administration may adopt  
 1391 additional rules to support this law and part II of chapter 408,  
 1392 using criteria established by the United States Department of  
 1393 Health and Human Services as general guidelines for modeling  
 1394 drug-free workplace laboratories ~~the state drug-testing program,~~  
 1395 concerning, but not limited to:

1396 1. Standards for drug-testing laboratory licensing and  
 1397 denial, suspension, and revocation of a license.

1398           2. Urine, hair, blood, and other body specimens and  
 1399 minimum specimen amounts which are appropriate for drug testing,  
 1400 not inconsistent with other provisions established by law.

1401           3. Methods of analysis and procedures to ensure reliable  
 1402 drug-testing results, including standards for initial tests and  
 1403 confirmation tests, not inconsistent with other provisions  
 1404 established by law.

1405           4. Minimum cutoff detection levels for drugs or their  
 1406 metabolites for the purposes of determining a positive test  
 1407 result, not inconsistent with other provisions established by  
 1408 law.

1409           5. Chain-of-custody procedures to ensure proper  
 1410 identification, labeling, and handling of specimens being  
 1411 tested, not inconsistent with other provisions established by  
 1412 law.

1413           6. Retention, storage, and transportation procedures to  
 1414 ensure reliable results on confirmation tests and retests.

1415           7. A list of the most common medications by brand name or  
 1416 common name, as applicable, as well as by chemical name, which  
 1417 may alter or affect a drug test.

1418  
 1419 This section shall not be construed to eliminate the bargainable  
 1420 rights as provided in the collective bargaining process where  
 1421 applicable.

1422           (17) LICENSE FEE.--Fees from licensure of drug-testing  
 1423 laboratories shall be sufficient to carry out the  
 1424 responsibilities of the Agency for Health Care Administration  
 1425 for the regulation of drug-testing laboratories. In accordance

1426 with s. 408.805, applicants and licensees shall pay a fee for  
 1427 each license application submitted under this part, part II of  
 1428 chapter 408, and applicable rules. The fee shall be not less  
 1429 than \$16,000 or more than \$20,000 per biennium and shall be  
 1430 established by rule. The Agency for Health Care Administration  
 1431 ~~shall collect fees for all licenses issued under this part. Each~~  
 1432 ~~nonrefundable fee shall be due at the time of application and~~  
 1433 ~~shall be payable to the Agency for Health Care Administration to~~  
 1434 ~~be deposited in a trust fund administered by the Agency for~~  
 1435 ~~Health Care Administration and used only for the purposes of~~  
 1436 ~~this section. The fee schedule is as follows: For licensure as a~~  
 1437 ~~drug testing laboratory, an annual fee of not less than \$8,000~~  
 1438 ~~or more than \$10,000 per fiscal year; for late filing of an~~  
 1439 ~~application for renewal, an additional fee of \$500 per day shall~~  
 1440 ~~be charged.~~

1441 Section 7. Subsection (7) of section 381.0303, Florida  
 1442 Statutes, is amended to read:

1443 381.0303 Health practitioner recruitment for special needs  
 1444 shelters.--

1445 (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--The submission  
 1446 of emergency management plans to county health departments by  
 1447 home health agencies pursuant to s. 400.497(8)(c) and (d) and by  
 1448 nurse registries pursuant to s. 400.506(11)(16)(e) and by  
 1449 hospice programs pursuant to s. 400.610(1)(b) is conditional  
 1450 upon the receipt of an appropriation by the department to  
 1451 establish medical services disaster coordinator positions in  
 1452 county health departments unless the secretary of the department  
 1453 and a local county commission jointly determine to require such

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1454 plans to be submitted based on a determination that there is a  
 1455 special need to protect public health in the local area during  
 1456 an emergency.

1457 Section 8. Paragraph (b) of subsection (4) of section  
 1458 381.78, Florida Statutes, is amended to read:

1459 381.78 Advisory council on brain and spinal cord  
 1460 injuries.--

1461 (4) The council shall:

1462 (b) Annually appoint a five-member committee composed of  
 1463 one individual who has a brain injury or has a family member  
 1464 with a brain injury, one individual who has a spinal cord injury  
 1465 or has a family member with a spinal cord injury, and three  
 1466 members who shall be chosen from among these representative  
 1467 groups: physicians, other allied health professionals,  
 1468 administrators of brain and spinal cord injury programs, and  
 1469 representatives from support groups with expertise in areas  
 1470 related to the rehabilitation of individuals who have brain or  
 1471 spinal cord injuries, except that one and only one member of the  
 1472 committee shall be an administrator of a transitional living  
 1473 facility. Membership on the council is not a prerequisite for  
 1474 membership on this committee.

1475 1. The committee shall perform onsite visits to those  
 1476 transitional living facilities identified by the Agency for  
 1477 Health Care Administration as being in possible violation of the  
 1478 statutes and rules regulating such facilities. The committee  
 1479 members have the same rights of entry and inspection granted  
 1480 under s. 400.805(4)~~(8)~~ to designated representatives of the  
 1481 agency.

1482           2. Factual findings of the committee resulting from an  
 1483 onsite investigation of a facility pursuant to subparagraph 1.  
 1484 shall be adopted by the agency in developing its administrative  
 1485 response regarding enforcement of statutes and rules regulating  
 1486 the operation of the facility.

1487           3. Onsite investigations by the committee shall be funded  
 1488 by the Health Care Trust Fund.

1489           4. Travel expenses for committee members shall be  
 1490 reimbursed in accordance with s. 112.061.

1491           5. Members of the committee shall recuse themselves from  
 1492 participating in any investigation that would create a conflict  
 1493 of interest under state law, and the council shall replace the  
 1494 member, either temporarily or permanently.

1495           Section 9. Section 383.301, Florida Statutes, is amended  
 1496 to read:

1497           383.301 Licensure and regulation of birth centers;  
 1498 legislative intent.--It is the intent of the Legislature to  
 1499 provide for the protection of public health and safety in the  
 1500 establishment, maintenance, and operation of birth centers by  
 1501 providing for licensure of birth centers and for the  
 1502 development, establishment, and enforcement of minimum standards  
 1503 with respect to birth centers. The requirements of part II of  
 1504 chapter 408 shall apply to the provision of services that  
 1505 require licensure pursuant to ss. 383.30-383.335 and part II of  
 1506 chapter 408 and to entities licensed by or applying for such  
 1507 licensure from the Agency for Health Care Administration  
 1508 pursuant to ss. 383.30-383.335.

1509           Section 10. Section 383.304, Florida Statutes, is  
 1510 repealed.

1511           Section 11. Section 383.305, Florida Statutes, is amended  
 1512 to read:

1513           383.305 ~~Licensure; issuance, renewal, denial, suspension,~~  
 1514 ~~revocation; fees; background screening.--~~

1515           (1)(a) In accordance with s. 408.805, an applicant or a  
 1516 licensee shall pay a fee for each license application submitted  
 1517 under ss. 383.30-383.335 and part II of chapter 408. The amount  
 1518 of the fee shall be established by rule. Upon receipt of an  
 1519 ~~application for a license and the license fee, the agency shall~~  
 1520 ~~issue a license if the applicant and facility have received all~~  
 1521 ~~approvals required by law and meet the requirements established~~  
 1522 ~~under ss. 383.30-383.335 and by rules promulgated hereunder.~~

1523           ~~(b) A provisional license may be issued to any birth~~  
 1524 ~~center that is in substantial compliance with ss. 383.30-383.335~~  
 1525 ~~and with the rules of the agency. A provisional license may be~~  
 1526 ~~granted for a period of no more than 1 year from the effective~~  
 1527 ~~date of rules adopted by the agency, shall expire automatically~~  
 1528 ~~at the end of its term, and may not be renewed.~~

1529           ~~(c) A license, unless sooner suspended or revoked,~~  
 1530 ~~automatically expires 1 year from its date of issuance and is~~  
 1531 ~~renewable upon application for renewal and payment of the fee~~  
 1532 ~~prescribed, provided the applicant and the birth center meet the~~  
 1533 ~~requirements established under ss. 383.30-383.335 and by rules~~  
 1534 ~~promulgated hereunder. A complete application for renewal of a~~  
 1535 ~~license shall be made 90 days prior to expiration of the license~~  
 1536 ~~on forms provided by the agency.~~

1537           ~~(2) An application for a license, or renewal thereof,~~  
 1538 ~~shall be made to the agency upon forms provided by it and shall~~  
 1539 ~~contain such information as the agency reasonably requires,~~  
 1540 ~~which may include affirmative evidence of ability to comply with~~  
 1541 ~~applicable laws and rules.~~

1542           ~~(3)(a) Each application for a birth center license, or~~  
 1543 ~~renewal thereof, shall be accompanied by a license fee. Fees~~  
 1544 ~~shall be established by rule of the agency. Such fees are~~  
 1545 ~~payable to the agency and shall be deposited in a trust fund~~  
 1546 ~~administered by the agency, to be used for the sole purpose of~~  
 1547 ~~carrying out the provisions of ss. 383.30-383.335.~~

1548           ~~(b) The fees established pursuant to ss. 383.30-383.335~~  
 1549 ~~shall be based on actual costs incurred by the agency in the~~  
 1550 ~~administration of its duties under such sections.~~

1551           ~~(4) Each license is valid only for the person or~~  
 1552 ~~governmental unit to whom or which it is issued; is not subject~~  
 1553 ~~to sale, assignment, or other transfer, voluntary or~~  
 1554 ~~involuntary; and is not valid for any premises other than those~~  
 1555 ~~for which it was originally issued.~~

1556           ~~(5) Each license shall be posted in a conspicuous place on~~  
 1557 ~~the licensed premises.~~

1558           ~~(6) Whenever the agency finds that there has been a~~  
 1559 ~~substantial failure to comply with the requirements established~~  
 1560 ~~under ss. 383.30-383.335 or in rules adopted under those~~  
 1561 ~~sections, it is authorized to deny, suspend, or revoke a~~  
 1562 ~~license.~~



1563            (2)~~(7)~~ Each applicant for licensure and each licensee must  
 1564 comply with the ~~following~~ requirements of part II of chapter 408  
 1565 except s. 408.810(7)-(10).;

1566            ~~(a) Upon receipt of a completed, signed, and dated~~  
 1567 ~~application, the agency shall require background screening, in~~  
 1568 ~~accordance with the level 2 standards for screening set forth in~~  
 1569 ~~chapter 435, of the managing employee, or other similarly titled~~  
 1570 ~~individual who is responsible for the daily operation of the~~  
 1571 ~~center, and of the financial officer, or other similarly titled~~  
 1572 ~~individual who is responsible for the financial operation of the~~  
 1573 ~~center, including billings for patient care and services. The~~  
 1574 ~~applicant must comply with the procedures for level 2 background~~  
 1575 ~~screening as set forth in chapter 435 as well as the~~  
 1576 ~~requirements of s. 435.03(3).~~

1577            ~~(b) The agency may require background screening of any~~  
 1578 ~~other individual who is an applicant if the agency has probable~~  
 1579 ~~cause to believe that he or she has been convicted of a crime or~~  
 1580 ~~has committed any other offense prohibited under the level 2~~  
 1581 ~~standards for screening set forth in chapter 435.~~

1582            ~~(c) Proof of compliance with the level 2 background~~  
 1583 ~~screening requirements of chapter 435 which has been submitted~~  
 1584 ~~within the previous 5 years in compliance with any other health~~  
 1585 ~~care licensure requirements of this state is acceptable in~~  
 1586 ~~fulfillment of the requirements of paragraph (a).~~

1587            ~~(d) A provisional license may be granted to an applicant~~  
 1588 ~~when each individual required by this section to undergo~~  
 1589 ~~background screening has met the standards for the Department of~~  
 1590 ~~Law Enforcement background check, but the agency has not yet~~

1591 ~~received background screening results from the Federal Bureau of~~  
 1592 ~~Investigation, or a request for a disqualification exemption has~~  
 1593 ~~been submitted to the agency as set forth in chapter 435 but a~~  
 1594 ~~response has not yet been issued. A standard license may be~~  
 1595 ~~granted to the applicant upon the agency's receipt of a report~~  
 1596 ~~of the results of the Federal Bureau of Investigation background~~  
 1597 ~~screening for each individual required by this section to~~  
 1598 ~~undergo background screening which confirms that all standards~~  
 1599 ~~have been met, or upon the granting of a disqualification~~  
 1600 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 1601 ~~person who is required to undergo level 2 background screening~~  
 1602 ~~may serve in his or her capacity pending the agency's receipt of~~  
 1603 ~~the report from the Federal Bureau of Investigation. However,~~  
 1604 ~~the person may not continue to serve if the report indicates any~~  
 1605 ~~violation of background screening standards and a~~  
 1606 ~~disqualification exemption has not been requested of and granted~~  
 1607 ~~by the agency as set forth in chapter 435.~~

1608 ~~(e) Each applicant must submit to the agency, with its~~  
 1609 ~~application, a description and explanation of any exclusions,~~  
 1610 ~~permanent suspensions, or terminations of the applicant from the~~  
 1611 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 1612 ~~requirements for disclosure of ownership and control interests~~  
 1613 ~~under the Medicaid or Medicare programs shall be accepted in~~  
 1614 ~~lieu of this submission.~~

1615 ~~(f) Each applicant must submit to the agency a description~~  
 1616 ~~and explanation of any conviction of an offense prohibited under~~  
 1617 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 1618 ~~directors of the applicant, its officers, or any individual~~

1619 ~~owning 5 percent or more of the applicant. This requirement does~~  
 1620 ~~not apply to a director of a not-for-profit corporation or~~  
 1621 ~~organization if the director serves solely in a voluntary~~  
 1622 ~~capacity for the corporation or organization, does not regularly~~  
 1623 ~~take part in the day-to-day operational decisions of the~~  
 1624 ~~corporation or organization, receives no remuneration for his or~~  
 1625 ~~her services on the corporation or organization's board of~~  
 1626 ~~directors, and has no financial interest and has no family~~  
 1627 ~~members with a financial interest in the corporation or~~  
 1628 ~~organization, provided that the director and the not-for-profit~~  
 1629 ~~corporation or organization include in the application a~~  
 1630 ~~statement affirming that the director's relationship to the~~  
 1631 ~~corporation satisfies the requirements of this paragraph.~~

1632 ~~(g) A license may not be granted to an applicant if the~~  
 1633 ~~applicant or managing employee has been found guilty of,~~  
 1634 ~~regardless of adjudication, or has entered a plea of nolo~~  
 1635 ~~contendere or guilty to, any offense prohibited under the level~~  
 1636 ~~2 standards for screening set forth in chapter 435, unless an~~  
 1637 ~~exemption from disqualification has been granted by the agency~~  
 1638 ~~as set forth in chapter 435.~~

1639 ~~(h) The agency may deny or revoke licensure if the~~  
 1640 ~~applicant:~~

1641 ~~1. Has falsely represented a material fact in the~~  
 1642 ~~application required by paragraph (e) or paragraph (f), or has~~  
 1643 ~~omitted any material fact from the application required by~~  
 1644 ~~paragraph (e) or paragraph (f); or~~

1645 ~~2. Has had prior action taken against the applicant under~~  
 1646 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1647 ~~(i) An application for license renewal must contain the~~  
 1648 ~~information required under paragraphs (e) and (f).~~

1649 Section 12. Section 383.309, Florida Statutes, is amended  
 1650 to read:

1651 383.309 Minimum standards for birth centers; rules and  
 1652 enforcement.--

1653 (1) The agency shall adopt and enforce rules to administer  
 1654 ss. 383.30-383.335 and part II of chapter 408, which rules shall  
 1655 include, but are not limited to, reasonable and fair minimum  
 1656 standards for ensuring that:

1657 (a) Sufficient numbers and qualified types of personnel  
 1658 and occupational disciplines are available at all times to  
 1659 provide necessary and adequate patient care and safety.

1660 (b) Infection control, housekeeping, sanitary conditions,  
 1661 disaster plan, and medical record procedures that will  
 1662 adequately protect patient care and provide safety are  
 1663 established and implemented.

1664 (c) Licensed facilities are established, organized, and  
 1665 operated consistent with established programmatic standards.

1666 ~~(2) Any licensed facility that is in operation at the time~~  
 1667 ~~of adoption of any applicable rule under ss. 383.30-383.335~~  
 1668 ~~shall be given a reasonable time under the particular~~  
 1669 ~~circumstances, not to exceed 1 year after the date of such~~  
 1670 ~~adoption, within which to comply with such rule.~~

1671 (2)(3) The agency may not establish any rule governing the  
 1672 design, construction, erection, alteration, modification,  
 1673 repair, or demolition of birth centers. It is the intent of the  
 1674 Legislature to preempt that function to the Florida Building

1675 Commission and the State Fire Marshal through adoption and  
 1676 maintenance of the Florida Building Code and the Florida Fire  
 1677 Prevention Code. However, the agency shall provide technical  
 1678 assistance to the commission and the State Fire Marshal in  
 1679 updating the construction standards of the Florida Building Code  
 1680 and the Florida Fire Prevention Code which govern birth centers.  
 1681 In addition, the agency may enforce the special-occupancy  
 1682 provisions of the Florida Building Code and the Florida Fire  
 1683 Prevention Code which apply to birth centers in conducting any  
 1684 inspection authorized under this chapter.

1685 Section 13. Subsection (1) of section 383.315, Florida  
 1686 Statutes, is amended to read:

1687 383.315 Agreements with consultants for advice or  
 1688 services; maintenance.--

1689 (1) A birth center shall maintain in writing a  
 1690 consultation agreement, signed within the current license period  
 1691 ~~year~~, with each consultant who has agreed to provide advice and  
 1692 services to the birth center as requested.

1693 Section 14. Section 383.324, Florida Statutes, is amended  
 1694 to read:

1695 383.324 ~~Inspections and investigations;~~ Inspection fees.--

1696 ~~(1) The agency shall make or cause to be made such~~  
 1697 ~~inspections and investigations as it deems necessary.~~

1698 ~~(2)~~ Each facility licensed under s. 383.305 shall pay to  
 1699 the agency, at the time of inspection, an inspection fee  
 1700 established by rule of the agency.

1701 ~~(3) The agency shall coordinate all periodic inspections~~  
 1702 ~~for licensure made by the agency to ensure that the cost to the~~

1703 ~~facility of such inspections and the disruption of services by~~  
 1704 ~~such inspections is minimized.~~

1705 Section 15. Section 383.325, Florida Statutes, is  
 1706 repealed.

1707 Section 16. Section 383.33, Florida Statutes, is amended  
 1708 to read:

1709 383.33 Administrative fines penalties; ~~emergency orders;~~  
 1710 ~~moratorium on admissions.--~~

1711 (1)~~(a)~~ In addition to the requirements of part II of  
 1712 chapter 408, the agency may ~~deny, revoke, or suspend a license,~~  
 1713 ~~or~~ impose an administrative fine not to exceed \$500 per  
 1714 violation per day~~,~~ for the violation of any provision of ss.  
 1715 383.30-383.335, part II of chapter 408, or applicable rules or  
 1716 ~~any rule adopted under ss. 383.30-383.335. Each day of violation~~  
 1717 ~~constitutes a separate violation and is subject to a separate~~  
 1718 ~~fine.~~

1719 (2)~~(b)~~ In determining the amount of the fine to be levied  
 1720 for a violation, as provided in subsection (1) ~~paragraph (a),~~  
 1721 the following factors shall be considered:

1722 (a)~~1-~~ The severity of the violation, including the  
 1723 probability that death or serious harm to the health or safety  
 1724 of any person will result or has resulted; the severity of the  
 1725 actual or potential harm; and the extent to which the provisions  
 1726 of ss. 383.30-383.335, part II of chapter 408, or applicable  
 1727 rules were violated.

1728 (b)~~2-~~ Actions taken by the licensee to correct the  
 1729 violations or to remedy complaints.

1730 (c)~~3-~~ Any previous violations by the licensee.

1731 ~~(c) All amounts collected pursuant to this section shall~~  
 1732 ~~be deposited into a trust fund administered by the agency to be~~  
 1733 ~~used for the sole purpose of carrying out the provisions of ss.~~  
 1734 ~~383.30-383.335.~~

1735 ~~(2) The agency may issue an emergency order immediately~~  
 1736 ~~suspending or revoking a license when it determines that any~~  
 1737 ~~condition in the licensed facility presents a clear and present~~  
 1738 ~~danger to the public health and safety.~~

1739 ~~(3) The agency may impose an immediate moratorium on~~  
 1740 ~~elective admissions to any licensed facility, building or~~  
 1741 ~~portion thereof, or service when the agency determines that any~~  
 1742 ~~condition in the facility presents a threat to the public health~~  
 1743 ~~or safety.~~

1744 Section 17. Section 383.331, Florida Statutes, is  
 1745 repealed.

1746 Section 18. Section 383.332, Florida Statutes, is  
 1747 repealed.

1748 Section 19. Subsection (1) of section 383.335, Florida  
 1749 Statutes, is amended to read:

1750 383.335 Partial exemptions.--

1751 (1) Any facility that ~~which~~ was providing obstetrical and  
 1752 gynecological surgical services and was owned and operated by a  
 1753 board-certified obstetrician on June 15, 1984, and that ~~which~~ is  
 1754 otherwise subject to licensure under ss. 383.30-383.335 as a  
 1755 birth center, is exempt from the provisions of ss. 383.30-  
 1756 383.335 and part II of chapter 408 which restrict the provision  
 1757 of surgical services and outlet forceps delivery and the  
 1758 administration of anesthesia at birth centers. The agency shall

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1759 adopt rules specifically related to the performance of such  
 1760 services and the administration of anesthesia at such  
 1761 facilities.

1762 Section 20. Subsection (4) of section 383.50, Florida  
 1763 Statutes, is amended to read:

1764 383.50 Treatment of abandoned newborn infant.--

1765 (4) Each hospital of this state subject to s. 395.1041  
 1766 shall, and any other hospital may, admit and provide all  
 1767 necessary emergency services and care, as defined in s.  
 1768 395.002~~(9)(10)~~, to any newborn infant left with the hospital in  
 1769 accordance with this section. The hospital or any of its  
 1770 licensed health care professionals shall consider these actions  
 1771 as implied consent for treatment, and a hospital accepting  
 1772 physical custody of a newborn infant has implied consent to  
 1773 perform all necessary emergency services and care. The hospital  
 1774 or any of its licensed health care professionals is immune from  
 1775 criminal or civil liability for acting in good faith in  
 1776 accordance with this section. Nothing in this subsection limits  
 1777 liability for negligence.

1778 Section 21. Subsection (5) of section 390.011, Florida  
 1779 Statutes, is amended to read:

1780 390.011 Definitions.--As used in this chapter, the term:

1781 (5) "Hospital" means a facility as defined in s. 395.002  
 1782 and licensed under chapter 395.

1783 Section 22. Subsection (1) of section 390.012, Florida  
 1784 Statutes, is amended to read:

1785 390.012 Powers of agency; rules; disposal of fetal  
 1786 remains.--



1787 (1) The agency may ~~shall have the authority to~~ develop and  
 1788 enforce rules pursuant to ss. 390.001-390.018 and part II of  
 1789 chapter 408 for the health, care, and treatment of persons in  
 1790 abortion clinics and for the safe operation of such clinics.  
 1791 These rules shall be comparable to rules which apply to all  
 1792 surgical procedures requiring approximately the same degree of  
 1793 skill and care as the performance of first trimester abortions.  
 1794 The rules shall be reasonably related to the preservation of  
 1795 maternal health of the clients. The rules shall not impose a  
 1796 legally significant burden on a woman's freedom to decide  
 1797 whether to terminate her pregnancy. The rules shall provide for:

1798 (a) The performance of pregnancy termination procedures  
 1799 only by a licensed physician.

1800 (b) The making, protection, and preservation of patient  
 1801 records, which shall be treated as medical records under chapter  
 1802 458.

1803 Section 23. Section 390.013, Florida Statutes, is  
 1804 repealed.

1805 Section 24. Section 390.014, Florida Statutes, is amended  
 1806 to read:

1807 390.014 Licenses; fees, ~~display, etc.~~--

1808 (1) The requirements of part II of chapter 408 shall apply  
 1809 to the provision of services that require licensure pursuant to  
 1810 ss. 390.011-390.018 and part II of chapter 408 and to entities  
 1811 licensed by or applying for such licensure from the Agency for  
 1812 Health Care Administration pursuant to ss. 390.011-390.018.  
 1813 However, each applicant for licensure and each licensee is  
 1814 exempt from s. 408.810(7)-(10). ~~No abortion clinic shall operate~~

1815 ~~in this state without a currently effective license issued by~~  
 1816 ~~the agency.~~

1817 (2) A separate license shall be required for each clinic  
 1818 maintained on separate premises, even though it is operated by  
 1819 the same management as another clinic; but a separate license  
 1820 shall not be required for separate buildings on the same  
 1821 premises.

1822 (3) In accordance with s. 408.805, an applicant or  
 1823 licensee shall pay a fee for each license application submitted  
 1824 under this part and part II of chapter 408. The amount of the  
 1825 fee shall be established by rule and ~~The annual license fee~~  
 1826 ~~required for a clinic shall be nonrefundable and shall be~~  
 1827 ~~reasonably calculated to cover the cost of regulation under this~~  
 1828 ~~chapter, but~~ may not be less than \$70 or \$35 ~~nor~~ more than \$500  
 1829 per biennium \$250.

1830 (4) Counties and municipalities applying for licenses  
 1831 under this act shall be exempt from the payment of the license  
 1832 fees.

1833 ~~(5) The license shall be displayed in a conspicuous place~~  
 1834 ~~inside the clinic.~~

1835 ~~(6) A license shall be valid only for the clinic to which~~  
 1836 ~~it is issued, and it shall not be subject to sale, assignment,~~  
 1837 ~~or other transfer, voluntary or involuntary. No license shall be~~  
 1838 ~~valid for any premises other than those for which it was~~  
 1839 ~~originally issued.~~

1840 Section 25. Section 390.015, Florida Statutes, is  
 1841 repealed.

1842           Section 26. Section 390.016, Florida Statutes, is  
 1843 repealed.

1844           Section 27. Section 390.017, Florida Statutes, is  
 1845 repealed.

1846           Section 28. Section 390.018, Florida Statutes, is amended  
 1847 to read:

1848           390.018 Administrative fine ~~penalty in lieu of revocation~~  
 1849 ~~or suspension.~~ --In addition to the requirements of part II of  
 1850 chapter 408 if the agency finds that one or more grounds exist  
 1851 for the revocation or suspension of a license issued to an  
 1852 abortion clinic, the agency may, in lieu of such suspension or  
 1853 revocation, impose a fine upon the clinic in an amount not to  
 1854 exceed \$1,000 for each violation of any provision this part,  
 1855 part II of chapter 408, or applicable rules. The fine shall be  
 1856 paid to the agency within 60 days from the date of entry of the  
 1857 administrative order. If the licensee fails to pay the fine in  
 1858 its entirety to the agency within the period allowed, the  
 1859 license of the licensee shall stand suspended, revoked, or  
 1860 renewal or continuation may be refused, as the case may be, upon  
 1861 expiration of such period and without any further administrative  
 1862 or judicial proceedings.

1863           Section 29. Section 390.019, Florida Statutes, is  
 1864 repealed.

1865           Section 30. Section 390.021, Florida Statutes, is  
 1866 repealed.

1867           Section 31. Subsection (13) of section 394.455, Florida  
 1868 Statutes, is amended to read:

1869           394.455 Definitions.--As used in this part, unless the  
1870 context clearly requires otherwise, the term:

1871           (13) "Hospital" means a facility as defined in s. 395.002  
1872 and licensed under chapter 395.

1873           Section 32. Subsection (7) of section 394.4787, Florida  
1874 Statutes, is amended to read:

1875           394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,  
1876 and 394.4789.--As used in this section and ss. 394.4786,  
1877 394.4788, and 394.4789:

1878           (7) "Specialty psychiatric hospital" means a hospital  
1879 licensed by the agency pursuant to s. 395.002 (28) ~~(29)~~ as a  
1880 specialty psychiatric hospital.

1881           Section 33. Subsections (3) through (23) of section  
1882 394.67, Florida Statutes, are renumbered as subsections (2)  
1883 through (22), respectively, present subsections (2) and (4) are  
1884 amended, and a new subsection (23) is added to said section, to  
1885 read:

1886           394.67 Definitions.--As used in this part, the term:

1887           ~~(2) "Applicant" means an individual applicant, or any~~  
1888 ~~officer, director, agent, managing employee, or affiliated~~  
1889 ~~person, or any partner or shareholder having an ownership~~  
1890 ~~interest equal to a 5-percent or greater interest in the~~  
1891 ~~corporation, partnership, or other business entity.~~

1892           (3) ~~(4)~~ "Crisis services" means short-term evaluation,  
1893 stabilization, and brief intervention services provided to a  
1894 person who is experiencing an acute mental or emotional crisis,  
1895 as defined in subsection (17) ~~(18)~~, or an acute substance abuse  
1896 crisis, as defined in subsection (18) ~~(19)~~, to prevent further

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1897 deterioration of the person's mental health. Crisis services are  
 1898 provided in settings such as a crisis stabilization unit, an  
 1899 inpatient unit, a short-term residential treatment program, a  
 1900 detoxification facility, or an addictions receiving facility; at  
 1901 the site of the crisis by a mobile crisis response team; or at a  
 1902 hospital on an outpatient basis.

1903 (23) "Short-term residential treatment facility" means a  
 1904 facility that provides an alternative to inpatient  
 1905 hospitalization and that provides brief, intensive services 24  
 1906 hours a day, 7 days a week for mentally ill individuals who are  
 1907 temporarily in need of a 24-hour-a-day structured therapeutic  
 1908 setting as a less restrictive but longer-term alternative to  
 1909 hospitalization.

1910 Section 34. Paragraph (a) of subsection (3) of section  
 1911 394.74, Florida Statutes, is amended to read:

1912 394.74 Contracts for provision of local substance abuse  
 1913 and mental health programs.--

1914 (3) Contracts shall include, but are not limited to:

1915 (a) A provision that, within the limits of available  
 1916 resources, substance abuse and mental health crisis services, as  
 1917 defined in s. 394.67~~(3)(4)~~, shall be available to any individual  
 1918 residing or employed within the service area, regardless of  
 1919 ability to pay for such services, current or past health  
 1920 condition, or any other factor;

1921 Section 35. Subsections (1) and (5) of section 394.82,  
 1922 Florida Statutes, are amended to read:

1923 394.82 Funding of expanded services.--

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1924 (1) Pursuant to the General Appropriations Acts for the  
 1925 2001-2002 and 2002-2003 fiscal years, funds appropriated to the  
 1926 Department of Children and Family Services for the purpose of  
 1927 expanding community mental health services must be used to  
 1928 implement programs that emphasize crisis services as defined in  
 1929 s. 394.67(3)~~(4)~~ and treatment services, rehabilitative services,  
 1930 support services, and case management services, as defined in s.  
 1931 394.67(15)~~(16)~~. Following the 2002-2003 fiscal year, the  
 1932 Department of Children and Family Services must continue to  
 1933 expand the provision of these community mental health services.

1934 (5) By January 1, 2004, the crisis services defined in s.  
 1935 394.67(3)~~(4)~~ shall be implemented, as appropriate, in the  
 1936 state's public community mental health system to serve children  
 1937 and adults who are experiencing an acute mental or emotional  
 1938 crisis, as defined in s. 394.67(17)~~(18)~~. By January 1, 2006, the  
 1939 mental health services defined in s. 394.67(15)~~(16)~~ shall be  
 1940 implemented, as appropriate, in the state's public community  
 1941 mental health system to serve adults and older adults who have a  
 1942 severe and persistent mental illness and to serve children who  
 1943 have a serious emotional disturbance or mental illness, as  
 1944 defined in s. 394.492(6).

1945 Section 36. Section 394.875, Florida Statutes, is amended  
 1946 to read:

1947 394.875 Crisis stabilization units, short-term residential  
 1948 treatment facilities, residential treatment facilities, and  
 1949 residential treatment centers for children and adolescents;  
 1950 authorized services; license required; ~~penalties~~.--

1951 (1)(a) The purpose of a crisis stabilization unit is to  
 1952 stabilize and redirect a client to the most appropriate and  
 1953 least restrictive community setting available, consistent with  
 1954 the client's needs. Crisis stabilization units may screen,  
 1955 assess, and admit for stabilization persons who present  
 1956 themselves to the unit and persons who are brought to the unit  
 1957 under s. 394.463. Clients may be provided 24-hour observation,  
 1958 medication prescribed by a physician or psychiatrist, and other  
 1959 appropriate services. Crisis stabilization units shall provide  
 1960 services regardless of the client's ability to pay and shall be  
 1961 limited in size to a maximum of 30 beds.

1962 (b) The purpose of a short-term residential treatment  
 1963 facility is to provide intensive services in a 24-hour-a-day  
 1964 structured therapeutic setting as a less restrictive but longer-  
 1965 term alternative to hospitalization.

1966 (c)~~(b)~~ The purpose of a residential treatment facility is  
 1967 to be a part of a comprehensive treatment program for mentally  
 1968 ill individuals in a community-based residential setting.

1969 (d)~~(e)~~ The purpose of a residential treatment center for  
 1970 children and adolescents is to provide mental health assessment  
 1971 and treatment services pursuant to ss. 394.491, 394.495, and  
 1972 394.496 to children and adolescents who meet the target  
 1973 population criteria specified in s. 394.493(1)(a), (b), or (c).

1974 (2) The requirements of part II of chapter 408 shall apply  
 1975 to the provision of services that require licensure under ss.  
 1976 394.455-394.904 and part II of chapter 408 and to entities  
 1977 licensed by or applying for such licensure from the Agency for  
 1978 Health Care Administration pursuant to ss. 394.455-394.904.

1979 However, each applicant for licensure and each licensee is  
 1980 exempt from the provisions of s. 408.810(8)-(10). ~~It is unlawful~~  
 1981 ~~for any entity to hold itself out as a crisis stabilization~~  
 1982 ~~unit, a residential treatment facility, or a residential~~  
 1983 ~~treatment center for children and adolescents, or to act as a~~  
 1984 ~~crisis stabilization unit, a residential treatment facility, or~~  
 1985 ~~a residential treatment center for children and adolescents,~~  
 1986 ~~unless it is licensed by the agency pursuant to this chapter.~~

1987 ~~(3) Any person who violates subsection (2) is guilty of a~~  
 1988 ~~misdemeanor of the first degree, punishable as provided in s.~~  
 1989 ~~775.082 or s. 775.083.~~

1990 ~~(4) The agency may maintain an action in circuit court to~~  
 1991 ~~enjoin the unlawful operation of a crisis stabilization unit, a~~  
 1992 ~~residential treatment facility, or a residential treatment~~  
 1993 ~~center for children and adolescents if the agency first gives~~  
 1994 ~~the violator 14 days' notice of its intention to maintain such~~  
 1995 ~~action and if the violator fails to apply for licensure within~~  
 1996 ~~such 14-day period.~~

1997 (3)(5) The following are exempt from licensure as required  
 1998 in ss. 394.455-394.904 ~~Subsection (2) does not apply to:~~

1999 (a) Hospitals licensed pursuant to chapter 395 or programs  
 2000 operated within such hospitals. ~~Homes for special services~~  
 2001 ~~licensed under chapter 400; or~~

2002 (b) Nursing homes licensed under chapter 400.

2003 (c) Comprehensive transitional education programs licensed  
 2004 under s. 393.067.



2005        (4)~~(6)~~ The department, in consultation with the agency,  
 2006 may establish multiple license classifications for residential  
 2007 treatment facilities.

2008        (5)~~(7)~~ The agency may not issue a license to a crisis  
 2009 stabilization unit unless the unit receives state mental health  
 2010 funds and is affiliated with a designated public receiving  
 2011 facility.

2012        (6)~~(8)~~ The agency may issue a license for a crisis  
 2013 stabilization unit or short-term residential treatment facility,  
 2014 certifying the number of authorized beds for such facility as  
 2015 indicated by existing need and available appropriations. The  
 2016 agency may disapprove an application for such a license if it  
 2017 determines that a facility should not be licensed pursuant to  
 2018 the provisions of this chapter. Any facility operating beds in  
 2019 excess of those authorized by the agency shall, upon demand of  
 2020 the agency, reduce the number of beds to the authorized number,  
 2021 forfeit its license, or provide evidence of a license issued  
 2022 pursuant to chapter 395 for the excess beds.

2023        (7)~~(9)~~ A children's crisis stabilization unit which does  
 2024 not exceed 20 licensed beds and which provides separate  
 2025 facilities or a distinct part of a facility, separate staffing,  
 2026 and treatment exclusively for minors may be located on the same  
 2027 premises as a crisis stabilization unit serving adults. The  
 2028 department, in consultation with the agency, shall adopt rules  
 2029 governing facility construction, staffing and licensure  
 2030 requirements, and the operation of such units for minors.

2031        (8)~~(10)~~ The department, in consultation with the agency,  
 2032 must adopt rules governing a residential treatment center for

2033 children and adolescents which specify licensure standards for:  
 2034 admission; length of stay; program and staffing; discharge and  
 2035 discharge planning; treatment planning; seclusion, restraints,  
 2036 and time-out; rights of patients under s. 394.459; use of  
 2037 psychotropic medications; and standards for the operation of  
 2038 such centers.

2039 (9)~~(11)~~ Notwithstanding the provisions of subsection (8),  
 2040 crisis stabilization units may not exceed their licensed  
 2041 capacity by more than 10 percent, nor may they exceed their  
 2042 licensed capacity for more than 3 consecutive working days or  
 2043 for more than 7 days in 1 month.

2044 (10)~~(12)~~ Notwithstanding the other provisions of this  
 2045 section, any facility licensed under former chapter 396 and  
 2046 chapter 397 for detoxification, residential level I care, and  
 2047 outpatient treatment may elect to license concurrently all of  
 2048 the beds at such facility both for that purpose and as a long-  
 2049 term residential treatment facility pursuant to this section, if  
 2050 all of the following conditions are met:

2051 (a) The licensure application is received by the  
 2052 department prior to January 1, 1993.

2053 (b) On January 1, 1993, the facility was licensed under  
 2054 former chapter 396 and chapter 397 as a facility for  
 2055 detoxification, residential level I care, and outpatient  
 2056 treatment of substance abuse.

2057 (c) The facility restricted its practice to the treatment  
 2058 of law enforcement personnel for a period of at least 12 months  
 2059 beginning after January 1, 1992.

2060 (d) The number of beds to be licensed under this chapter  
 2061 is equal to or less than the number of beds licensed under  
 2062 former chapter 396 and chapter 397 as of January 1, 1993.

2063 (e) The licensee agrees in writing to a condition placed  
 2064 upon the license that the facility will limit its treatment  
 2065 exclusively to law enforcement personnel and their immediate  
 2066 families who are seeking admission on a voluntary basis and who  
 2067 are exhibiting symptoms of posttraumatic stress disorder or  
 2068 other mental health problems, including drug or alcohol abuse,  
 2069 which are directly related to law enforcement work and which are  
 2070 amenable to verbal treatment therapies; the licensee agrees to  
 2071 coordinate the provision of appropriate postresidential care for  
 2072 discharged individuals; and the licensee further agrees in  
 2073 writing that a failure to meet any condition specified in this  
 2074 paragraph shall constitute grounds for a revocation of the  
 2075 facility's license as a residential treatment facility.

2076 (f) The licensee agrees that the facility will meet all  
 2077 licensure requirements for a residential treatment facility,  
 2078 including minimum standards for compliance with lifesafety  
 2079 requirements, except those licensure requirements which are in  
 2080 express conflict with the conditions and other provisions  
 2081 specified in this subsection.

2082 (g) The licensee agrees that the conditions stated in this  
 2083 subsection must be agreed to in writing by any person acquiring  
 2084 the facility by any means.

2085  
 2086 Any facility licensed under this subsection is not required to  
 2087 provide any services to any persons except those included in the

2088 specified conditions of licensure, and is exempt from any  
 2089 requirements related to the 60-day or greater average length of  
 2090 stay imposed on community-based residential treatment facilities  
 2091 otherwise licensed under this chapter.

2092 ~~(13) Each applicant for licensure must comply with the~~  
 2093 ~~following requirements:~~

2094 ~~(a) Upon receipt of a completed, signed, and dated~~  
 2095 ~~application, the agency shall require background screening, in~~  
 2096 ~~accordance with the level 2 standards for screening set forth in~~  
 2097 ~~chapter 435, of the managing employee and financial officer, or~~  
 2098 ~~other similarly titled individual who is responsible for the~~  
 2099 ~~financial operation of the facility, including billings for~~  
 2100 ~~client care and services. The applicant must comply with the~~  
 2101 ~~procedures for level 2 background screening as set forth in~~  
 2102 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

2103 ~~(b) The agency may require background screening of any~~  
 2104 ~~other individual who is an applicant if the agency has probable~~  
 2105 ~~cause to believe that he or she has been convicted of a crime or~~  
 2106 ~~has committed any other offense prohibited under the level 2~~  
 2107 ~~standards for screening set forth in chapter 435.~~

2108 ~~(c) Proof of compliance with the level 2 background~~  
 2109 ~~screening requirements of chapter 435 which has been submitted~~  
 2110 ~~within the previous 5 years in compliance with any other health~~  
 2111 ~~care licensure requirements of this state is acceptable in~~  
 2112 ~~fulfillment of the requirements of paragraph (a).~~

2113 ~~(d) A provisional license may be granted to an applicant~~  
 2114 ~~when each individual required by this section to undergo~~  
 2115 ~~background screening has met the standards for the Department of~~

2116 ~~Law Enforcement background check, but the agency has not yet~~  
2117 ~~received background screening results from the Federal Bureau of~~  
2118 ~~Investigation, or a request for a disqualification exemption has~~  
2119 ~~been submitted to the agency as set forth in chapter 435, but a~~  
2120 ~~response has not yet been issued. A standard license may be~~  
2121 ~~granted to the applicant upon the agency's receipt of a report~~  
2122 ~~of the results of the Federal Bureau of Investigation background~~  
2123 ~~screening for each individual required by this section to~~  
2124 ~~undergo background screening which confirms that all standards~~  
2125 ~~have been met, or upon the granting of a disqualification~~  
2126 ~~exemption by the agency as set forth in chapter 435. Any other~~  
2127 ~~person who is required to undergo level 2 background screening~~  
2128 ~~may serve in his or her capacity pending the agency's receipt of~~  
2129 ~~the report from the Federal Bureau of Investigation. However,~~  
2130 ~~the person may not continue to serve if the report indicates any~~  
2131 ~~violation of background screening standards and a~~  
2132 ~~disqualification exemption has not been requested of and granted~~  
2133 ~~by the agency as set forth in chapter 435.~~

2134 ~~(e) Each applicant must submit to the agency, with its~~  
2135 ~~application, a description and explanation of any exclusions,~~  
2136 ~~permanent suspensions, or terminations of the applicant from the~~  
2137 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
2138 ~~requirements for disclosure of ownership and control interests~~  
2139 ~~under the Medicaid or Medicare programs shall be accepted in~~  
2140 ~~lieu of this submission.~~

2141 ~~(f) Each applicant must submit to the agency a description~~  
2142 ~~and explanation of any conviction of an offense prohibited under~~  
2143 ~~the level 2 standards of chapter 435 by a member of the board of~~

2144 ~~directors of the applicant, its officers, or any individual~~  
 2145 ~~owning 5 percent or more of the applicant. This requirement does~~  
 2146 ~~not apply to a director of a not-for-profit corporation or~~  
 2147 ~~organization if the director serves solely in a voluntary~~  
 2148 ~~capacity for the corporation or organization, does not regularly~~  
 2149 ~~take part in the day-to-day operational decisions of the~~  
 2150 ~~corporation or organization, receives no remuneration for his or~~  
 2151 ~~her services on the corporation or organization's board of~~  
 2152 ~~directors, and has no financial interest and has no family~~  
 2153 ~~members with a financial interest in the corporation or~~  
 2154 ~~organization, provided that the director and the not-for-profit~~  
 2155 ~~corporation or organization include in the application a~~  
 2156 ~~statement affirming that the director's relationship to the~~  
 2157 ~~corporation satisfies the requirements of this paragraph.~~

2158 ~~(g) A license may not be granted to an applicant if the~~  
 2159 ~~applicant or managing employee has been found guilty of,~~  
 2160 ~~regardless of adjudication, or has entered a plea of nolo~~  
 2161 ~~contendere or guilty to, any offense prohibited under the level~~  
 2162 ~~2 standards for screening set forth in chapter 435, unless an~~  
 2163 ~~exemption from disqualification has been granted by the agency~~  
 2164 ~~as set forth in chapter 435.~~

2165 ~~(h) The agency may deny or revoke licensure if the~~  
 2166 ~~applicant:~~

2167 ~~1. Has falsely represented a material fact in the~~  
 2168 ~~application required by paragraph (e) or paragraph (f), or has~~  
 2169 ~~omitted any material fact from the application required by~~  
 2170 ~~paragraph (e) or paragraph (f); or~~

2171           ~~2. Has had prior action taken against the applicant under~~  
 2172 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

2173           ~~(i) An application for license renewal must contain the~~  
 2174 ~~information required under paragraphs (e) and (f).~~

2175           Section 37. Section 394.876, Florida Statutes, is  
 2176 repealed.

2177           Section 38. Section 394.877, Florida Statutes, is amended  
 2178 to read:

2179           394.877 Fees.--

2180           ~~(1)~~ In accordance with s. 408.805, an applicant or  
 2181 licensee shall pay a fee for each license application submitted  
 2182 under this part, part II of chapter 408, and applicable rules.

2183 The amount of the fee shall be established by rule. ~~Each~~  
 2184 ~~application for licensure or renewal must be accompanied by a~~  
 2185 ~~fee set by the department, in consultation with the agency, by~~  
 2186 ~~rule.~~ Such fees shall be reasonably calculated to cover only the  
 2187 cost of regulation under this chapter.

2188           ~~(2) All fees collected under this section shall be~~  
 2189 ~~deposited in the Health Care Trust Fund.~~

2190           Section 39. Section 394.878, Florida Statutes, is amended  
 2191 to read:

2192           394.878 Issuance and renewal of licenses.--

2193           ~~(1) Upon review of the application for licensure and~~  
 2194 ~~receipt of appropriate fees, the agency shall issue an original~~  
 2195 ~~or renewal license to any applicant that meets the requirements~~  
 2196 ~~of this chapter.~~

2197           ~~(2) A license is valid for a period of 1 year. An~~  
 2198 ~~applicant for renewal of a license shall apply to the agency no~~  
 2199 ~~later than 90 days before expiration of the current license.~~

2200           ~~(3) A license may not be transferred from one entity to~~  
 2201 ~~another and is valid only for the premises for which it was~~  
 2202 ~~originally issued. For the purposes of this subsection,~~  
 2203 ~~"transfer" includes, but is not limited to, transfer of a~~  
 2204 ~~majority of the ownership interests in a licensee or transfer of~~  
 2205 ~~responsibilities under the license to another entity by~~  
 2206 ~~contractual arrangement.~~

2207           ~~(4) Each license shall state the services which the~~  
 2208 ~~licensee is required or authorized to perform and the maximum~~  
 2209 ~~residential capacity of the licensed premises.~~

2210           (1)~~(5)~~ The agency may issue a probationary license to an  
 2211 applicant that has completed the application requirements of  
 2212 this chapter but has not, at the time of the application,  
 2213 developed an operational crisis stabilization unit or  
 2214 residential treatment facility. The probationary license shall  
 2215 expire 90 days after issuance and may once be renewed for an  
 2216 additional 90-day period. The agency may cancel a probationary  
 2217 license at any time.

2218           (2)~~(6)~~ The agency may issue an interim license to an  
 2219 applicant that has substantially completed all application  
 2220 requirements and has initiated action to fully meet such  
 2221 requirements. The interim license shall expire 90 days after  
 2222 issuance and, in cases of extreme hardship, may once be renewed  
 2223 for an additional 90-day period.



2224 ~~(7) Any applicant which fails to file an application for~~  
 2225 ~~license renewal during the 90-day relicensure period shall be~~  
 2226 ~~considered unlicensed and subject to penalties pursuant to s.~~  
 2227 ~~394.875.~~

2228 Section 40. Subsections (1), (3), and (4) of section  
 2229 394.879, Florida Statutes, are amended to read:

2230 394.879 Rules; enforcement.--

2231 (1) The agency, in consultation with the department, may  
 2232 adopt rules to implement the requirements of part II of chapter  
 2233 408. The department, in consultation with the agency, shall  
 2234 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
 2235 the provisions of this chapter, including, at a minimum, rules  
 2236 providing standards to ensure that:

2237 (a) Sufficient numbers and types of qualified personnel  
 2238 are on duty and available at all times to provide necessary and  
 2239 adequate client safety and care.

2240 (b) Adequate space is provided each client of a licensed  
 2241 facility.

2242 (c) Licensed facilities are limited to an appropriate  
 2243 number of beds.

2244 (d) Each licensee establishes and implements adequate  
 2245 infection control, housekeeping, sanitation, disaster planning,  
 2246 and medical recordkeeping.

2247 (e) Licensed facilities are established, organized, and  
 2248 operated in accordance with programmatic standards of the  
 2249 department.

2250 (f) The operation and purposes of these facilities assure  
 2251 individuals' health, safety, and welfare.

2252 (3) The department, in consultation with the agency, shall  
 2253 allow any licensed facility in operation at the time of adoption  
 2254 of any rule a reasonable period, not to exceed 1 year, to bring  
 2255 itself into compliance with department rules ~~such rule~~.

2256 (4) In accordance with part II of chapter 408, the agency  
 2257 may impose an administrative penalty of no more than \$500 per  
 2258 day against any licensee that violates any rule adopted pursuant  
 2259 to this section and may suspend and ~~or~~ revoke the license and ~~or~~  
 2260 deny the renewal application of such licensee. In imposing such  
 2261 penalty, the agency shall consider the severity of the  
 2262 violation, actions taken by the licensee to correct the  
 2263 violation, and previous violations by the licensee. ~~Fines~~  
 2264 ~~collected under this subsection shall be deposited in the Mental~~  
 2265 ~~Health Facility Licensing Trust Fund.~~

2266 Section 41. Paragraph (a) of subsection (1) of section  
 2267 394.90, Florida Statutes, is amended to read:

2268 394.90 Inspection; right of entry; records.--

2269 (1)(a) The department and the agency, in accordance with  
 2270 s. 408.811, may enter and inspect at any time a licensed  
 2271 facility to determine whether the facility is in compliance with  
 2272 this chapter and the applicable rules ~~of the department~~.

2273 Section 42. Section 394.902, Florida Statutes, is  
 2274 repealed.

2275 Section 43. Subsection (7) of section 394.907, Florida  
 2276 Statutes, is amended to read:

2277 394.907 Community mental health centers; quality assurance  
 2278 programs.--

2279           (7) The department shall have access to all records  
 2280 necessary to determine licensee ~~agency~~ compliance with the  
 2281 provisions of this section. The records of quality assurance  
 2282 programs which relate solely to actions taken in carrying out  
 2283 the provisions of this section, and records obtained by the  
 2284 department to determine licensee ~~agency~~ compliance with this  
 2285 section, are confidential and exempt from s. 119.07(1). Such  
 2286 records are not admissible in any civil or administrative  
 2287 action, except in disciplinary proceedings by the Department of  
 2288 Business and Professional Regulation and the appropriate  
 2289 regulatory board, nor shall such records be available to the  
 2290 public as part of the record of investigation for, and  
 2291 prosecution in disciplinary proceedings made available to the  
 2292 public by the Department of Business and Professional Regulation  
 2293 or the appropriate regulatory board. Meetings or portions of  
 2294 meetings of quality assurance program committees that relate  
 2295 solely to actions taken pursuant to this section are exempt from  
 2296 s. 286.011.

2297           Section 44. Subsections (5) through (33) of section  
 2298 395.002, Florida Statutes, are renumbered as subsections (4)  
 2299 through (32), respectively, and present subsections (4), (11),  
 2300 and (29) of said section are amended to read:

2301           395.002 Definitions.--As used in this chapter:

2302           ~~(4) "Applicant" means an individual applicant, or any~~  
 2303 ~~officer, director, or agent, or any partner or shareholder~~  
 2304 ~~having an ownership interest equal to a 5-percent or greater~~  
 2305 ~~interest in the corporation, partnership, or other business~~  
 2306 ~~entity.~~

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2307        ~~(10)(11)~~ "General hospital" means any facility which meets  
 2308 the provisions of subsection (12) ~~(13)~~ and which regularly makes  
 2309 its facilities and services available to the general population.

2310        ~~(28)(29)~~ "Specialty hospital" means any facility which  
 2311 meets the provisions of subsection (12) ~~(13)~~, and which  
 2312 regularly makes available either:

2313            (a) The range of medical services offered by general  
 2314 hospitals, but restricted to a defined age or gender group of  
 2315 the population;

2316            (b) A restricted range of services appropriate to the  
 2317 diagnosis, care, and treatment of patients with specific  
 2318 categories of medical or psychiatric illnesses or disorders; or

2319            (c) Intensive residential treatment programs for children  
 2320 and adolescents as defined in subsection (15) ~~(16)~~.

2321        Section 45. Section 395.003, Florida Statutes, is amended  
 2322 to read:

2323        395.003 Licensure; ~~issuance, renewal, denial,~~  
 2324 ~~modification,~~ suspension, and revocation.--

2325            (1)(a) The requirements of part II of chapter 408 shall  
 2326 apply to the provision of services that require licensure  
 2327 pursuant to ss. 395.001-395.1065 and part II of chapter 408 and  
 2328 to entities licensed by or applying for such licensure from the  
 2329 Agency for Health Care Administration pursuant to ss. 395.001-  
 2330 395.1065. However, each applicant for licensure and each  
 2331 licensee is exempt from s. 408.810(7)-(9). Ambulatory surgical  
 2332 center and mobile surgical facility licensees and applicants for  
 2333 such licensure are also exempt from s. 408.810(10). ~~A person may~~  
 2334 ~~not establish, conduct, or maintain a hospital, ambulatory~~

2335 ~~surgical center, or mobile surgical facility in this state~~  
 2336 ~~without first obtaining a license under this part.~~

2337 (b)1. It is unlawful for a person to use or advertise to  
 2338 the public, in any way or by any medium whatsoever, any facility  
 2339 as a "hospital," "ambulatory surgical center," or "mobile  
 2340 surgical facility" unless such facility has first secured a  
 2341 license under the provisions of this part.

2342 2. This part does not apply to veterinary hospitals or to  
 2343 commercial business establishments using the word "hospital,"  
 2344 "ambulatory surgical center," or "mobile surgical facility" as a  
 2345 part of a trade name if no treatment of human beings is  
 2346 performed on the premises of such establishments.

2347 (c)3- By December 31, 2004, the agency shall submit a  
 2348 report to the President of the Senate and the Speaker of the  
 2349 House of Representatives recommending whether it is in the  
 2350 public interest to allow a hospital to license or operate an  
 2351 emergency department located off the premises of the hospital.  
 2352 If the agency finds it to be in the public interest, the report  
 2353 shall also recommend licensure criteria for such medical  
 2354 facilities, including criteria related to quality of care and,  
 2355 if deemed necessary, the elimination of the possibility of  
 2356 confusion related to the service capabilities of such facility  
 2357 in comparison to the service capabilities of an emergency  
 2358 department located on the premises of the hospital. Until July  
 2359 1, 2005, additional emergency departments located off the  
 2360 premises of licensed hospitals may not be authorized by the  
 2361 agency.

2362           ~~(2)(a) Upon the receipt of an application for a license~~  
 2363 ~~and the license fee, the agency shall issue a license if the~~  
 2364 ~~applicant and facility have received all approvals required by~~  
 2365 ~~law and meet the requirements established under this part and in~~  
 2366 ~~rules. Such license shall include all beds and services located~~  
 2367 ~~on the premises of the facility.~~

2368           ~~(b) A provisional license may be issued to a new facility~~  
 2369 ~~or a facility that is in substantial compliance with this part~~  
 2370 ~~and with the rules of the agency. A provisional license shall be~~  
 2371 ~~granted for a period of no more than 1 year and shall expire~~  
 2372 ~~automatically at the end of its term. A provisional license may~~  
 2373 ~~not be renewed.~~

2374           ~~(c) A license, unless sooner suspended or revoked, shall~~  
 2375 ~~automatically expire 2 years from the date of issuance and shall~~  
 2376 ~~be renewable biennially upon application for renewal and payment~~  
 2377 ~~of the fee prescribed by s. 395.004(2), provided the applicant~~  
 2378 ~~and licensed facility meet the requirements established under~~  
 2379 ~~this part and in rules. An application for renewal of a license~~  
 2380 ~~shall be made 90 days prior to expiration of the license, on~~  
 2381 ~~forms provided by the agency.~~

2382           (a)(d) The agency shall, at the request of a licensee,  
 2383 issue a single license to a licensee for facilities located on  
 2384 separate premises. Such a license shall specifically state the  
 2385 location of the facilities, the services, and the licensed beds  
 2386 available on each separate premises. If a licensee requests a  
 2387 single license, the licensee shall designate which facility or  
 2388 office is responsible for receipt of information, payment of

2389 fees, service of process, and all other activities necessary for  
 2390 the agency to carry out the provisions of this part.

2391 (b)~~(e)~~ The agency shall, at the request of a licensee that  
 2392 is a teaching hospital as defined in s. 408.07(44), issue a  
 2393 single license to a licensee for facilities that have been  
 2394 previously licensed as separate premises, provided such  
 2395 separately licensed facilities, taken together, constitute the  
 2396 same premises as defined in s. 395.002(23)~~(24)~~. Such license for  
 2397 the single premises shall include all of the beds, services, and  
 2398 programs that were previously included on the licenses for the  
 2399 separate premises. The granting of a single license under this  
 2400 paragraph shall not in any manner reduce the number of beds,  
 2401 services, or programs operated by the licensee.

2402 (c)~~(f)~~ Intensive residential treatment programs for  
 2403 children and adolescents which have received accreditation from  
 2404 the Joint Commission on Accreditation of Healthcare  
 2405 Organizations and which meet the minimum standards developed by  
 2406 rule of the agency for such programs shall be licensed by the  
 2407 agency under this part.

2408 ~~(3)(a) Each license shall be valid only for the person to  
 2409 whom it is issued and shall not be sold, assigned, or otherwise  
 2410 transferred, voluntarily or involuntarily. A license is only  
 2411 valid for the premises for which it was originally issued.~~

2412 ~~(b)1. An application for a new license is required if  
 2413 ownership, a majority of the ownership, or controlling interest  
 2414 of a licensed facility is transferred or assigned and when a  
 2415 lessee agrees to undertake or provide services to the extent  
 2416 that legal liability for operation of the facility rests with~~

2417 ~~the lessee. The application for a new license showing such~~  
 2418 ~~change shall be made at least 60 days prior to the date of the~~  
 2419 ~~sale, transfer, assignment, or lease.~~

2420 (3)2. After a change of ownership has occurred, the  
 2421 transferee shall be liable for any liability to the state,  
 2422 regardless of when identified, resulting from changes to  
 2423 allowable costs affecting provider reimbursement for Medicaid  
 2424 participation or Public Medical Assistance Trust Fund  
 2425 Assessments, and related administrative fines. ~~The transferee,~~  
 2426 ~~simultaneously with the transfer of ownership, shall pay or make~~  
 2427 ~~arrangements to pay to the agency or the department any amount~~  
 2428 ~~owed to the agency or the department; payment assurances may be~~  
 2429 ~~in the form of an irrevocable credit instrument or payment bond~~  
 2430 ~~acceptable to the agency or the department provided by or on~~  
 2431 ~~behalf of the transferor. The issuance of a license to the~~  
 2432 ~~transferee shall be delayed pending payment or until arrangement~~  
 2433 ~~for payment acceptable to the agency or the department is made.~~

2434 (4) The agency shall issue a license which specifies the  
 2435 service categories and the number of hospital beds in each bed  
 2436 category for which a license is received. Such information shall  
 2437 be listed on the face of the license. All beds which are not  
 2438 covered by any specialty-bed-need methodology shall be specified  
 2439 as general beds. A licensed facility shall not operate a number  
 2440 of hospital beds greater than the number indicated by the agency  
 2441 on the face of the license without approval from the agency  
 2442 under conditions established by rule.

2443 (5)(a) Adherence to patient rights, standards of care, and  
 2444 examination and placement procedures provided under part I of



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2445 chapter 394 shall be a condition of licensure for hospitals  
 2446 providing voluntary or involuntary medical or psychiatric  
 2447 observation, evaluation, diagnosis, or treatment.

2448 (b) Any hospital that provides psychiatric treatment to  
 2449 persons under 18 years of age who have emotional disturbances  
 2450 shall comply with the procedures pertaining to the rights of  
 2451 patients prescribed in part I of chapter 394.

2452 (6) No specialty hospital shall provide any service or  
 2453 regularly serve any population group beyond those services or  
 2454 groups specified in its license.

2455 ~~(7) Licenses shall be posted in a conspicuous place on~~  
 2456 ~~each of the licensed premises.~~

2457 (7)(8) In addition to the requirements of part II of  
 2458 chapter 408, whenever the agency finds that there has been a  
 2459 substantial failure to comply with the requirements established  
 2460 under this part or in rules, the agency is authorized to deny,  
 2461 ~~modify,~~ suspend, and ~~or~~ revoke:

2462 (a) A license;

2463 (b) That part of a license which is limited to a separate  
 2464 premises, as designated on the license; or

2465 (c) Licensure approval limited to a facility, building, or  
 2466 portion thereof, or a service, within a given premises.

2467 (8)(9) A hospital may not be licensed or relicensed if:

2468 (a) The diagnosis-related groups for 65 percent or more of  
 2469 the discharges from the hospital, in the most recent year for  
 2470 which data is available to the Agency for Health Care  
 2471 Administration pursuant to s. 408.061, are for diagnosis, care,  
 2472 and treatment of patients who have:

- 2473           1. Cardiac-related diseases and disorders classified as  
 2474 diagnosis-related groups 103-145, 478-479, 514-518, or 525-527;  
 2475           2. Orthopedic-related diseases and disorders classified as  
 2476 diagnosis-related groups 209-256, 471, 491, 496-503, or 519-520;  
 2477           3. Cancer-related diseases and disorders classified as  
 2478 diagnosis-related groups 64, 82, 172, 173, 199, 200, 203, 257-  
 2479 260, 274, 275, 303, 306, 307, 318, 319, 338, 344, 346, 347, 363,  
 2480 366, 367, 400-414, 473, or 492; or

2481           4. Any combination of the above discharges.

2482           (b) The hospital restricts its medical and surgical  
 2483 services to primarily or exclusively cardiac, orthopedic,  
 2484 surgical, or oncology specialties.

2485           ~~(9)~~(10) A hospital licensed as of June 1, 2004, shall be  
 2486 exempt from subsection (8) ~~(9)~~ as long as the hospital maintains  
 2487 the same ownership, facility street address, and range of  
 2488 services that were in existence on June 1, 2004. Any transfer of  
 2489 beds, or other agreements that result in the establishment of a  
 2490 hospital or hospital services within the intent of this section,  
 2491 shall be subject to subsection (8) ~~(9)~~. Unless the hospital is  
 2492 otherwise exempt under subsection (8) ~~(9)~~, the agency shall deny  
 2493 or revoke the license of a hospital that violates any of the  
 2494 criteria set forth in that subsection.

2495           ~~(10)~~(11) The agency may adopt rules implementing the  
 2496 licensure requirements set forth in subsection (8) ~~(9)~~. Within  
 2497 14 days after rendering its decision on a license application or  
 2498 revocation, the agency shall publish its proposed decision in  
 2499 the Florida Administrative Weekly. Within 21 days after  
 2500 publication of the agency's decision, any authorized person may

2501 file a request for an administrative hearing. In administrative  
 2502 proceedings challenging the approval, denial, or revocation of a  
 2503 license pursuant to subsection (8) ~~(9)~~, the hearing must be  
 2504 based on the facts and law existing at the time of the agency's  
 2505 proposed agency action. Existing hospitals may initiate or  
 2506 intervene in an administrative hearing to approve, deny, or  
 2507 revoke licensure under subsection (8) ~~(9)~~ based upon a showing  
 2508 that an established program will be substantially affected by  
 2509 the issuance or renewal of a license to a hospital within the  
 2510 same district or service area.

2511 Section 46. Section 395.004, Florida Statutes, is amended  
 2512 to read:

2513 395.004 Application for license, fees; ~~expenses.~~

2514 ~~(1)~~ (1) In accordance with s. 408.805, an applicant or  
 2515 licensee shall pay a fee for each license application submitted  
 2516 under this part, part II of chapter 408, and applicable rules.

2517 The amount of the fee shall be established by rule. An  
 2518 ~~application for a license or renewal thereof shall be made under~~  
 2519 ~~oath to the agency, upon forms provided by it, and shall contain~~  
 2520 ~~such information as the agency reasonably requires, which may~~  
 2521 ~~include affirmative evidence of ability to comply with~~  
 2522 ~~applicable laws and rules.~~

2523 ~~(2) Each application for a general hospital license,~~  
 2524 ~~specialty hospital license, ambulatory surgical center license,~~  
 2525 ~~or mobile surgical facility license, or renewal thereof, shall~~  
 2526 ~~be accompanied by a license fee, in accordance with the~~  
 2527 ~~following schedule:~~

2528           ~~(a) The biennial license, provisional license, and license~~  
 2529 ~~renewal fee required of a facility licensed under this part~~  
 2530 ~~shall be reasonably calculated to cover the cost of regulation~~  
 2531 ~~under this part and shall be established by rule at the rate of~~  
 2532 ~~not less than \$9.50 per hospital bed, nor more than \$30 per~~  
 2533 ~~hospital bed, except that the minimum license fee shall be~~  
 2534 ~~\$1,500 and the total fees collected from all licensed facilities~~  
 2535 ~~may not exceed the cost of properly carrying out the provisions~~  
 2536 ~~of this part.~~

2537           ~~(b) Such fees shall be paid to the agency and shall be~~  
 2538 ~~deposited in the Planning and Regulation Trust Fund of the~~  
 2539 ~~agency, which is hereby created, for the sole purpose of~~  
 2540 ~~carrying out the provisions of this part.~~

2541           Section 47. Section 395.0055, Florida Statutes, is  
 2542 repealed.

2543           Section 48. Section 395.0161, Florida Statutes, is amended  
 2544 to read:

2545           395.0161 Licensure inspection.--

2546           (1) In accordance with s. 408.811, the agency shall make  
 2547 ~~or cause to be made such inspections and investigations as it~~  
 2548 ~~deems necessary, including:~~

2549           ~~(a) Inspections directed by the Health Care Financing~~  
 2550 ~~Administration.~~

2551           ~~(b) Validation inspections.~~

2552           ~~(c) Lifesafety inspections.~~

2553           ~~(d) Licensure complaint investigations, including full~~  
 2554 ~~licensure investigations with a review of all licensure~~  
 2555 ~~standards as outlined in the administrative rules. Complaints~~

2556 ~~received by the agency from individuals, organizations, or other~~  
 2557 ~~sources are subject to review and investigation by the agency.~~

2558 ~~(e) Emergency access complaint investigations.~~

2559 (f) inspections of mobile surgical facilities at each time  
 2560 a facility establishes a new location, prior to the admission of  
 2561 patients. However, such inspections shall not be required when a  
 2562 mobile surgical facility is moved temporarily to a location  
 2563 where medical treatment will not be provided.

2564 (2) The agency shall accept, in lieu of its own periodic  
 2565 inspections for licensure, the survey or inspection of an  
 2566 accrediting organization, provided the accreditation of the  
 2567 licensed facility is not provisional and provided the licensed  
 2568 facility authorizes release of, and the agency receives the  
 2569 report of, the accrediting organization. The agency shall  
 2570 develop, and adopt by rule, criteria for accepting survey  
 2571 reports of accrediting organizations in lieu of conducting a  
 2572 state licensure inspection.

2573 (3) In accordance with s. 408.805, an applicant or  
 2574 licensee shall pay a fee for each license application submitted  
 2575 under this part, part II of chapter 408, and applicable rules.

2576 With the exception of state-operated licensed facilities, each  
 2577 facility licensed under this part shall pay to the agency, at  
 2578 the time of inspection, the following fees:

2579 (a) Inspection for licensure.--A fee shall be paid which  
 2580 is not less than \$8 per hospital bed, nor more than \$12 per  
 2581 hospital bed, except that the minimum fee shall be \$400 per  
 2582 facility.

2583 (b) Inspection for lifesafety only.--A fee shall be paid  
 2584 which is not less than 75 cents per hospital bed, nor more than  
 2585 \$1.50 per hospital bed, except that the minimum fee shall be \$40  
 2586 per facility.

2587 (4) The agency shall coordinate all periodic inspections  
 2588 for licensure made by the agency to ensure that the cost to the  
 2589 facility of such inspections and the disruption of services by  
 2590 such inspections is minimized.

2591 Section 49. Section 395.0162, Florida Statutes, is  
 2592 repealed.

2593 Section 50. A licensee that failed to renew its ambulatory  
 2594 surgical center license may meet requirements of the Florida  
 2595 Building Code that were in effect at the time of original  
 2596 licensure for the purposes of an initial application if:

2597 (a) The license expired between July 1, 2004, and December  
 2598 31, 2004.

2599 (b) The initial license application was filed within 30  
 2600 days after the license expiration.

2601 (c) The ambulatory surgical center is in compliance with  
 2602 regulatory requirements based upon agency inspection.

2603  
 2604 This section only applies to the initial application for  
 2605 licensure and does not circumvent any requirement to meet  
 2606 current Florida Building Code requirements for renovations or  
 2607 other modifications.

2608 Section 51. Subsections (2) and (3) of section 395.0163,  
 2609 Florida Statutes, are amended to read:

2610           395.0163 Construction inspections; plan submission and  
 2611 approval; fees.--

2612           (2)(a) The agency is authorized to charge an initial fee  
 2613 of \$2,000 for review of plans and construction on all projects,  
 2614 no part of which is refundable. The agency may also collect a  
 2615 fee, not to exceed 1 percent of the estimated construction cost  
 2616 or the actual cost of review, whichever is less, for the portion  
 2617 of the review which encompasses initial review through the  
 2618 initial revised construction document review. The agency is  
 2619 further authorized to collect its actual costs on all subsequent  
 2620 portions of the review and construction inspections. The initial  
 2621 fee payment shall accompany the initial submission of plans and  
 2622 specifications. Any subsequent payment that is due is payable  
 2623 upon receipt of the invoice from the agency.

2624           ~~(b) Notwithstanding any other provisions of law to the~~  
 2625 ~~contrary, all moneys received by the agency pursuant to the~~  
 2626 ~~provisions of this section shall be deposited in the Planning~~  
 2627 ~~and Regulation Trust Fund, as created by s. 395.004, to be held~~  
 2628 ~~and applied solely for the operations required under this~~  
 2629 ~~section.~~

2630           (3) In accordance with s. 408.811, the agency shall  
 2631 inspect a mobile surgical facility at initial licensure and at  
 2632 each time the facility establishes a new location, prior to  
 2633 admission of patients. However, such inspections shall not be  
 2634 required when a mobile surgical facility is moved temporarily to  
 2635 a location where medical treatment will not be provided.

2636 Section 52. Paragraph (c) of subsection (2) of section  
 2637 395.0191, Florida Statutes, is redesignated as paragraph (d),  
 2638 and a new paragraph (c) is added to said subsection, to read:  
 2639 395.0191 Staff membership and clinical privileges.--

2640 (2)

2641 (c) A registered nurse licensed under part I of chapter  
 2642 464 and qualified by training and experience in perioperative  
 2643 nursing as defined in s. 464.027(2)(a) shall be present in the  
 2644 operating room and function as the circulating nurse during all  
 2645 operative, surgical, or invasive procedures.

2646 Section 53. Subsections (4) and (6) of section 395.0193,  
 2647 Florida Statutes, are amended to read:

2648 395.0193 Licensed facilities; peer review; disciplinary  
 2649 powers; agency or partnership with physicians.--

2650 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
 2651 actions taken under subsection (3) shall be reported in writing  
 2652 to the Department of Health ~~Division of Health Quality Assurance~~  
 2653 ~~of the agency~~ within 30 working days after its initial  
 2654 occurrence, regardless of the pendency of appeals to the  
 2655 governing board of the hospital. The notification shall identify  
 2656 the disciplined practitioner, the action taken, and the reason  
 2657 for such action. All final disciplinary actions taken under  
 2658 subsection (3), if different from those which were reported to  
 2659 the department ~~agency~~ within 30 days after the initial  
 2660 occurrence, shall be reported within 10 working days to the  
 2661 Department of Health ~~Division of Health Quality Assurance of the~~  
 2662 ~~agency~~ in writing and shall specify the disciplinary action  
 2663 taken and the specific grounds therefor. Final disciplinary



2664 actions shall be reported monthly to the Division of Health  
 2665 Quality Assurance of the agency. ~~The division shall review each~~  
 2666 ~~report and determine whether it potentially involved conduct by~~  
 2667 ~~the licensee that is subject to disciplinary action, in which~~  
 2668 ~~case s. 456.073 shall apply. The reports are not subject to~~  
 2669 ~~inspection under s. 119.07(1) even if the division's~~  
 2670 ~~investigation results in a finding of probable cause.~~

2671 (6) For a single incident or series of isolated incidents  
 2672 that are nonwillful violations of the reporting requirements of  
 2673 this section, the agency shall first seek to obtain corrective  
 2674 action by the facility. If correction is not demonstrated within  
 2675 the timeframe established by the agency or if there is a pattern  
 2676 of nonwillful violations of this section, the agency may impose  
 2677 an administrative fine, not to exceed \$5,000 for any violation  
 2678 of the reporting requirements of this section. The  
 2679 administrative fine for repeated nonwillful violations shall not  
 2680 exceed \$10,000 for any violation. The administrative fine for  
 2681 each intentional and willful violation may not exceed \$25,000  
 2682 per violation, per day. The fine for an intentional and willful  
 2683 violation of this section may not exceed \$250,000. In  
 2684 determining the amount of fine to be levied, the agency shall be  
 2685 guided by s. 395.1065(1)~~(2)~~(b).

2686 Section 54. Subsection (12) of section 395.0197, Florida  
 2687 Statutes, is amended to read:

2688 395.0197 Internal risk management program.--

2689 (12) In addition to any penalty imposed pursuant to this  
 2690 section, the agency shall require a written plan of correction  
 2691 from the facility. For a single incident or series of isolated

2692 incidents that are nonwillful violations of the reporting  
 2693 requirements of this section, the agency shall first seek to  
 2694 obtain corrective action by the facility. If the correction is  
 2695 not demonstrated within the timeframe established by the agency  
 2696 or if there is a pattern of nonwillful violations of this  
 2697 section, the agency may impose an administrative fine, not to  
 2698 exceed \$5,000 for any violation of the reporting requirements of  
 2699 this section. The administrative fine for repeated nonwillful  
 2700 violations shall not exceed \$10,000 for any violation. The  
 2701 administrative fine for each intentional and willful violation  
 2702 may not exceed \$25,000 per violation, per day. The fine for an  
 2703 intentional and willful violation of this section may not exceed  
 2704 \$250,000. In determining the amount of fine to be levied, the  
 2705 agency shall be guided by s. 395.1065(1)~~(2)~~(b).

2706 Section 55. Section 395.0199, Florida Statutes, is amended  
 2707 to read:

2708 395.0199 Private utilization review.--

2709 (1) The purpose of this section is to:

2710 (a) Promote the delivery of quality health care in a cost-  
 2711 effective manner.

2712 (b) Foster greater coordination between providers and  
 2713 health insurers performing utilization review.

2714 (c) Protect patients and insurance providers by ensuring  
 2715 that private review agents are qualified to perform utilization  
 2716 review activities and to make informed decisions on the  
 2717 appropriateness of medical care.

2718 (d) This section does not regulate the activities of  
 2719 private review agents, health insurers, health maintenance

2720 organizations, or hospitals, except as expressly provided  
 2721 herein, or authorize regulation or intervention as to the  
 2722 correctness of utilization review decisions of insurers or  
 2723 private review agents.

2724 (2) The requirements of part II of chapter 408 shall apply  
 2725 to the provision of services that require registration or  
 2726 licensure pursuant to this section and part II of chapter 408  
 2727 and to persons registered by or applying for such registration  
 2728 from the Agency for Health Care Administration pursuant to this  
 2729 section. However, each applicant for registration and registrant  
 2730 is exempt from the provisions of ss. 408.806(1)(e)2.,  
 2731 408.810(5)-(10), and 408.811. A private review agent conducting  
 2732 utilization review as to health care services performed or  
 2733 proposed to be performed in this state shall register with the  
 2734 agency in accordance with this section.

2735 (3) In accordance with s. 408.805, an applicant for  
 2736 registration or registrant shall pay a fee for each registration  
 2737 application submitted under this section, part II of chapter  
 2738 408, and applicable rules. The amount of the fee shall be  
 2739 established by rule ~~Registration shall be made annually with the~~  
 2740 ~~agency on forms furnished by the agency and shall be accompanied~~  
 2741 ~~by the appropriate registration fee as set by the agency. The~~  
 2742 ~~fee and~~ shall be sufficient to pay for the administrative costs  
 2743 of registering the agent, but shall not exceed \$250. ~~The agency~~  
 2744 ~~may also charge reasonable fees, reflecting actual costs, to~~  
 2745 ~~persons requesting copies of registration.~~

2746 (4) ~~Each applicant for registration must comply with the~~  
 2747 ~~following requirements:~~

2748 ~~(a) Upon receipt of a completed, signed, and dated~~  
 2749 ~~application, the agency shall require background screening, in~~  
 2750 ~~accordance with the level 2 standards for screening set forth in~~  
 2751 ~~chapter 435, of the managing employee or other similarly titled~~  
 2752 ~~individual who is responsible for the operation of the entity.~~  
 2753 ~~The applicant must comply with the procedures for level 2~~  
 2754 ~~background screening as set forth in chapter 435, as well as the~~  
 2755 ~~requirements of s. 435.03(3).~~

2756 ~~(b) The agency may require background screening of any~~  
 2757 ~~other individual who is an applicant, if the agency has probable~~  
 2758 ~~cause to believe that he or she has been convicted of a crime or~~  
 2759 ~~has committed any other offense prohibited under the level 2~~  
 2760 ~~standards for screening set forth in chapter 435.~~

2761 ~~(c) Proof of compliance with the level 2 background~~  
 2762 ~~screening requirements of chapter 435 which has been submitted~~  
 2763 ~~within the previous 5 years in compliance with any other health~~  
 2764 ~~care licensure requirements of this state is acceptable in~~  
 2765 ~~fulfillment of the requirements of paragraph (a).~~

2766 ~~(d) A provisional registration may be granted to an~~  
 2767 ~~applicant when each individual required by this section to~~  
 2768 ~~undergo background screening has met the standards for the~~  
 2769 ~~Department of Law Enforcement background check, but the agency~~  
 2770 ~~has not yet received background screening results from the~~  
 2771 ~~Federal Bureau of Investigation, or a request for a~~  
 2772 ~~disqualification exemption has been submitted to the agency as~~  
 2773 ~~set forth in chapter 435 but a response has not yet been issued.~~  
 2774 ~~A standard registration may be granted to the applicant upon the~~  
 2775 ~~agency's receipt of a report of the results of the Federal~~

2776 ~~Bureau of Investigation background screening for each individual~~  
2777 ~~required by this section to undergo background screening which~~  
2778 ~~confirms that all standards have been met, or upon the granting~~  
2779 ~~of a disqualification exemption by the agency as set forth in~~  
2780 ~~chapter 435. Any other person who is required to undergo level 2~~  
2781 ~~background screening may serve in his or her capacity pending~~  
2782 ~~the agency's receipt of the report from the Federal Bureau of~~  
2783 ~~Investigation. However, the person may not continue to serve if~~  
2784 ~~the report indicates any violation of background screening~~  
2785 ~~standards and a disqualification exemption has not been~~  
2786 ~~requested of and granted by the agency as set forth in chapter~~  
2787 ~~435.~~

2788 ~~(e) Each applicant must submit to the agency, with its~~  
2789 ~~application, a description and explanation of any exclusions,~~  
2790 ~~permanent suspensions, or terminations of the applicant from the~~  
2791 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
2792 ~~requirements for disclosure of ownership and control interests~~  
2793 ~~under the Medicaid or Medicare programs shall be accepted in~~  
2794 ~~lieu of this submission.~~

2795 ~~(f) Each applicant must submit to the agency a description~~  
2796 ~~and explanation of any conviction of an offense prohibited under~~  
2797 ~~the level 2 standards of chapter 435 by a member of the board of~~  
2798 ~~directors of the applicant, its officers, or any individual~~  
2799 ~~owning 5 percent or more of the applicant. This requirement does~~  
2800 ~~not apply to a director of a not-for-profit corporation or~~  
2801 ~~organization if the director serves solely in a voluntary~~  
2802 ~~capacity for the corporation or organization, does not regularly~~  
2803 ~~take part in the day-to-day operational decisions of the~~

2804 ~~corporation or organization, receives no remuneration for his or~~  
 2805 ~~her services on the corporation or organization's board of~~  
 2806 ~~directors, and has no financial interest and has no family~~  
 2807 ~~members with a financial interest in the corporation or~~  
 2808 ~~organization, provided that the director and the not-for-profit~~  
 2809 ~~corporation or organization include in the application a~~  
 2810 ~~statement affirming that the director's relationship to the~~  
 2811 ~~corporation satisfies the requirements of this paragraph.~~

2812 ~~(g) A registration may not be granted to an applicant if~~  
 2813 ~~the applicant or managing employee has been found guilty of,~~  
 2814 ~~regardless of adjudication, or has entered a plea of nolo~~  
 2815 ~~contendere or guilty to, any offense prohibited under the level~~  
 2816 ~~2 standards for screening set forth in chapter 435, unless an~~  
 2817 ~~exemption from disqualification has been granted by the agency~~  
 2818 ~~as set forth in chapter 435.~~

2819 ~~(h) The agency may deny or revoke the registration if any~~  
 2820 ~~applicant:~~

2821 ~~1. Has falsely represented a material fact in the~~  
 2822 ~~application required by paragraph (e) or paragraph (f), or has~~  
 2823 ~~omitted any material fact from the application required by~~  
 2824 ~~paragraph (e) or paragraph (f); or~~

2825 ~~2. Has had prior action taken against the applicant under~~  
 2826 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

2827 ~~(i) An application for registration renewal must contain~~  
 2828 ~~the information required under paragraphs (e) and (f).~~

2829 ~~(4)(5)~~ Registration shall include the following:

2830 (a) A description of the review policies and procedures to  
 2831 be used in evaluating proposed or delivered hospital care.

2832 (b) The name, address, and telephone number of the  
 2833 utilization review agent performing utilization review, who  
 2834 shall be at least:

2835 1. A licensed practical nurse or licensed registered  
 2836 nurse, or other similarly qualified medical records or health  
 2837 care professionals, for performing initial review when  
 2838 information is necessary from the physician or hospital to  
 2839 determine the medical necessity or appropriateness of hospital  
 2840 services; or

2841 2. A licensed physician, or a licensed physician  
 2842 practicing in the field of psychiatry for review of mental  
 2843 health services, for an initial denial determination prior to a  
 2844 final denial determination by the health insurer and which shall  
 2845 include the written evaluation and findings of the reviewing  
 2846 physician.

2847 (c) A description of an appeal procedure for patients or  
 2848 health care providers whose services are under review, who may  
 2849 appeal an initial denial determination prior to a final  
 2850 determination by the health insurer with whom the private review  
 2851 agent has contracted. The appeal procedure shall provide for  
 2852 review by a licensed physician, or by a licensed physician  
 2853 practicing in the field of psychiatry for review of mental  
 2854 health services, and shall include the written evaluation and  
 2855 findings of the reviewing physician.

2856 (d) A designation of the times when the staff of the  
 2857 utilization review agent will be available by toll-free  
 2858 telephone, which shall include at least 40 hours per week during  
 2859 the normal business hours of the agent.

2860 (e) An acknowledgment and agreement that any private  
 2861 review agent which, as a general business practice, fails to  
 2862 adhere to the policies, procedures, and representations made in  
 2863 its application for registration shall have its registration  
 2864 revoked.

2865 (f) Disclosure of any incentive payment provision or quota  
 2866 provision which is contained in the agent's contract with a  
 2867 health insurer and is based on reduction or denial of services,  
 2868 reduction of length of stay, or selection of treatment setting.

2869 (g) Updates of any material changes to review policies or  
 2870 procedures.

2871 ~~(6) The agency may impose fines or suspend or revoke the~~  
 2872 ~~registration of any private review agent in violation of this~~  
 2873 ~~section. Any private review agent failing to register or update~~  
 2874 ~~registration as required by this section shall be deemed to be~~  
 2875 ~~within the jurisdiction of the agency and subject to an~~  
 2876 ~~administrative penalty not to exceed \$1,000. The agency may~~  
 2877 ~~bring actions to enjoin activities of private review agents in~~  
 2878 ~~violation of this section.~~

2879 (5)~~(7)~~ No insurer shall knowingly contract with or utilize  
 2880 a private review agent which has failed to register as required  
 2881 by this section or which has had a registration revoked by the  
 2882 agency.

2883 (6)~~(8)~~ A private review agent which operates under  
 2884 contract with the federal or state government for utilization  
 2885 review of patients eligible for hospital or other services under  
 2886 Title XVIII or Title XIX of the Social Security Act is exempt  
 2887 from the provisions of this section for services provided under



2888 such contract. A private review agent which provides utilization  
 2889 review services to the federal or state government and a private  
 2890 insurer shall not be exempt for services provided to  
 2891 nonfederally funded patients. This section shall not apply to  
 2892 persons who perform utilization review services for medically  
 2893 necessary hospital services provided to injured workers pursuant  
 2894 to chapter 440 and shall not apply to self-insurance funds or  
 2895 service companies authorized pursuant to chapter 440 or part VII  
 2896 of chapter 626.

2897 ~~(7)(9)~~ Facilities licensed under this chapter shall  
 2898 promptly comply with the requests of utilization review agents  
 2899 or insurers which are reasonably necessary to facilitate prompt  
 2900 accomplishment of utilization review activities.

2901 ~~(8)(10)~~ The agency shall adopt rules to implement the  
 2902 provisions of this section.

2903 Section 56. Section 395.1046, Florida Statutes, is amended  
 2904 to read:

2905 395.1046 Complaint investigation procedures.--

2906 (1) In accordance with s. 408.811, the agency shall  
 2907 investigate any complaint against a hospital for any violation  
 2908 of s. 395.1041 that the agency reasonably believes to be legally  
 2909 sufficient. A complaint is legally sufficient if it contains  
 2910 ultimate facts that ~~which~~ show that a violation of this section  
 2911 ~~chapter,~~ or any rule adopted ~~under this chapter~~ by the agency  
 2912 under this section, has occurred. The agency may investigate, or  
 2913 continue to investigate, and may take appropriate final action  
 2914 on a complaint, even though the original complainant withdraws  
 2915 his or her complaint or otherwise indicates his or her desire

2916 | not to cause it to be investigated to completion. ~~When an~~  
 2917 | ~~investigation of any person or facility is undertaken, the~~  
 2918 | ~~agency shall notify such person in writing of the investigation~~  
 2919 | ~~and inform the person or facility in writing of the substance,~~  
 2920 | ~~the facts which show that a violation has occurred, and the~~  
 2921 | ~~source of any complaint filed against him or her. The agency may~~  
 2922 | ~~conduct an investigation without notification to any person if~~  
 2923 | ~~the act under investigation is a criminal offense. The agency~~  
 2924 | ~~shall have access to all records necessary for the investigation~~  
 2925 | ~~of the complaint.~~

2926 |         (2) The agency or its agent shall expeditiously  
 2927 | investigate each complaint against a hospital for a violation of  
 2928 | s. 395.1041. When its investigation is complete, the agency  
 2929 | shall prepare an investigative report. The report shall contain  
 2930 | the investigative findings and the recommendations of the agency  
 2931 | ~~concerning the existence of probable cause.~~

2932 |         (3) The complaint and all information obtained by the  
 2933 | agency during an investigation conducted pursuant to this  
 2934 | section are exempt from the provisions of s. 119.07(1) and s.  
 2935 | 24(a), Art. I of the State Constitution until 10 days after the  
 2936 | facility has been determined by the agency to be out of  
 2937 | compliance with regulatory requirements ~~probable cause has been~~  
 2938 | ~~found to exist by the agency, or until the person who is the~~  
 2939 | ~~subject of the investigation waives his or her privilege of~~  
 2940 | ~~confidentiality, whichever occurs first. In cases where the~~  
 2941 | ~~agency finds that the complaint is either not legally sufficient~~  
 2942 | ~~or does not demonstrate the facility's noncompliance with~~  
 2943 | regulatory requirements ~~when the agency determines that no~~

2944 ~~probable cause exists~~, all records pertaining thereto are  
 2945 confidential and exempt from the provisions of s. 119.07(1) and  
 2946 s. 24(a), Art. I of the State Constitution. However, the  
 2947 complaint and a summary of the agency's findings shall be  
 2948 available, although information therein identifying an  
 2949 individual shall not be disclosed.

2950 Section 57. Subsections (1) and (7) of section 395.1055,  
 2951 Florida Statutes, are amended to read:

2952 395.1055 Rules and enforcement.--

2953 (1) The agency shall adopt rules pursuant to ss.  
 2954 120.536(1) and 120.54 to implement the provisions of this part  
 2955 and part II of chapter 408, which shall include reasonable and  
 2956 fair minimum standards for ensuring that:

2957 (a) Sufficient numbers and qualified types of personnel  
 2958 and occupational disciplines are on duty and available at all  
 2959 times to provide necessary and adequate patient care and safety.

2960 (b) Infection control, housekeeping, sanitary conditions,  
 2961 and medical record procedures that will adequately protect  
 2962 patient care and safety are established and implemented.

2963 (c) A comprehensive emergency management plan is prepared  
 2964 and updated annually. Such standards must be included in the  
 2965 rules adopted by the agency after consulting with the Department  
 2966 of Community Affairs. At a minimum, the rules must provide for  
 2967 plan components that address emergency evacuation  
 2968 transportation; adequate sheltering arrangements; postdisaster  
 2969 activities, including emergency power, food, and water;  
 2970 postdisaster transportation; supplies; staffing; emergency  
 2971 equipment; individual identification of residents and transfer

2972 of records, and responding to family inquiries. The  
2973 comprehensive emergency management plan is subject to review and  
2974 approval by the local emergency management agency. During its  
2975 review, the local emergency management agency shall ensure that  
2976 the following agencies, at a minimum, are given the opportunity  
2977 to review the plan: the Department of Elderly Affairs, the  
2978 Department of Health, the Agency for Health Care Administration,  
2979 and the Department of Community Affairs. Also, appropriate  
2980 volunteer organizations must be given the opportunity to review  
2981 the plan. The local emergency management agency shall complete  
2982 its review within 60 days and either approve the plan or advise  
2983 the facility of necessary revisions.

2984 (d) Licensed facilities are established, organized, and  
2985 operated consistent with established standards and rules.

2986 (e) Licensed facility beds conform to minimum space,  
2987 equipment, and furnishings standards as specified by the  
2988 department.

2989 (f) All hospitals submit such data as necessary to conduct  
2990 certificate-of-need reviews required under part I of chapter 408  
2991 ~~ss. 408.031-408.045~~. Such data shall include, but shall not be  
2992 limited to, patient origin data, hospital utilization data, type  
2993 of service reporting, and facility staffing data. The agency  
2994 shall not collect data that identifies or could disclose the  
2995 identity of individual patients. The agency shall utilize  
2996 existing uniform statewide data sources when available and shall  
2997 minimize reporting costs to hospitals.

2998 (g) Each hospital has a quality improvement program  
2999 designed according to standards established by their current

3000 accrediting organization. This program will enhance quality of  
 3001 care and emphasize quality patient outcomes, corrective action  
 3002 for problems, governing board review, and reporting to the  
 3003 agency of standardized data elements necessary to analyze  
 3004 quality of care outcomes. The agency shall use existing data,  
 3005 when available, and shall not duplicate the efforts of other  
 3006 state agencies in order to obtain such data.

3007 (h) Licensed facilities make available on their Internet  
 3008 websites, no later than October 1, 2004, and in a hard copy  
 3009 format upon request, a description of and a link to the patient  
 3010 charge and performance outcome data collected from licensed  
 3011 facilities pursuant to s. 408.061.

3012 (7) The agency shall enforce compliance with the  
 3013 provisions of s. 381.005(2) and rules adopted thereunder with  
 3014 respect to immunizations against the influenza virus and  
 3015 pneumococcal bacteria. ~~Any licensed facility which is in~~  
 3016 ~~operation at the time of promulgation of any applicable rules~~  
 3017 ~~under this part shall be given a reasonable time, under the~~  
 3018 ~~particular circumstances, but not to exceed 1 year from the date~~  
 3019 ~~of such promulgation, within which to comply with such rules.~~

3020 Section 58. Section 395.1065, Florida Statutes, is amended  
 3021 to read:

3022 395.1065 ~~Criminal and~~ Administrative penalties;  
 3023 ~~injunctions; emergency orders; moratorium.~~--

3024 ~~(1) Any person establishing, conducting, managing, or~~  
 3025 ~~operating any facility without a license under this part is~~  
 3026 ~~guilty of a misdemeanor and, upon conviction, shall be fined not~~  
 3027 ~~more than \$500 for the first offense and not more than \$1,000~~

3028 ~~for each subsequent offense, and each day of continuing~~  
 3029 ~~violation after conviction shall be considered a separate~~  
 3030 ~~offense.~~

3031 (1)~~(2)~~(a) The agency may ~~deny, revoke, or suspend a~~  
 3032 ~~license or~~ impose an administrative fine, not to exceed \$1,000  
 3033 per violation, per day, for the violation of any provision of  
 3034 this part, part II of chapter 408, or applicable rules ~~adopted~~  
 3035 ~~under this part~~. Each day of violation constitutes a separate  
 3036 violation and is subject to a separate fine.

3037 (b) In determining the amount of fine to be levied for a  
 3038 violation, as provided in paragraph (a), the following factors  
 3039 shall be considered:

3040 1. The severity of the violation, including the  
 3041 probability that death or serious harm to the health or safety  
 3042 of any person will result or has resulted, the severity of the  
 3043 actual or potential harm, and the extent to which the provisions  
 3044 of this part were violated.

3045 2. Actions taken by the licensee to correct the violations  
 3046 or to remedy complaints.

3047 3. Any previous violations of the licensee.

3048 ~~(c) All amounts collected pursuant to this section shall~~  
 3049 ~~be deposited into the Planning and Regulation Trust Fund, as~~  
 3050 ~~created by s. 395.004.~~

3051 (c)~~(d)~~ The agency may impose an administrative fine for  
 3052 the violation of s. 641.3154 or, if sufficient claims due to a  
 3053 provider from a health maintenance organization do not exist to  
 3054 enable the take-back of an overpayment, as provided under s.  
 3055 641.3155(5), for the violation of s. 641.3155(5). The

3056 administrative fine for a violation cited in this paragraph  
 3057 shall be in the amounts specified in s. 641.52(5), and the  
 3058 provisions of paragraph (a) do not apply.

3059 (2)~~(3)~~ Notwithstanding the existence or pursuit of any  
 3060 other remedy, the agency may maintain an action in the name of  
 3061 the state for injunction or other process to enforce the  
 3062 provisions of this part, part II of chapter 408, and applicable  
 3063 rules ~~promulgated hereunder~~.

3064 ~~(4) The agency may issue an emergency order immediately~~  
 3065 ~~suspending or revoking a license when it determines that any~~  
 3066 ~~condition in the licensed facility presents a clear and present~~  
 3067 ~~danger to public health and safety.~~

3068 ~~(5) The agency may impose an immediate moratorium on~~  
 3069 ~~elective admissions to any licensed facility, building, or~~  
 3070 ~~portion thereof, or service, when the agency determines that any~~  
 3071 ~~condition in the facility presents a threat to public health or~~  
 3072 ~~safety.~~

3073 (3)~~(6)~~ In seeking to impose penalties against a facility  
 3074 as defined in s. 394.455 for a violation of part I of chapter  
 3075 394, the agency is authorized to rely on the investigation and  
 3076 findings by the Department of Health in lieu of conducting its  
 3077 own investigation.

3078 (4)~~(7)~~ The agency shall impose a fine of \$500 for each  
 3079 instance of the facility's failure to provide the information  
 3080 required by rules adopted pursuant to s. 395.1055(1)(h).

3081 Section 59. Subsection (1) of section 395.10973, Florida  
 3082 Statutes, is amended to read:

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3083           395.10973 Powers and duties of the agency.--It is the  
3084 function of the agency to:

3085           (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
3086 implement the provisions of this part and part II of chapter 408  
3087 conferring duties upon it.

3088           Section 60. Section 395.10974, Florida Statutes, is  
3089 amended to read:

3090           395.10974 Health care risk managers; qualifications,  
3091 licensure, fees.--

3092           (1) The requirements of part II of chapter 408 shall apply  
3093 to the provision of services that require licensure pursuant to  
3094 ss. 395.10971-395.10976 and part II of chapter 408 and to  
3095 entities licensed by or applying for such licensure from the  
3096 Agency for Health Care Administration pursuant to ss. 395.10971-  
3097 395.10976. Any person desiring to be licensed as a health care  
3098 risk manager shall submit an application on a form provided by  
3099 the agency. In order to qualify for licensure, the applicant  
3100 shall submit evidence satisfactory to the agency that ~~which~~  
3101 demonstrates the applicant's competence, by education or  
3102 experience, in the following areas:

- 3103           (a) Applicable standards of health care risk management.
- 3104           (b) Applicable federal, state, and local health and safety  
3105 laws and rules.
- 3106           (c) General risk management administration.
- 3107           (d) Patient care.
- 3108           (e) Medical care.
- 3109           (f) Personal and social care.
- 3110           (g) Accident prevention.



- 3111 (h) Departmental organization and management.
- 3112 (i) Community interrelationships.
- 3113 (j) Medical terminology.

3114

3115 Each applicant for licensure and licensee must comply with all

3116 provisions of part II of chapter 408 except ss. 408.806(1)(e)2.,

3117 408.810, and 408.811. The agency may require such additional

3118 information, from the applicant or any other person, as may be

3119 reasonably required to verify the information contained in the

3120 application.

3121 (2) The agency shall not grant or issue a license as a

3122 health care risk manager to any individual unless from the

3123 application it affirmatively appears that the applicant:

- 3124 (a) Is 18 years of age or over;
- 3125 (b) Is a high school graduate or equivalent; and
- 3126 (c)1. Has fulfilled the requirements of a 1-year program
- 3127 or its equivalent in health care risk management training which
- 3128 may be developed or approved by the agency;

3129 2. Has completed 2 years of college-level studies which

3130 would prepare the applicant for health care risk management, to

3131 be further defined by rule; or

3132 3. Has obtained 1 year of practical experience in health

3133 care risk management.

3134 (3) The agency shall issue a license to practice health

3135 care risk management to any applicant who qualifies under this

3136 section. In accordance with s. 408.805, an applicant or licensee

3137 shall pay a fee for each license application submitted under

3138 this part, part II of chapter 408, and applicable rules. The

3139 amount of the fee shall be established by rule as follows: and  
 3140 ~~submits~~ an application fee of not more than \$75, a background  
 3141 screening fingerprinting fee of not more than \$75, and a license  
 3142 fee of not more than \$100. ~~The agency shall by rule establish~~  
 3143 ~~fees and procedures for the issuance and cancellation of~~  
 3144 ~~licenses.~~

3145 ~~(4) The agency shall renew a health care risk manager~~  
 3146 ~~license upon receipt of a biennial renewal application and fees.~~  
 3147 ~~The agency shall by rule establish a procedure for the biennial~~  
 3148 ~~renewal of licenses.~~

3149 Section 61. Subsections (6) through (19) of section  
 3150 400.021, Florida Statutes, are renumbered as subsections (5)  
 3151 through (18), respectively, and present subsections (5) and (20)  
 3152 of said section are amended to read:

3153 400.021 Definitions.--When used in this part, unless the  
 3154 context otherwise requires, the term:

3155 ~~(5) "Controlling interest" means:~~

3156 ~~(a) The applicant for licensure or a licensee;~~

3157 ~~(b) A person or entity that serves as an officer of, is on~~  
 3158 ~~the board of directors of, or has a 5 percent or greater~~  
 3159 ~~ownership interest in the management company or other entity,~~  
 3160 ~~related or unrelated, which the applicant or licensee may~~  
 3161 ~~contract with to operate the facility; or~~

3162 ~~(c) A person or entity that serves as an officer of, is on~~  
 3163 ~~the board of directors of, or has a 5 percent or greater~~  
 3164 ~~ownership interest in the applicant or licensee.~~

3165  
 3166 ~~The term does not include a voluntary board member.~~

3167           ~~(20) "Voluntary board member" means a director of a not-~~  
 3168 ~~for-profit corporation or organization who serves solely in a~~  
 3169 ~~voluntary capacity for the corporation or organization, does not~~  
 3170 ~~receive any remuneration for his or her services on the board of~~  
 3171 ~~directors, and has no financial interest in the corporation or~~  
 3172 ~~organization. The agency shall recognize a person as a voluntary~~  
 3173 ~~board member following submission of a statement to the agency~~  
 3174 ~~by the director and the not-for-profit corporation or~~  
 3175 ~~organization which affirms that the director conforms to this~~  
 3176 ~~definition. The statement affirming the status of the director~~  
 3177 ~~must be submitted to the agency on a form provided by the~~  
 3178 ~~agency.~~

3179           Section 62. Paragraph (c) of subsection (2) of section  
 3180 395.602, Florida Statutes, is amended to read:

3181           395.602 Rural hospitals.--

3182           (2) DEFINITIONS.--As used in this part:

3183           (c) "Inactive rural hospital bed" means a licensed acute  
 3184 care hospital bed, as defined in s. 395.002(13)~~(14)~~, that is  
 3185 inactive in that it cannot be occupied by acute care inpatients.

3186           Section 63. Paragraph (c) of subsection (1) of section  
 3187 395.701, Florida Statutes, is amended to read:

3188           395.701 Annual assessments on net operating revenues for  
 3189 inpatient and outpatient services to fund public medical  
 3190 assistance; administrative fines for failure to pay assessments  
 3191 when due; exemption.--

3192           (1) For the purposes of this section, the term:

3193 (c) "Hospital" means a health care institution as defined  
 3194 in s. 395.002(12)~~(13)~~, but does not include any hospital  
 3195 operated by the agency or the Department of Corrections.

3196 Section 64. Subsection (3) of section 400.022, Florida  
 3197 Statutes, is amended to read:

3198 400.022 Residents' rights.--

3199 (3) Any violation of the resident's rights set forth in  
 3200 this section shall constitute grounds for action by the agency  
 3201 under the provisions of s. 400.102, s. 400.121, or part II of  
 3202 chapter 408. In order to determine whether the licensee is  
 3203 adequately protecting residents' rights, the licensure annual  
 3204 inspection of the facility shall include private informal  
 3205 conversations with a sample of residents to discuss residents'  
 3206 experiences within the facility with respect to rights specified  
 3207 in this section and general compliance with standards, and  
 3208 consultation with the ombudsman council in the local planning  
 3209 and service area of the Department of Elderly Affairs in which  
 3210 the nursing home is located.

3211 Section 65. Paragraph (b) of subsection (1) of section  
 3212 400.051, Florida Statutes, is amended to read:

3213 400.051 Homes or institutions exempt from the provisions  
 3214 of this part.--

3215 (1) The following shall be exempt from the provisions of  
 3216 this part:

3217 (b) Any hospital, as defined in s. 395.002~~(11)~~, that is  
 3218 licensed under chapter 395.

3219 Section 66. Section 400.062, Florida Statutes, is amended  
 3220 to read:

3221 400.062 License required; fee; disposition; ~~display;~~  
 3222 ~~transfer.~~--

3223 (1) The requirements of part II of chapter 408 shall apply  
 3224 to the provision of services that require licensure pursuant to  
 3225 this part and part II of chapter 408 and to entities licensed by  
 3226 or applying for such licensure from the Agency for Health Care  
 3227 Administration pursuant to this part. However, each applicant  
 3228 for licensure and each licensee is exempt from s. 408.810(7). ~~It~~  
 3229 is unlawful to operate or maintain a facility without first  
 3230 obtaining from the agency a license authorizing such operation.

3231 (2) Separate licenses shall be required for facilities  
 3232 maintained in separate premises, even though operated under the  
 3233 same management. However, a separate license shall not be  
 3234 required for separate buildings on the same grounds.

3235 (3) In accordance with s. 408.805, an applicant or  
 3236 licensee shall pay a fee for each license application submitted  
 3237 under this part, part II of chapter 408, and applicable rules.  
 3238 ~~The annual~~ license fee ~~required for each license issued under~~  
 3239 ~~this part~~ shall be comprised of two parts. Part I of the license  
 3240 fee shall be the basic license fee. The rate per bed for the  
 3241 basic license fee shall be established biennially ~~annually~~ and  
 3242 shall be \$100 ~~\$50~~ per bed unless modified by rule. ~~The agency~~  
 3243 ~~may adjust the per bed licensure fees by the Consumer Price~~  
 3244 ~~Index based on the 12 months immediately preceding the increase~~  
 3245 ~~to cover the cost of regulation under this part.~~ Part II of the  
 3246 license fee shall be the resident protection fee, which shall be  
 3247 at the rate of not less than 50 ~~25~~ cents per bed. The rate per  
 3248 bed shall be the minimum rate per bed, and such rate shall

3249 remain in effect until the effective date of a rate per bed  
 3250 adopted by rule by the agency pursuant to this part. At such  
 3251 time as the amount on deposit in the Resident Protection Trust  
 3252 Fund is less than \$1 million, the agency may adopt rules to  
 3253 establish a rate which may not exceed \$20 ~~\$10~~ per bed. The rate  
 3254 per bed shall revert back to the minimum rate per bed when the  
 3255 amount on deposit in the Resident Protection Trust Fund reaches  
 3256 \$1 million, except that any rate established by rule shall  
 3257 remain in effect until such time as the rate has been equally  
 3258 required for each license issued under this part. Any amount in  
 3259 the fund in excess of \$2 million shall revert to the Health Care  
 3260 Trust Fund and may not be expended without prior approval of the  
 3261 Legislature. The agency may prorate the biennial ~~annual~~ license  
 3262 fee for those licenses which it issues under this part for less  
 3263 than 2 years ~~1 year~~. ~~Funds generated by license fees collected~~  
 3264 ~~in accordance with this section shall be deposited in the~~  
 3265 ~~following manner:~~

3266 ~~(a) The basic license fee collected shall be deposited in~~  
 3267 ~~the Health Care Trust Fund, established for the sole purpose of~~  
 3268 ~~carrying out this part. When the balance of the account~~  
 3269 ~~established in the Health Care Trust Fund for the deposit of~~  
 3270 ~~fees collected as authorized under this section exceeds one-~~  
 3271 ~~third of the annual cost of regulation under this part, the~~  
 3272 ~~excess shall be used to reduce the licensure fees in the next~~  
 3273 ~~year.~~

3274 ~~(b)~~ The resident protection fee collected shall be  
 3275 deposited in the Resident Protection Trust Fund for the sole  
 3276 purpose of paying, in accordance with the provisions of s.

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3277 400.063, for the appropriate alternate placement, care, and  
 3278 treatment of a resident removed from a nursing home facility on  
 3279 a temporary, emergency basis or for the maintenance and care of  
 3280 residents in a nursing home facility pending removal and  
 3281 alternate placement.

3282 (4) Counties or municipalities applying for licenses under  
 3283 this part are exempt from license fees authorized under this  
 3284 section.

3285 ~~(5) The license shall be displayed in a conspicuous place~~  
 3286 ~~inside the facility.~~

3287 ~~(6) A license shall be valid only in the hands of the~~  
 3288 ~~individual, firm, partnership, association, or corporation to~~  
 3289 ~~whom it is issued and shall not be subject to sale, assignment,~~  
 3290 ~~or other transfer, voluntary or involuntary, nor shall a license~~  
 3291 ~~be valid for any premises other than those for which originally~~  
 3292 ~~issued.~~

3293 Section 67. Subsection (1) of section 400.063, Florida  
 3294 Statutes, is amended to read:

3295 400.063 Resident Protection Trust Fund.--

3296 (1) A Resident Protection Trust Fund shall be established  
 3297 for the purpose of collecting and disbursing funds generated  
 3298 from the license fees and administrative fines as provided for  
 3299 in ss. 393.0673(2), 400.062(3)~~(b)~~, ~~400.111(1)~~, 400.121(2), and  
 3300 400.23(8). Such funds shall be for the sole purpose of paying  
 3301 for the appropriate alternate placement, care, and treatment of  
 3302 residents who are removed from a facility licensed under this  
 3303 part or a facility specified in s. 393.0678(1) in which the  
 3304 agency determines that existing conditions or practices

3305 constitute an immediate danger to the health, safety, or  
 3306 security of the residents. If the agency determines that it is  
 3307 in the best interest of the health, safety, or security of the  
 3308 residents to provide for an orderly removal of the residents  
 3309 from the facility, the agency may utilize such funds to maintain  
 3310 and care for the residents in the facility pending removal and  
 3311 alternative placement. The maintenance and care of the residents  
 3312 shall be under the direction and control of a receiver appointed  
 3313 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may  
 3314 be expended in an emergency upon a filing of a petition for a  
 3315 receiver, upon the declaration of a state of local emergency  
 3316 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local  
 3317 order of evacuation of a facility by emergency personnel to  
 3318 protect the health and safety of the residents.

3319 Section 68. Section 400.071, Florida Statutes, is amended  
 3320 to read:

3321 400.071 Application for license.--

3322 ~~(1) An application for a license as required by s. 400.062~~  
 3323 ~~shall be made to the agency on forms furnished by it and shall~~  
 3324 ~~be accompanied by the appropriate license fee.~~

3325 (1)(2) The application for a license shall be under oath  
 3326 and shall contain the following:

3327 ~~(a) The name, address, and social security number of the~~  
 3328 ~~applicant if an individual; if the applicant is a firm,~~  
 3329 ~~partnership, or association, its name, address, and employer~~  
 3330 ~~identification number (EIN), and the name and address of any~~  
 3331 ~~controlling interest; and the name by which the facility is to~~  
 3332 ~~be known.~~



3333           ~~(b) The name of any person whose name is required on the~~  
 3334 ~~application under the provisions of paragraph (a) and who owns~~  
 3335 ~~at least a 10 percent interest in any professional service,~~  
 3336 ~~firm, association, partnership, or corporation providing goods,~~  
 3337 ~~leases, or services to the facility for which the application is~~  
 3338 ~~made, and the name and address of the professional service,~~  
 3339 ~~firm, association, partnership, or corporation in which such~~  
 3340 ~~interest is held.~~

3341           ~~(c) The location of the facility for which a license is~~  
 3342 ~~sought and an indication, as in the original application, that~~  
 3343 ~~such location conforms to the local zoning ordinances.~~

3344           ~~(d) The name of the person or persons under whose~~  
 3345 ~~management or supervision the facility will be conducted and the~~  
 3346 ~~name of the administrator.~~

3347           (a)(e) A signed affidavit disclosing any financial or  
 3348 ownership interest that a controlling interest as defined in  
 3349 part II of chapter 408 ~~person or entity described in paragraph~~  
 3350 ~~(a) or paragraph (d)~~ has held in the last 5 years in any entity  
 3351 licensed by this state or any other state to provide health or  
 3352 residential care which has closed voluntarily or involuntarily;  
 3353 has filed for bankruptcy; has had a receiver appointed; has had  
 3354 a license denied, suspended, or revoked; or has had an  
 3355 injunction issued against it which was initiated by a regulatory  
 3356 agency. The affidavit must disclose the reason any such entity  
 3357 was closed, whether voluntarily or involuntarily.

3358           (b)(f) The total number of beds and the total number of  
 3359 Medicare and Medicaid certified beds.

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3360        (c)~~(g)~~ Information relating to ~~the number, experience, and~~  
3361 ~~training of the employees of the facility and of the moral~~  
3362 ~~character of the applicant and employees~~ that ~~which~~ the agency  
3363 requires by rule, ~~including the name and address of any nursing~~  
3364 ~~home with which the applicant or employees have been affiliated~~  
3365 ~~through ownership or employment within 5 years of the date of~~  
3366 ~~the application for a license and the record of any criminal~~  
3367 ~~convictions involving the applicant and any criminal convictions~~  
3368 ~~involving an employee if known by the applicant after inquiring~~  
3369 ~~of the employee.~~ The applicant must demonstrate that sufficient  
3370 numbers of qualified staff, by training or experience, will be  
3371 employed to properly care for the type and number of residents  
3372 who will reside in the facility.

3373        (d)~~(h)~~ Copies of any civil verdict or judgment involving  
3374 the applicant rendered within the 10 years preceding the  
3375 application, relating to medical negligence, violation of  
3376 residents' rights, or wrongful death. As a condition of  
3377 licensure, the licensee agrees to provide to the agency copies  
3378 of any new verdict or judgment involving the applicant, relating  
3379 to such matters, within 30 days after filing with the clerk of  
3380 the court. The information required in this paragraph shall be  
3381 maintained in the facility's licensure file and in an agency  
3382 database which is available as a public record.

3383        ~~(3) The applicant shall submit evidence which establishes~~  
3384 ~~the good moral character of the applicant, manager, supervisor,~~  
3385 ~~and administrator. No applicant, if the applicant is an~~  
3386 ~~individual; no member of a board of directors or officer of an~~  
3387 ~~applicant, if the applicant is a firm, partnership, association,~~

3388 ~~or corporation; and no licensed nursing home administrator shall~~  
 3389 ~~have been convicted, or found guilty, regardless of~~  
 3390 ~~adjudication, of a crime in any jurisdiction which affects or~~  
 3391 ~~may potentially affect residents in the facility.~~

3392 ~~(4) Each applicant for licensure must comply with the~~  
 3393 ~~following requirements:~~

3394 ~~(a) Upon receipt of a completed, signed, and dated~~  
 3395 ~~application, the agency shall require background screening of~~  
 3396 ~~the applicant, in accordance with the level 2 standards for~~  
 3397 ~~screening set forth in chapter 435. As used in this subsection,~~  
 3398 ~~the term "applicant" means the facility administrator, or~~  
 3399 ~~similarly titled individual who is responsible for the day-to-~~  
 3400 ~~day operation of the licensed facility, and the facility~~  
 3401 ~~financial officer, or similarly titled individual who is~~  
 3402 ~~responsible for the financial operation of the licensed~~  
 3403 ~~facility.~~

3404 ~~(b) The agency may require background screening for a~~  
 3405 ~~member of the board of directors of the licensee or an officer~~  
 3406 ~~or an individual owning 5 percent or more of the licensee if the~~  
 3407 ~~agency has probable cause to believe that such individual has~~  
 3408 ~~been convicted of an offense prohibited under the level 2~~  
 3409 ~~standards for screening set forth in chapter 435.~~

3410 ~~(c) Proof of compliance with the level 2 background~~  
 3411 ~~screening requirements of chapter 435 which has been submitted~~  
 3412 ~~within the previous 5 years in compliance with any other health~~  
 3413 ~~care or assisted living licensure requirements of this state is~~  
 3414 ~~acceptable in fulfillment of paragraph (a). Proof of compliance~~  
 3415 ~~with background screening which has been submitted within the~~

3416 ~~previous 5 years to fulfill the requirements of the Financial~~  
3417 ~~Services Commission and the Office of Insurance Regulation~~  
3418 ~~pursuant to chapter 651 as part of an application for a~~  
3419 ~~certificate of authority to operate a continuing care retirement~~  
3420 ~~community is acceptable in fulfillment of the Department of Law~~  
3421 ~~Enforcement and Federal Bureau of Investigation background~~  
3422 ~~check.~~

3423 ~~(d) A provisional license may be granted to an applicant~~  
3424 ~~when each individual required by this section to undergo~~  
3425 ~~background screening has met the standards for the Department of~~  
3426 ~~Law Enforcement background check, but the agency has not yet~~  
3427 ~~received background screening results from the Federal Bureau of~~  
3428 ~~Investigation, or a request for a disqualification exemption has~~  
3429 ~~been submitted to the agency as set forth in chapter 435, but a~~  
3430 ~~response has not yet been issued. A license may be granted to~~  
3431 ~~the applicant upon the agency's receipt of a report of the~~  
3432 ~~results of the Federal Bureau of Investigation background~~  
3433 ~~screening for each individual required by this section to~~  
3434 ~~undergo background screening which confirms that all standards~~  
3435 ~~have been met, or upon the granting of a disqualification~~  
3436 ~~exemption by the agency as set forth in chapter 435. Any other~~  
3437 ~~person who is required to undergo level 2 background screening~~  
3438 ~~may serve in his or her capacity pending the agency's receipt of~~  
3439 ~~the report from the Federal Bureau of Investigation; however,~~  
3440 ~~the person may not continue to serve if the report indicates any~~  
3441 ~~violation of background screening standards and a~~  
3442 ~~disqualification exemption has not been requested of and granted~~  
3443 ~~by the agency as set forth in chapter 435.~~

3444       ~~(e) Each applicant must submit to the agency, with its~~  
3445 ~~application, a description and explanation of any exclusions,~~  
3446 ~~permanent suspensions, or terminations of the applicant from the~~  
3447 ~~Medicare or Medicaid programs. Proof of compliance with~~  
3448 ~~disclosure of ownership and control interest requirements of the~~  
3449 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
3450 ~~submission.~~

3451       ~~(f) Each applicant must submit to the agency a description~~  
3452 ~~and explanation of any conviction of an offense prohibited under~~  
3453 ~~the level 2 standards of chapter 435 by a member of the board of~~  
3454 ~~directors of the applicant, its officers, or any individual~~  
3455 ~~owning 5 percent or more of the applicant. This requirement~~  
3456 ~~shall not apply to a director of a not-for-profit corporation or~~  
3457 ~~organization if the director serves solely in a voluntary~~  
3458 ~~capacity for the corporation or organization, does not regularly~~  
3459 ~~take part in the day-to-day operational decisions of the~~  
3460 ~~corporation or organization, receives no remuneration for his or~~  
3461 ~~her services on the corporation or organization's board of~~  
3462 ~~directors, and has no financial interest and has no family~~  
3463 ~~members with a financial interest in the corporation or~~  
3464 ~~organization, provided that the director and the not-for-profit~~  
3465 ~~corporation or organization include in the application a~~  
3466 ~~statement affirming that the director's relationship to the~~  
3467 ~~corporation satisfies the requirements of this paragraph.~~

3468       ~~(g) An application for license renewal must contain the~~  
3469 ~~information required under paragraphs (e) and (f).~~

3470       ~~(5) The applicant shall furnish satisfactory proof of~~  
3471 ~~financial ability to operate and conduct the nursing home in~~

3472 ~~accordance with the requirements of this part and all rules~~  
3473 ~~adopted under this part, and the agency shall establish~~  
3474 ~~standards for this purpose, including information reported under~~  
3475 ~~paragraph (2)(c). The agency also shall establish documentation~~  
3476 ~~requirements, to be completed by each applicant, that show~~  
3477 ~~anticipated facility revenues and expenditures, the basis for~~  
3478 ~~financing the anticipated cash-flow requirements of the~~  
3479 ~~facility, and an applicant's access to contingency financing.~~

3480 ~~(6) If the applicant offers continuing care agreements as~~  
3481 ~~defined in chapter 651, proof shall be furnished that such~~  
3482 ~~applicant has obtained a certificate of authority as required~~  
3483 ~~for operation under that chapter.~~

3484 ~~(2)(7)~~ As a condition of licensure, each licensee, except  
3485 one offering continuing care agreements as defined in chapter  
3486 651, must agree to accept recipients of Title XIX of the Social  
3487 Security Act on a temporary, emergency basis. The persons whom  
3488 the agency may require such licensees to accept are those  
3489 recipients of Title XIX of the Social Security Act who are  
3490 residing in a facility in which existing conditions constitute  
3491 an immediate danger to the health, safety, or security of the  
3492 residents of the facility.

3493 ~~(3)(8)~~ ~~The agency may not issue a license to a nursing~~  
3494 ~~home that fails to receive a certificate of need under the~~  
3495 ~~provisions of ss. 408.031-408.045. It is the intent of the~~  
3496 Legislature that, in reviewing a certificate-of-need application  
3497 to add beds to an existing nursing home facility, preference be  
3498 given to the application of a licensee who has been awarded a

3499 Gold Seal as provided for in s. 400.235, if the applicant  
 3500 otherwise meets the review criteria specified in s. 408.035.

3501 (4)~~(9)~~ The agency may develop an abbreviated survey for  
 3502 licensure renewal applicable to a licensee that has continuously  
 3503 operated as a nursing facility since 1991 or earlier, has  
 3504 operated under the same management for at least the preceding 30  
 3505 months, and has had during the preceding 30 months no class I or  
 3506 class II deficiencies.

3507 (5)~~(10)~~ As a condition of licensure, each facility must  
 3508 establish and submit with its application a plan for quality  
 3509 assurance and for conducting risk management.

3510 ~~(11) The applicant must provide the agency with proof of a~~  
 3511 ~~legal right to occupy the property before a license may be~~  
 3512 ~~issued. Proof may include, but is not limited to, copies of~~  
 3513 ~~warranty deeds, lease or rental agreements, contracts for deeds,~~  
 3514 ~~or quitclaim deeds.~~

3515 Section 69. Subsection (4) of section 400.0712, Florida  
 3516 Statutes, is renumbered as subsection (3) and present subsection  
 3517 (3) of said section is amended to read:

3518 400.0712 Application for inactive license.--

3519 ~~(3) The agency may issue an inactive license to a nursing~~  
 3520 ~~home that will be temporarily unable to provide services but is~~  
 3521 ~~reasonably expected to resume services.~~

3522 ~~(a) An inactive license issued under this subsection may~~  
 3523 ~~be issued for a period not to exceed 12 months and may be~~  
 3524 ~~renewed by the agency for an additional 6 months upon~~  
 3525 ~~demonstration of progress toward reopening.~~

3526 ~~(b) All licensure fees must be current and paid in full,~~  
 3527 ~~and may be prorated as provided by agency rule, before the~~  
 3528 ~~inactive license is issued.~~

3529 ~~(c) Reactivation of an inactive license requires that the~~  
 3530 ~~applicant pay all licensure fees and be inspected by the agency~~  
 3531 ~~to confirm that all of the requirements of this part and~~  
 3532 ~~applicable rules are met.~~

3533 Section 70. Section 400.102, Florida Statutes, is amended  
 3534 to read:

3535 400.102 Action by agency against licensee; grounds.--

3536 ~~(1)~~ (1) In addition to the grounds listed in part II of  
 3537 chapter 408, any of the following conditions shall be grounds  
 3538 for action by the agency against a licensee:

3539 (1)(a) An intentional or negligent act materially  
 3540 affecting the health or safety of residents of the facility;

3541 (2)(b) Misappropriation or conversion of the property of a  
 3542 resident of the facility;

3543 (3)(e) Failure to follow the criteria and procedures  
 3544 provided under part I of chapter 394 relating to the  
 3545 transportation, voluntary admission, and involuntary examination  
 3546 of a nursing home resident; or

3547 ~~(d) Violation of provisions of this part or rules adopted~~  
 3548 ~~under this part;~~

3549 (4)(e) Fraudulent altering, defacing, or falsifying any  
 3550 medical or nursing home records, or causing or procuring any of  
 3551 these offenses to be committed. ~~;~~ ~~or~~

3552 ~~(f) Any act constituting a ground upon which application~~  
 3553 ~~for a license may be denied.~~



3554 ~~(2) If the agency has reasonable belief that any of such~~  
 3555 ~~conditions exist, it shall take the following action:~~

3556 ~~(a) In the case of an applicant for original licensure,~~  
 3557 ~~denial action as provided in s. 400.121.~~

3558 ~~(b) In the case of an applicant for relicensure or a~~  
 3559 ~~current licensee, administrative action as provided in s.~~  
 3560 ~~400.121 or injunctive action as authorized by s. 400.125.~~

3561 ~~(c) In the case of a facility operating without a license,~~  
 3562 ~~injunctive action as authorized in s. 400.125.~~

3563 Section 71. Section 400.111, Florida Statutes, is amended  
 3564 to read:

3565 400.111 Disclosure of controlling interest ~~Expiration of~~  
 3566 ~~license; renewal.--~~

3567 ~~(1) A license issued for the operation of a facility,~~  
 3568 ~~unless sooner suspended or revoked, shall expire on the date set~~  
 3569 ~~forth by the agency on the face of the license or 1 year from~~  
 3570 ~~the date of issuance, whichever occurs first. Ninety days prior~~  
 3571 ~~to the expiration date, an application for renewal shall be~~  
 3572 ~~submitted to the agency. A license shall be renewed upon the~~  
 3573 ~~filing of an application on forms furnished by the agency if the~~  
 3574 ~~applicant has first met the requirements established under this~~  
 3575 ~~part and all rules adopted under this part. The failure to file~~  
 3576 ~~an application within the period established in this subsection~~  
 3577 ~~shall result in a late fee charged to the licensee by the agency~~  
 3578 ~~in an amount equal to 50 percent of the fee in effect on the~~  
 3579 ~~last preceding regular renewal date. A late fee shall be levied~~  
 3580 ~~for each and every day the filing of the license application is~~  
 3581 ~~delayed, but in no event shall such fine aggregate more than~~

3582 ~~\$5,000. If an application is received after the required filing~~  
 3583 ~~date and exhibits a hand-canceled postmark obtained from a~~  
 3584 ~~United States Post Office dated on or before the required filing~~  
 3585 ~~date, no fine will be levied.~~

3586 ~~(2) A licensee against whom a revocation or suspension~~  
 3587 ~~proceeding, or any judicial proceeding instituted by the agency~~  
 3588 ~~under this part, is pending at the time of license renewal may~~  
 3589 ~~be issued a temporary license effective until final disposition~~  
 3590 ~~by the agency of such proceeding. If judicial relief is sought~~  
 3591 ~~from the aforesaid administrative order, the court having~~  
 3592 ~~jurisdiction may issue such orders regarding the issuance of a~~  
 3593 ~~temporary permit during the pendency of the judicial proceeding.~~

3594 ~~(3) The agency may not renew a license if the applicant~~  
 3595 ~~has failed to pay any fines assessed by final order of the~~  
 3596 ~~agency or final order of the Health Care Financing~~  
 3597 ~~Administration under requirements for federal certification. The~~  
 3598 ~~agency may renew the license of an applicant following the~~  
 3599 ~~assessment of a fine by final order if such fine has been paid~~  
 3600 ~~into an escrow account pending an appeal of a final order.~~

3601 ~~(4) In addition to the requirements of part II of chapter~~  
 3602 ~~408, the licensee shall submit a signed affidavit disclosing any~~  
 3603 ~~financial or ownership interest that a controlling interest~~  
 3604 ~~licensee has held within the last 5 years in any entity licensed~~  
 3605 ~~by the state or any other state to provide health or residential~~  
 3606 ~~care which entity has closed voluntarily or involuntarily; has~~  
 3607 ~~filed for bankruptcy; has had a receiver appointed; has had a~~  
 3608 ~~license denied, suspended, or revoked; or has had an injunction~~  
 3609 ~~issued against it which was initiated by a regulatory agency.~~

3610 The affidavit must disclose the reason such entity was closed,  
 3611 whether voluntarily or involuntarily.

3612 Section 72. Subsections (2) and (5) of section 400.1183,  
 3613 Florida Statutes, are amended to read:

3614 400.1183 Resident grievance procedures.--

3615 (2) Each facility shall maintain records of all grievances  
 3616 and shall report ~~annually~~ to the agency at the time of  
 3617 relicensure the total number of grievances handled during the  
 3618 prior licensure period, a categorization of the cases underlying  
 3619 the grievances, and the final disposition of the grievances.

3620 ~~(5) The agency may impose an administrative fine, in~~  
 3621 ~~accordance with s. 400.121, against a nursing home facility for~~  
 3622 ~~noncompliance with this section.~~

3623 Section 73. Section 400.121, Florida Statutes, is amended  
 3624 to read:

3625 400.121 Denial, suspension, revocation of license;  
 3626 moratorium ~~on admissions~~; administrative fines; procedure; order  
 3627 to increase staffing.--

3628 (1) The agency may deny an application, revoke or suspend  
 3629 a license, and ~~or~~ impose an administrative fine, not to exceed  
 3630 \$500 per violation per day for the violation of any provision of  
 3631 this part, part II of chapter 408, or applicable rules, against  
 3632 any applicant or licensee for the following violations by the  
 3633 applicant, licensee, or other controlling interest:

3634 (a) A violation of any provision of this part, part II of  
 3635 chapter 408, or applicable rules ~~s. 400.102(1)~~; or

3636 ~~(b) A demonstrated pattern of deficient practice;~~

3637           ~~(c) Failure to pay any outstanding fines assessed by final~~  
 3638 ~~order of the agency or final order of the Health Care Financing~~  
 3639 ~~Administration pursuant to requirements for federal~~  
 3640 ~~certification. The agency may renew or approve the license of an~~  
 3641 ~~applicant following the assessment of a fine by final order if~~  
 3642 ~~such fine has been paid into an escrow account pending an appeal~~  
 3643 ~~of a final order;~~

3644           ~~(d) Exclusion from the Medicare or Medicaid program; or~~

3645           (b)(e) An adverse action by a regulatory agency against  
 3646 any other licensed facility that has a common controlling  
 3647 interest with the licensee or applicant against whom the action  
 3648 under this section is being brought. If the adverse action  
 3649 involves solely the management company, the applicant or  
 3650 licensee shall be given 30 days to remedy before final action is  
 3651 taken. If the adverse action is based solely upon actions by a  
 3652 controlling interest, the applicant or licensee may present  
 3653 factors in mitigation of any proposed penalty based upon a  
 3654 showing that such penalty is inappropriate under the  
 3655 circumstances.

3656  
 3657 All hearings shall be held within the county in which the  
 3658 licensee or applicant operates or applies for a license to  
 3659 operate a facility as defined herein.

3660           (2) Except as provided in s. 400.23(8), a \$500 fine shall  
 3661 be imposed for each violation. Each day a violation of this part  
 3662 occurs constitutes a separate violation and is subject to a  
 3663 separate fine, but in no event may any fine aggregate more than  
 3664 \$5,000. A fine may be levied pursuant to this section in lieu of

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3665 and notwithstanding the provisions of s. 400.23. Fines paid  
3666 shall be deposited in the Resident Protection Trust Fund and  
3667 expended as provided in s. 400.063.

3668 (3) The agency shall revoke or deny a nursing home license  
3669 if the licensee or controlling interest operates a facility in  
3670 this state that:

3671 (a) Has had two moratoria imposed by final order for  
3672 substandard quality of care, as defined by 42 C.F.R. part 483,  
3673 within any 30-month period;

3674 (b) Is conditionally licensed for 180 or more continuous  
3675 days;

3676 (c) Is cited for two class I deficiencies arising from  
3677 unrelated circumstances during the same survey or investigation;  
3678 or

3679 (d) Is cited for two class I deficiencies arising from  
3680 separate surveys or investigations within a 30-month period.

3681  
3682 The licensee may present factors in mitigation of revocation,  
3683 and the agency may make a determination not to revoke a license  
3684 based upon a showing that revocation is inappropriate under the  
3685 circumstances.

3686 ~~(4) The agency may issue an order immediately suspending~~  
3687 ~~or revoking a license when it determines that any condition in~~  
3688 ~~the facility presents a danger to the health, safety, or welfare~~  
3689 ~~of the residents in the facility.~~

3690 ~~(5)(a) The agency may impose an immediate moratorium on~~  
3691 ~~admissions to any facility when the agency determines that any~~

3692 ~~condition in the facility presents a threat to the health,~~  
 3693 ~~safety, or welfare of the residents in the facility.~~

3694 (4)~~(b)~~ Where the agency has placed a moratorium ~~on~~  
 3695 ~~admissions~~ on any facility two times within a 7-year period, the  
 3696 agency may suspend the nursing home license ~~of the nursing home~~  
 3697 ~~and the facility's management company, if any. During the~~  
 3698 ~~suspension, the agency shall take the facility into receivership~~  
 3699 ~~and shall operate the facility.~~

3700 (5)~~(6)~~ An action taken by the agency to deny, suspend, or  
 3701 revoke a facility's license under this part shall be heard by  
 3702 the Division of Administrative Hearings of the Department of  
 3703 Management Services within 60 days after the assignment of an  
 3704 administrative law judge, unless the time limitation is waived  
 3705 by both parties. The administrative law judge must render a  
 3706 decision within 30 days after receipt of a proposed recommended  
 3707 order.

3708 (6)~~(7)~~ The agency is authorized to require a facility to  
 3709 increase staffing beyond the minimum required by law, if the  
 3710 agency has taken administrative action against the facility for  
 3711 care-related deficiencies directly attributable to insufficient  
 3712 staff. Under such circumstances, the facility may request an  
 3713 expedited interim rate increase. The agency shall process the  
 3714 request within 10 days after receipt of all required  
 3715 documentation from the facility. A facility that fails to  
 3716 maintain the required increased staffing is subject to a fine of  
 3717 \$500 per day for each day the staffing is below the level  
 3718 required by the agency.

3719           ~~(8) An administrative proceeding challenging an action~~  
 3720 ~~taken by the agency pursuant to this section shall be reviewed~~  
 3721 ~~on the basis of the facts and conditions that resulted in such~~  
 3722 ~~agency action.~~

3723           (7)(9) Notwithstanding any other provision of law to the  
 3724 contrary, agency action in an administrative proceeding under  
 3725 this section may be overcome by the licensee upon a showing by a  
 3726 preponderance of the evidence to the contrary.

3727           ~~(8)(10)~~ In addition to any other sanction imposed under  
 3728 this part, in any final order that imposes sanctions, the agency  
 3729 may assess costs related to the investigation and prosecution of  
 3730 the case. Payment of agency costs shall be deposited into the  
 3731 Health Care Trust Fund.

3732           Section 74. Section 400.125, Florida Statutes, is  
 3733 repealed.

3734           Section 75. Subsections (14), (15), and (16) of section  
 3735 400.141, Florida Statutes, are amended to read:

3736           400.141 Administration and management of nursing home  
 3737 facilities.--Every licensed facility shall comply with all  
 3738 applicable standards and rules of the agency and shall:

3739           (14) Submit to the agency the information specified in s.  
 3740 400.071 ~~(1)(a)(2)(e)~~ for a management company within 30 days  
 3741 after the effective date of the management agreement.

3742           (15)(a) By the 15th calendar day of the month following  
 3743 the end of each calendar quarter, submit semiannually to the  
 3744 agency, or more frequently if requested by the agency,  
 3745 information regarding facility staff-to-resident ratios, staff  
 3746 turnover, and staff stability, including information regarding

3747 certified nursing assistants, licensed nurses, the director of  
 3748 nursing, and the facility administrator. For purposes of this  
 3749 reporting:

3750 1.~~(a)~~ Staff-to-resident ratios must be reported in the  
 3751 categories specified in s. 400.23(3)(a) and applicable rules.  
 3752 The ratio must be reported as an average for the most recent  
 3753 calendar quarter.

3754 2.~~(b)~~ Staff turnover must be reported for the most recent  
 3755 12-month period ending on the last workday of the most recent  
 3756 calendar quarter prior to the date the information is submitted.  
 3757 The turnover rate must be computed quarterly, with the annual  
 3758 rate being the cumulative sum of the quarterly rates. The  
 3759 turnover rate is the total number of terminations or separations  
 3760 experienced during the quarter, excluding any employee  
 3761 terminated during a probationary period of 3 months or less,  
 3762 divided by the total number of staff employed at the end of the  
 3763 period for which the rate is computed, and expressed as a  
 3764 percentage.

3765 3.~~(e)~~ The formula for determining staff stability is the  
 3766 total number of employees that have been employed for more than  
 3767 12 months, divided by the total number of employees employed at  
 3768 the end of the most recent calendar quarter, and expressed as a  
 3769 percentage.

3770 (b)~~(d)~~ A nursing facility that has failed to comply with  
 3771 state minimum-staffing requirements for 2 consecutive days is  
 3772 prohibited from accepting new admissions until the facility has  
 3773 achieved the minimum-staffing requirements for a period of 6  
 3774 consecutive days. For the purposes of this paragraph, any person



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3775 who was a resident of the facility and was absent from the  
3776 facility for the purpose of receiving medical care at a separate  
3777 location or was on a leave of absence is not considered a new  
3778 admission. Failure to impose such an admissions moratorium  
3779 constitutes a class II deficiency.

3780 (c)~~(e)~~ A nursing facility that ~~which~~ does not have a  
3781 conditional license may be cited for failure to comply with the  
3782 standards in s. 400.23(3)(a) only if it has failed to meet those  
3783 standards on 2 consecutive days or if it has failed to meet at  
3784 least 97 percent of those standards on any one day.

3785 (d)~~(f)~~ A facility that ~~which~~ has a conditional license  
3786 must be in compliance with the standards in s. 400.23(3)(a) at  
3787 all times from the effective date of the conditional license  
3788 until the effective date of a subsequent standard license.

3789  
3790 Nothing in this subsection ~~section~~ shall limit the agency's  
3791 ability to impose a deficiency or take other actions if a  
3792 facility does not have enough staff to meet the residents'  
3793 needs.

3794 (16) Report by the 10th calendar day of each month ~~monthly~~  
3795 the number of vacant beds in the facility that ~~which~~ are  
3796 available for resident occupancy on the last day of the month  
3797 ~~information is reported.~~

3798  
3799 Facilities that have been awarded a Gold Seal under the program  
3800 established in s. 400.235 may develop a plan to provide  
3801 certified nursing assistant training as prescribed by federal

3802 regulations and state rules and may apply to the agency for  
 3803 approval of their program.

3804 Section 76. Subsection (6) of section 400.162, Florida  
 3805 Statutes, is amended to read:

3806 400.162 Property and personal affairs of residents.--

3807 (6) In the event of the death of a resident, a licensee  
 3808 shall return all refunds and funds held in trust to the  
 3809 resident's personal representative, if one has been appointed at  
 3810 the time the nursing home disburses such funds, and if not, to  
 3811 the resident's spouse or adult next of kin named in a  
 3812 beneficiary designation form provided by the nursing home to the  
 3813 resident. In the event the resident has not completed the  
 3814 beneficiary designation form or the resident's designated spouse  
 3815 or adult next of kin is deceased or cannot be located and no  
 3816 personal representative has been appointed, the nursing home may  
 3817 release funds to the funeral home that is handling the deceased  
 3818 resident's remains for the funeral home's actual charges for the  
 3819 services performed. In all other situations ~~no spouse or adult~~  
 3820 ~~next of kin or such person cannot be located~~, funds due to the  
 3821 resident shall be placed in an interest-bearing account in a  
 3822 bank, savings association, trust company, or credit union  
 3823 located in this state and, if possible, located within the same  
 3824 district in which the facility is located, which funds shall not  
 3825 be represented as part of the assets of the facility on a  
 3826 financial statement, and the licensee shall maintain such  
 3827 account until such time as the trust funds are disbursed  
 3828 pursuant to the provisions of the Florida Probate Code. All  
 3829 other property of a deceased resident being held in trust by the

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3830 licensee shall be returned to the resident's personal  
3831 representative, if one has been appointed at the time the  
3832 nursing home disburses such property, and if not, to the  
3833 resident's spouse or adult next of kin named in a beneficiary  
3834 designation form provided by the nursing home to the resident.  
3835 In the event the resident has no spouse or adult next of kin or  
3836 such person cannot be located, property being held in trust  
3837 shall be safeguarded until such time as the property is  
3838 disbursed pursuant to the provisions of the Florida Probate  
3839 Code. The trust funds and property of deceased residents shall  
3840 be kept separate from the funds and the property of the licensee  
3841 and from the funds and property of the residents of the  
3842 facility. The nursing home needs to maintain only one account in  
3843 which the trust funds amounting to less than \$100 of deceased  
3844 residents are placed. However, it shall be the obligation of the  
3845 nursing home to maintain adequate records to permit compilation  
3846 of interest due each individual resident's account. Separate  
3847 accounts shall be maintained with respect to trust funds of  
3848 deceased residents equal to or in excess of \$100. In the event  
3849 the trust funds of the deceased resident are not disbursed  
3850 pursuant to the provisions of the Florida Probate Code within 2  
3851 years of the death of the resident, the trust funds shall be  
3852 deposited in the Resident Protection Trust Fund and expended as  
3853 provided for in s. 400.063, notwithstanding the provisions of  
3854 any other law of this state. Any other property of a deceased  
3855 resident held in trust by a licensee which is not disbursed in  
3856 accordance with the provisions of the Florida Probate Code shall  
3857 escheat to the state as provided by law.

3858 Section 77. Section 400.179, Florida Statutes, is amended  
 3859 to read:

3860 400.179 ~~Sale or transfer of ownership of a nursing~~  
 3861 ~~facility;~~ Liability for Medicaid underpayments and  
 3862 overpayments.--

3863 (1) It is the intent of the Legislature to protect the  
 3864 rights of nursing home residents and the security of public  
 3865 funds when a nursing facility is sold or the ownership is  
 3866 transferred.

3867 ~~(2) Whenever a nursing facility is sold or the ownership~~  
 3868 ~~is transferred, including leasing, the transferee shall make~~  
 3869 ~~application to the agency for a new license at least 90 days~~  
 3870 ~~prior to the date of transfer of ownership.~~

3871 ~~(3) The transferor shall notify the agency in writing at~~  
 3872 ~~least 90 days prior to the date of transfer of ownership. The~~  
 3873 ~~transferor shall be responsible and liable for the lawful~~  
 3874 ~~operation of the nursing facility and the welfare of the~~  
 3875 ~~residents domiciled in the facility until the date the~~  
 3876 ~~transferee is licensed by the agency. The transferor shall be~~  
 3877 ~~liable for any and all penalties imposed against the facility~~  
 3878 ~~for violations occurring prior to the date of transfer of~~  
 3879 ~~ownership.~~

3880 ~~(4) The transferor shall, prior to transfer of ownership,~~  
 3881 ~~repay or make arrangements to repay to the agency or the~~  
 3882 ~~Department of Children and Family Services any amounts owed to~~  
 3883 ~~the agency or the department. Should the transferor fail to~~  
 3884 ~~repay or make arrangements to repay the amounts owed to the~~  
 3885 ~~agency or the department prior to the transfer of ownership, the~~

3886 ~~issuance of a license to the transferee shall be delayed until~~  
 3887 ~~repayment or until arrangements for repayment are made.~~

3888 (2)~~(5)~~ Because any transfer of a nursing facility may  
 3889 expose the fact that Medicaid may have underpaid or overpaid the  
 3890 transferor, and because in most instances, any such underpayment  
 3891 or overpayment can only be determined following a formal field  
 3892 audit, the liabilities for any such underpayments or  
 3893 overpayments shall be as follows:

3894 (a) The Medicaid program shall be liable to the transferor  
 3895 for any underpayments owed during the transferor's period of  
 3896 operation of the facility.

3897 (b) Without regard to whether the transferor had leased or  
 3898 owned the nursing facility, the transferor shall remain liable  
 3899 to the Medicaid program for all Medicaid overpayments received  
 3900 during the transferor's period of operation of the facility,  
 3901 regardless of when determined.

3902 (c) Where the facility transfer takes any form of a sale  
 3903 of assets, in addition to the transferor's continuing liability  
 3904 for any such overpayments, if the transferor fails to meet these  
 3905 obligations, the transferee shall be liable for all liabilities  
 3906 that can be readily identifiable 90 days in advance of the  
 3907 transfer. Such liability shall continue in succession until the  
 3908 debt is ultimately paid or otherwise resolved. It shall be the  
 3909 burden of the transferee to determine the amount of all such  
 3910 readily identifiable overpayments from the Agency for Health  
 3911 Care Administration, and the agency shall cooperate in every way  
 3912 with the identification of such amounts. Readily identifiable

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3913 overpayments shall include overpayments that will result from,  
 3914 but not be limited to:

- 3915 1. Medicaid rate changes or adjustments;
- 3916 2. Any depreciation recapture;
- 3917 3. Any recapture of fair rental value system indexing; or
- 3918 4. Audits completed by the agency.

3919  
 3920 The transferor shall remain liable for any such Medicaid  
 3921 overpayments that were not readily identifiable 90 days in  
 3922 advance of the nursing facility transfer.

3923 (d) Where the transfer involves a facility that has been  
 3924 leased by the transferor:

3925 1. The transferee shall, as a condition to being issued a  
 3926 license by the agency, acquire, maintain, and provide proof to  
 3927 the agency of a bond with a term of 30 months, renewable  
 3928 annually, in an amount not less than the total of 3 months  
 3929 Medicaid payments to the facility computed on the basis of the  
 3930 preceding 12-month average Medicaid payments to the facility.

3931 2. A leasehold licensee may meet the requirements of  
 3932 subparagraph 1. by payment of a nonrefundable fee, paid at  
 3933 initial licensure, paid at the time of any subsequent change of  
 3934 ownership, and paid annually thereafter ~~at the time of any~~  
 3935 ~~subsequent annual license renewal~~, in the amount of 2 percent of  
 3936 the total of 3 months' Medicaid payments to the facility  
 3937 computed on the basis of the preceding 12-month average Medicaid  
 3938 payments to the facility. If a preceding 12-month average is not  
 3939 available, projected Medicaid payments may be used. The fee  
 3940 shall be deposited into the Health Care Trust Fund and shall be

3941 | accounted for separately as a Medicaid nursing home overpayment  
 3942 | account. These fees shall be used at the sole discretion of the  
 3943 | agency to repay nursing home Medicaid overpayments. Payment of  
 3944 | this fee shall not release the licensee from any liability for  
 3945 | any Medicaid overpayments, nor shall payment bar the agency from  
 3946 | seeking to recoup overpayments from the licensee and any other  
 3947 | liable party. As a condition of exercising this lease bond  
 3948 | alternative, licensees paying this fee must maintain an existing  
 3949 | lease bond through the end of the 30-month term period of that  
 3950 | bond. The agency is herein granted specific authority to  
 3951 | promulgate all rules pertaining to the administration and  
 3952 | management of this account, including withdrawals from the  
 3953 | account, subject to federal review and approval. This provision  
 3954 | shall take effect upon becoming law and shall apply to any  
 3955 | leasehold license application.

3956 |       a. The financial viability of the Medicaid nursing home  
 3957 | overpayment account shall be determined by the agency through  
 3958 | annual review of the account balance and the amount of total  
 3959 | outstanding, unpaid Medicaid overpayments owing from leasehold  
 3960 | licensees to the agency as determined by final agency audits.

3961 |       ~~b. The agency, in consultation with the Florida Health~~  
 3962 | ~~Care Association and the Florida Association of Homes for the~~  
 3963 | ~~Aging, shall study and make recommendations on the minimum~~  
 3964 | ~~amount to be held in reserve to protect against Medicaid~~  
 3965 | ~~overpayments to leasehold licensees and on the issue of~~  
 3966 | ~~successor liability for Medicaid overpayments upon sale or~~  
 3967 | ~~transfer of ownership of a nursing facility. The agency shall~~  
 3968 | ~~submit the findings and recommendations of the study to the~~

3969 ~~Governor, the President of the Senate, and the Speaker of the~~  
 3970 ~~House of Representatives by January 1, 2003.~~

3971 3. The leasehold licensee may meet the bond requirement  
 3972 through other arrangements acceptable to the agency. The agency  
 3973 is herein granted specific authority to promulgate rules  
 3974 pertaining to lease bond arrangements.

3975 4. All existing nursing facility licensees, operating the  
 3976 facility as a leasehold, shall acquire, maintain, and provide  
 3977 proof to the agency of the 30-month bond required in  
 3978 subparagraph 1., above, on and after July 1, 1993, for each  
 3979 license renewal.

3980 5. It shall be the responsibility of all nursing facility  
 3981 operators, operating the facility as a leasehold, to renew the  
 3982 30-month bond and to provide proof of such renewal to the agency  
 3983 annually ~~at the time of application for license renewal.~~

3984 6. Any failure of the nursing facility operator to  
 3985 acquire, maintain, renew annually, or provide proof to the  
 3986 agency shall be grounds for the agency to deny, ~~cancel,~~ revoke,  
 3987 and ~~or~~ suspend the facility license to operate such facility and  
 3988 to take any further action, including, but not limited to,  
 3989 enjoining the facility, asserting a moratorium pursuant to part  
 3990 II of chapter 408, or applying for a receiver, deemed necessary  
 3991 to ensure compliance with this section and to safeguard and  
 3992 protect the health, safety, and welfare of the facility's  
 3993 residents. A lease agreement required as a condition of bond  
 3994 financing or refinancing under s. 154.213 by a health facilities  
 3995 authority or required under s. 159.30 by a county or



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3996 municipality is not a leasehold for purposes of this paragraph  
 3997 and is not subject to the bond requirement of this paragraph.

3998 Section 78. Subsections (1) and (4) of section 400.18,  
 3999 Florida Statutes, are amended to read:

4000 400.18 Closing of nursing facility.--

4001 (1) In addition to the requirements of part II of chapter  
 4002 408, ~~Whenever a licensee voluntarily discontinues operation, and~~  
 4003 ~~during the period when it is preparing for such discontinuance,~~  
 4004 ~~it shall inform the agency not less than 90 days prior to the~~  
 4005 ~~discontinuance of operation.~~ the licensee also shall inform each  
 4006 ~~the~~ resident or the next of kin, legal representative, or agency  
 4007 acting on behalf of the resident of the fact, and the proposed  
 4008 time, of ~~such~~ discontinuance of operation and give at least 90  
 4009 days' notice so that suitable arrangements may be made for the  
 4010 transfer and care of the resident. In the event any resident has  
 4011 no such person to represent him or her, the licensee shall be  
 4012 responsible for securing a suitable transfer of the resident  
 4013 before the discontinuance of operation. The agency shall be  
 4014 responsible for arranging for the transfer of those residents  
 4015 requiring transfer who are receiving assistance under the  
 4016 Medicaid program.

4017 ~~(4) Immediately upon discontinuance of operation of a~~  
 4018 ~~facility, the licensee shall surrender the license therefor to~~  
 4019 ~~the agency, and the license shall be canceled.~~

4020 Section 79. Subsections (1), (2), and (3) of section  
 4021 400.19, Florida Statutes, are amended to read:

4022 400.19 Right of entry and inspection.--

4023           (1) In accordance with part II of chapter 408, the agency  
 4024 and any duly designated officer or employee thereof or a member  
 4025 of the State Long-Term Care Ombudsman Council or the local long-  
 4026 term care ombudsman council shall have the right to enter upon  
 4027 and into the premises of any facility licensed pursuant to this  
 4028 part, or any distinct nursing home unit of a hospital licensed  
 4029 under chapter 395 or any freestanding facility licensed under  
 4030 chapter 395 that provides extended care or other long-term care  
 4031 services, at any reasonable time in order to determine the state  
 4032 of compliance with the provisions of this part and rules in  
 4033 force pursuant thereto. ~~The right of entry and inspection shall~~  
 4034 ~~also extend to any premises which the agency has reason to~~  
 4035 ~~believe is being operated or maintained as a facility without a~~  
 4036 ~~license, but no such entry or inspection of any premises shall~~  
 4037 ~~be made without the permission of the owner or person in charge~~  
 4038 ~~thereof, unless a warrant is first obtained from the circuit~~  
 4039 ~~court authorizing same. Any application for a facility license~~  
 4040 ~~or renewal thereof, made pursuant to this part, shall constitute~~  
 4041 ~~permission for and complete acquiescence in any entry or~~  
 4042 ~~inspection of the premises for which the license is sought, in~~  
 4043 ~~order to facilitate verification of the information submitted on~~  
 4044 ~~or in connection with the application; to discover, investigate,~~  
 4045 ~~and determine the existence of abuse or neglect; or to elicit,~~  
 4046 ~~receive, respond to, and resolve complaints.~~ The agency shall,  
 4047 within 60 days after receipt of a complaint made by a resident  
 4048 or resident's representative, complete its investigation and  
 4049 provide to the complainant its findings and resolution.

4050           (2) The agency shall coordinate nursing home facility  
 4051      licensing activities and responsibilities of any duly designated  
 4052      officer or employee involved in nursing home facility inspection  
 4053      to assure necessary, equitable, and consistent supervision of  
 4054      inspection personnel without unnecessary duplication of  
 4055      inspections, consultation services, or complaint investigations.  
 4056      ~~To facilitate such coordination, all rules promulgated by the~~  
 4057      ~~agency pursuant to this part shall be distributed to nursing~~  
 4058      ~~homes licensed under s. 400.062 30 days prior to implementation.~~  
 4059      ~~This requirement does not apply to emergency rules.~~

4060           (3) The agency shall every 15 months conduct at least one  
 4061      unannounced inspection to determine compliance by the licensee  
 4062      with statutes, and with rules promulgated under the provisions  
 4063      of those statutes, governing minimum standards of construction,  
 4064      quality and adequacy of care, and rights of residents. The  
 4065      survey shall be conducted every 6 months for the next 2-year  
 4066      period if the facility has been cited for a class I deficiency,  
 4067      has been cited for two or more class II deficiencies arising  
 4068      from separate surveys or investigations within a 60-day period,  
 4069      or has had three or more substantiated complaints within a 6-  
 4070      month period, each resulting in at least one class I or class II  
 4071      deficiency. In addition to any other fees or fines in this part,  
 4072      the agency shall assess a fine for each facility that is subject  
 4073      to the 6-month survey cycle. The fine for the 2-year period  
 4074      shall be \$6,000, ~~one-half to be paid at the completion of each~~  
 4075      ~~survey.~~ The agency may adjust this fine by the change in the  
 4076      Consumer Price Index, based on the 12 months immediately  
 4077      preceding the increase, to cover the cost of the additional

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4078 surveys. The agency shall verify through subsequent inspection  
 4079 that any deficiency identified during ~~the annual~~ inspection is  
 4080 corrected. However, the agency may verify the correction of a  
 4081 ~~class III or~~ class IV deficiency unrelated to resident rights or  
 4082 resident care without reinspecting the facility if adequate  
 4083 written documentation has been received from the facility, which  
 4084 provides assurance that the deficiency has been corrected. The  
 4085 giving or causing to be given of advance notice of such  
 4086 unannounced inspections by an employee of the agency to any  
 4087 unauthorized person shall constitute cause for suspension of not  
 4088 fewer than 5 working days according to the provisions of chapter  
 4089 110.

4090 Section 80. Section 400.191, Florida Statutes, is amended  
 4091 to read:

4092 400.191 Availability, distribution, and posting of reports  
 4093 and records.--

4094 (1) The agency shall provide information to the public  
 4095 about all of the licensed nursing home facilities operating in  
 4096 the state. The agency shall, within 60 days after an annual  
 4097 inspection visit or within 30 days after any interim visit to a  
 4098 facility, send copies of the inspection reports to the local  
 4099 long-term care ombudsman council, the agency's local office, and  
 4100 a public library or the county seat for the county in which the  
 4101 facility is located. The agency may provide electronic access to  
 4102 inspection reports as a substitute for sending copies.

4103 (2) The agency shall publish the Nursing Home Guide  
 4104 ~~provide additional information~~ in consumer-friendly printed and

4105 electronic formats to assist consumers and their families in  
4106 comparing and evaluating nursing home facilities.

4107 (a) The agency shall provide an Internet site which shall  
4108 include at least the following information either directly or  
4109 indirectly through a link to another established site or sites  
4110 of the agency's choosing:

4111 1. A list by name and address of all nursing home  
4112 facilities in this state, including any prior name a facility  
4113 was known by during the previous 12-month period.

4114 2. Whether such nursing home facilities are proprietary or  
4115 nonproprietary.

4116 3. The current owner of the facility's license and the  
4117 year that that entity became the owner of the license.

4118 4. The name of the owner or owners of each facility and  
4119 whether the facility is affiliated with a company or other  
4120 organization owning or managing more than one nursing facility  
4121 in this state.

4122 5. The total number of beds in each facility and the most  
4123 recently available occupancy levels.

4124 6. The number of private and semiprivate rooms in each  
4125 facility.

4126 7. The religious affiliation, if any, of each facility.

4127 8. The languages spoken by the administrator and staff of  
4128 each facility.

4129 9. Whether or not each facility accepts Medicare or  
4130 Medicaid recipients or insurance, health maintenance  
4131 organization, Veterans Administration, CHAMPUS program, or  
4132 workers' compensation coverage.

4133           10. Recreational and other programs available at each  
4134 facility.

4135           11. Special care units or programs offered at each  
4136 facility.

4137           12. Whether the facility is a part of a retirement  
4138 community that offers other services pursuant to part III, part  
4139 IV, or part V.

4140           13. Survey and deficiency information ~~contained on the~~  
4141 ~~Online Survey Certification and Reporting (OSCAR) system of the~~  
4142 ~~federal Health Care Financing Administration, including all~~  
4143 federal and state recertification, licensure annual survey,  
4144 revisit, and complaint survey information, for each facility for  
4145 the past 30 ~~45~~ months. For noncertified nursing homes, state  
4146 survey and deficiency information, including licensure annual  
4147 survey, revisit, and complaint survey information for the past  
4148 30 ~~45~~ months shall be provided.

4149           14. A summary of the deficiency ~~Online Survey~~  
4150 ~~Certification and Reporting (OSCAR)~~ data for each facility over  
4151 the past 30 ~~45~~ months. Such summary may include a score, rating,  
4152 or comparison ranking with respect to other facilities based on  
4153 the number of citations received by the facility on  
4154 recertification, licensure ~~of annual~~, revisit, and complaint  
4155 surveys; the severity and scope of the citations; and the number  
4156 of ~~annual~~ recertification surveys the facility has had during  
4157 the past 30 ~~45~~ months. The score, rating, or comparison ranking  
4158 may be presented in either numeric or symbolic form for the  
4159 intended consumer audience.

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- 4160 (b) The agency shall provide the following information in  
4161 printed form:
- 4162 1. A list by name and address of all nursing home  
4163 facilities in this state.
  - 4164 2. Whether such nursing home facilities are proprietary or  
4165 nonproprietary.
  - 4166 3. The current owner or owners of the facility's license  
4167 and the year that entity became the owner of the license.
  - 4168 4. The total number of beds, and of private and  
4169 semiprivate rooms, in each facility.
  - 4170 5. The religious affiliation, if any, of each facility.
  - 4171 6. The name of the owner of each facility and whether the  
4172 facility is affiliated with a company or other organization  
4173 owning or managing more than one nursing facility in this state.
  - 4174 7. The languages spoken by the administrator and staff of  
4175 each facility.
  - 4176 8. Whether or not each facility accepts Medicare or  
4177 Medicaid recipients or insurance, health maintenance  
4178 organization, Veterans Administration, CHAMPUS program, or  
4179 workers' compensation coverage.
  - 4180 9. Recreational programs, special care units, and other  
4181 programs available at each facility.
  - 4182 10. The Internet address for the site where more detailed  
4183 information can be seen.
  - 4184 11. A statement advising consumers that each facility will  
4185 have its own policies and procedures related to protecting  
4186 resident property.

4187           12. A summary of the deficiency ~~Online Survey~~  
 4188 ~~Certification and Reporting (OSCAR)~~ data for each facility over  
 4189 the past 45 months. Such summary may include a score, rating, or  
 4190 comparison ranking with respect to other facilities based on the  
 4191 number of citations received by the facility on recertification,  
 4192 licensure ~~annual~~, revisit, and complaint surveys; the severity  
 4193 and scope of the citations; the number of citations; and the  
 4194 number of ~~annual~~ recertification surveys the facility has had  
 4195 during the past 30 ~~45~~ months. The score, rating, or comparison  
 4196 ranking may be presented in either numeric or symbolic form for  
 4197 the intended consumer audience.

4198           ~~(c) For purposes of this subsection, references to the~~  
 4199 ~~Online Survey Certification and Reporting (OSCAR) system shall~~  
 4200 ~~refer to any future system that the Health Care Financing~~  
 4201 ~~Administration develops to replace the current OSCAR system.~~

4202           (c)~~(d)~~ The agency may provide the following additional  
 4203 information on an Internet site or in printed form as the  
 4204 information becomes available:

- 4205           1. The licensure status history of each facility.
- 4206           2. The rating history of each facility.
- 4207           3. The regulatory history of each facility, which may  
 4208 include federal sanctions, state sanctions, federal fines, state  
 4209 fines, and other actions.
- 4210           4. Whether the facility currently possesses the Gold Seal  
 4211 designation awarded pursuant to s. 400.235.
- 4212           5. Internet links to the Internet sites of the facilities  
 4213 or their affiliates.



4214 (3) Each nursing home facility licensee shall maintain as  
 4215 public information, available upon request, records of all cost  
 4216 and inspection reports pertaining to that facility that have  
 4217 been filed with, or issued by, any governmental agency. Copies  
 4218 of such reports shall be retained in such records for not less  
 4219 than 5 years from the date the reports are filed or issued.

4220 (a) The agency shall ~~quarterly~~ publish in the Nursing Home  
 4221 Guide a "Nursing Home Guide Watch List" to assist consumers in  
 4222 evaluating the quality of nursing home care in Florida. The  
 4223 watch list must identify each facility that met the criteria for  
 4224 a conditional licensure status to be noticed as specified in  
 4225 this section ~~on any day within the quarter covered by the list~~  
 4226 and each facility that is ~~was~~ operating under bankruptcy  
 4227 protection ~~on any day within the quarter~~. The watch list must  
 4228 include, but is not limited to, the facility's name, address,  
 4229 and ownership; the county in which the facility operates; the  
 4230 license expiration date; the number of licensed beds; a  
 4231 description of the deficiency causing the facility to be placed  
 4232 on the list; any corrective action taken; and the cumulative  
 4233 number of days and percentage of days ~~times~~ the facility had a  
 4234 conditional license in the past 30 months ~~has been on a watch~~  
 4235 ~~list~~. The watch list must include a brief description regarding  
 4236 how to choose a nursing home, the categories of licensure, the  
 4237 agency's inspection process, an explanation of terms used in the  
 4238 watch list, and the addresses and phone numbers of the agency's  
 4239 ~~managed care and health quality assurance field area~~ offices.

4240 (b) Upon publication of each quarterly Nursing Home Guide  
 4241 ~~watch list~~, the agency must post ~~transmit~~ a copy on its website

4242 by the 15th calendar day 2 months following the end of the  
 4243 calendar quarter. Each nursing home licensee must retrieve the  
 4244 most recent version of the Nursing Home Guide from ~~of the watch~~  
 4245 ~~list to each nursing home facility by mail and must make the~~  
 4246 ~~watch list available on the agency's Internet website.~~

4247 (4) Any records of a nursing home facility determined by  
 4248 the agency to be necessary and essential to establish lawful  
 4249 compliance with any rules or standards shall be made available  
 4250 to the agency on the premises of the facility and submitted to  
 4251 the agency. Each facility must submit this information  
 4252 electronically when electronic transmission to the agency is  
 4253 available.

4254 (5) Every nursing home facility licensee shall:

4255 (a) Post, in a sufficient number of prominent positions in  
 4256 the nursing home so as to be accessible to all residents and to  
 4257 the general public:

4258 1. A concise summary of the last inspection report  
 4259 pertaining to the nursing home and issued by the agency, with  
 4260 references to the page numbers of the full reports, noting any  
 4261 deficiencies found by the agency and the actions taken by the  
 4262 licensee to rectify such deficiencies and indicating in such  
 4263 summaries where the full reports may be inspected in the nursing  
 4264 home.

4265 2. A copy of all pages listing the facility from the most  
 4266 recent version of the Florida Nursing Home Guide ~~Watch List~~.

4267 (b) Upon request, provide to any person who has completed  
 4268 a written application with an intent to be admitted to, or to  
 4269 any resident of, such nursing home, or to any relative, spouse,

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4270 or guardian of such person, a copy of the last inspection report  
 4271 pertaining to the nursing home and issued by the agency,  
 4272 provided the person requesting the report agrees to pay a  
 4273 reasonable charge to cover copying costs.

4274 (6) The agency may adopt rules as necessary to administer  
 4275 this section.

4276 Section 81. Section 400.20, Florida Statutes, is amended  
 4277 to read:

4278 400.20 Licensed nursing home administrator required.--A ~~No~~  
 4279 nursing home may not shall operate except under the supervision  
 4280 of a licensed nursing home administrator, and a ~~ne~~ person may  
 4281 not shall be a nursing home administrator unless he or she holds  
 4282 ~~is the holder of~~ a current license as provided in chapter 468.

4283 Section 82. Subsections (2), (7), and (8) of section  
 4284 400.23, Florida Statutes, are amended to read:

4285 400.23 Rules; evaluation and deficiencies; licensure  
 4286 status.--

4287 (2) Pursuant to the intention of the Legislature, the  
 4288 agency, in consultation with the Department of Health and the  
 4289 Department of Elderly Affairs, shall adopt and enforce rules to  
 4290 implement this part and part II of chapter 408, which shall  
 4291 include reasonable and fair criteria in relation to:

4292 (a) The location of the facility and housing conditions  
 4293 that will ensure the health, safety, and comfort of residents,  
 4294 including an adequate call system. In making such rules, the  
 4295 agency shall be guided by criteria recommended by nationally  
 4296 recognized reputable professional groups and associations with  
 4297 knowledge of such subject matters. The agency shall update or

4298 | revise such criteria as the need arises. The agency may require  
 4299 | alterations to a building if it determines that an existing  
 4300 | condition constitutes a distinct hazard to life, health, or  
 4301 | safety. In performing any inspections of facilities authorized  
 4302 | by this part, the agency may enforce the special-occupancy  
 4303 | provisions of the Florida Building Code and the Florida Fire  
 4304 | Prevention Code which apply to nursing homes. The agency is  
 4305 | directed to provide assistance to the Florida Building  
 4306 | Commission in updating the construction standards of the code  
 4307 | relative to nursing homes. During the care planning process, a  
 4308 | resident shall be able to choose the placement of the bed in his  
 4309 | or her room, provided the requirements of the Florida Building  
 4310 | Code are met through alternate methods or equivalencies and the  
 4311 | request does not infringe on the resident's roommate or  
 4312 | interfere with the resident's care needs as determined by the  
 4313 | care planning team.

4314 |         (b) The number and qualifications of all personnel,  
 4315 | including management, medical, nursing, and other professional  
 4316 | personnel, and nursing assistants, orderlies, and support  
 4317 | personnel, having responsibility for any part of the care given  
 4318 | residents.

4319 |         (c) All sanitary conditions within the facility and its  
 4320 | surroundings, including water supply, sewage disposal, food  
 4321 | handling, and general hygiene which will ensure the health and  
 4322 | comfort of residents.

4323 |         (d) The equipment essential to the health and welfare of  
 4324 | the residents.

4325 |         (e) A uniform accounting system.

4326 (f) The care, treatment, and maintenance of residents and  
 4327 measurement of the quality and adequacy thereof, based on rules  
 4328 developed under this chapter and the Omnibus Budget  
 4329 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
 4330 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
 4331 Programs), Subtitle C (Nursing Home Reform), as amended.

4332 (g) The preparation and annual update of a comprehensive  
 4333 emergency management plan. The agency shall adopt rules  
 4334 establishing minimum criteria for the plan after consultation  
 4335 with the Department of Community Affairs. At a minimum, the  
 4336 rules must provide for plan components that address emergency  
 4337 evacuation transportation; adequate sheltering arrangements;  
 4338 postdisaster activities, including emergency power, food, and  
 4339 water; postdisaster transportation; supplies; staffing;  
 4340 emergency equipment; individual identification of residents and  
 4341 transfer of records; and responding to family inquiries. The  
 4342 comprehensive emergency management plan is subject to review and  
 4343 approval by the local emergency management agency. During its  
 4344 review, the local emergency management agency shall ensure that  
 4345 the following agencies, at a minimum, are given the opportunity  
 4346 to review the plan: the Department of Elderly Affairs, the  
 4347 Department of Health, the Agency for Health Care Administration,  
 4348 and the Department of Community Affairs. Also, appropriate  
 4349 volunteer organizations must be given the opportunity to review  
 4350 the plan. The local emergency management agency shall complete  
 4351 its review within 60 days and either approve the plan or advise  
 4352 the facility of necessary revisions.

4353 (h) The availability, distribution, and posting of reports  
 4354 and records pursuant to s. 400.191 and the Gold Seal Program  
 4355 pursuant to s. 400.235.

4356 (7) The agency shall, at least every 15 months, evaluate  
 4357 all nursing home facilities and make a determination as to the  
 4358 degree of compliance by each licensee with the established rules  
 4359 adopted under this part as a basis for assigning a licensure  
 4360 status to that facility. The agency shall base its evaluation on  
 4361 the most recent inspection report, taking into consideration  
 4362 findings from other official reports, surveys, interviews,  
 4363 investigations, and inspections. The agency shall assign a  
 4364 licensure status of standard or conditional to each nursing  
 4365 home.

4366 (a) A standard licensure status means that a facility has  
 4367 no class I or class II deficiencies and has corrected all class  
 4368 III deficiencies within the time established by the agency.

4369 (b) A conditional licensure status means that a facility,  
 4370 due to the presence of one or more class I or class II  
 4371 deficiencies, or class III deficiencies not corrected within the  
 4372 time established by the agency, is not in substantial compliance  
 4373 at the time of the survey with criteria established under this  
 4374 part or with rules adopted by the agency. If the facility has no  
 4375 class I, class II, or class III deficiencies at the time of the  
 4376 followup survey, a standard licensure status may be assigned.

4377 (c) In evaluating the overall quality of care and services  
 4378 and determining whether the facility will receive a conditional  
 4379 or standard license, the agency shall consider the needs and  
 4380 limitations of residents in the facility and the results of

4381 interviews and surveys of a representative sampling of  
 4382 residents, families of residents, ombudsman council members in  
 4383 the planning and service area in which the facility is located,  
 4384 guardians of residents, and staff of the nursing home facility.

4385 (d) The current licensure status of each facility must be  
 4386 indicated in bold print on the face of the license. A list of  
 4387 the deficiencies of the facility shall be posted in a prominent  
 4388 place that is in clear and unobstructed public view at or near  
 4389 the place where residents are being admitted to that facility.  
 4390 Licensees receiving a conditional licensure status for a  
 4391 facility shall prepare, within 10 working days after receiving  
 4392 notice of deficiencies, a plan for correction of all  
 4393 deficiencies and shall submit the plan to the agency for  
 4394 approval.

4395 ~~(e) Each licensee shall post its license in a prominent~~  
 4396 ~~place that is in clear and unobstructed public view at or near~~  
 4397 ~~the place where residents are being admitted to the facility.~~

4398 (e)~~(f)~~ The agency shall adopt rules that:

4399 1. Establish uniform procedures for the evaluation of  
 4400 facilities.

4401 2. Provide criteria in the areas referenced in paragraph  
 4402 (c).

4403 3. Address other areas necessary for carrying out the  
 4404 intent of this section.

4405 (8) The agency shall adopt rules pursuant to this part and  
 4406 part II of chapter 408 to provide that, when the criteria  
 4407 established under subsection (2) are not met, such deficiencies  
 4408 shall be classified according to the nature and the scope of the

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4409 deficiency. The scope shall be cited as isolated, patterned, or  
4410 widespread. An isolated deficiency is a deficiency affecting one  
4411 or a very limited number of residents, or involving one or a  
4412 very limited number of staff, or a situation that occurred only  
4413 occasionally or in a very limited number of locations. A  
4414 patterned deficiency is a deficiency where more than a very  
4415 limited number of residents are affected, or more than a very  
4416 limited number of staff are involved, or the situation has  
4417 occurred in several locations, or the same resident or residents  
4418 have been affected by repeated occurrences of the same deficient  
4419 practice but the effect of the deficient practice is not found  
4420 to be pervasive throughout the facility. A widespread deficiency  
4421 is a deficiency in which the problems causing the deficiency are  
4422 pervasive in the facility or represent systemic failure that has  
4423 affected or has the potential to affect a large portion of the  
4424 facility's residents. The agency shall indicate the  
4425 classification on the face of the notice of deficiencies as  
4426 follows:

4427 (a) A class I deficiency is a deficiency that the agency  
4428 determines presents a situation in which immediate corrective  
4429 action is necessary because the facility's noncompliance has  
4430 caused, or is likely to cause, serious injury, harm, impairment,  
4431 or death to a resident receiving care in a facility. The  
4432 condition or practice constituting a class I violation shall be  
4433 abated or eliminated immediately, unless a fixed period of time,  
4434 as determined by the agency, is required for correction. A class  
4435 I deficiency is subject to a civil penalty of \$10,000 for an  
4436 isolated deficiency, \$12,500 for a patterned deficiency, and



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4437 \$15,000 for a widespread deficiency. The fine amount shall be  
 4438 doubled for each deficiency if the facility was previously cited  
 4439 for one or more class I or class II deficiencies during the last  
 4440 annual inspection or any inspection or complaint investigation  
 4441 since the last annual inspection. A fine must be levied  
 4442 notwithstanding the correction of the deficiency.

4443 (b) A class II deficiency is a deficiency that the agency  
 4444 determines has compromised the resident's ability to maintain or  
 4445 reach his or her highest practicable physical, mental, and  
 4446 psychosocial well-being, as defined by an accurate and  
 4447 comprehensive resident assessment, plan of care, and provision  
 4448 of services. A class II deficiency is subject to a civil penalty  
 4449 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
 4450 deficiency, and \$7,500 for a widespread deficiency. The fine  
 4451 amount shall be doubled for each deficiency if the facility was  
 4452 previously cited for one or more class I or class II  
 4453 deficiencies during the last licensure ~~annual~~ inspection or any  
 4454 inspection or complaint investigation since the last licensure  
 4455 ~~annual~~ inspection. A fine shall be levied notwithstanding the  
 4456 correction of the deficiency.

4457 (c) A class III deficiency is a deficiency that the agency  
 4458 determines will result in no more than minimal physical, mental,  
 4459 or psychosocial discomfort to the resident or has the potential  
 4460 to compromise the resident's ability to maintain or reach his or  
 4461 her highest practical physical, mental, or psychosocial well-  
 4462 being, as defined by an accurate and comprehensive resident  
 4463 assessment, plan of care, and provision of services. A class III  
 4464 deficiency is subject to a civil penalty of \$1,000 for an

4465 isolated deficiency, \$2,000 for a patterned deficiency, and  
 4466 \$3,000 for a widespread deficiency. The fine amount shall be  
 4467 doubled for each deficiency if the facility was previously cited  
 4468 for one or more class I or class II deficiencies during the last  
 4469 licensure annual inspection or any inspection or complaint  
 4470 investigation since the last annual inspection. A citation for a  
 4471 class III deficiency must specify the time within which the  
 4472 deficiency is required to be corrected. If a class III  
 4473 deficiency is corrected within the time specified, no civil  
 4474 penalty shall be imposed.

4475 (d) A class IV deficiency is a deficiency that the agency  
 4476 determines has the potential for causing no more than a minor  
 4477 negative impact on the resident. If the class IV deficiency is  
 4478 isolated, no plan of correction is required.

4479 Section 83. Subsections (3) and (4) of section 400.241,  
 4480 Florida Statutes, are renumbered as subsections (1) and (2),  
 4481 respectively, and present subsections (1) and (2) of said  
 4482 section are amended to read:

4483 400.241 Prohibited acts; penalties for violations.--

4484 ~~(1) It is unlawful for any person or public body to~~  
 4485 ~~establish, conduct, manage, or operate a home as defined in this~~  
 4486 ~~part without obtaining a valid current license.~~

4487 ~~(2) It is unlawful for any person or public body to offer~~  
 4488 ~~or advertise to the public, in any way by any medium whatever,~~  
 4489 ~~nursing home care or service or custodial services without~~  
 4490 ~~obtaining a valid current license. It is unlawful for any holder~~  
 4491 ~~of a license issued pursuant to the provisions of this part to~~  
 4492 ~~advertise or hold out to the public that it holds a license for~~

4493 a facility other than that for which it actually holds a  
 4494 license.

4495 Section 84. Subsections (6) through (27) of section  
 4496 400.402, Florida Statutes, are renumbered as subsections (5)  
 4497 through (26), respectively, and present subsections (5), (12),  
 4498 (14), (17), and (20) are amended to read:

4499 400.402 Definitions.--When used in this part, the term:

4500 ~~(5) "Applicant" means an individual owner, corporation,~~  
 4501 ~~partnership, firm, association, or governmental entity that~~  
 4502 ~~applies for a license.~~

4503 (11)~~(12)~~ "Extended congregate care" means acts beyond  
 4504 those authorized in subsection (16) ~~(17)~~ that may be performed  
 4505 pursuant to part I of chapter 464 by persons licensed thereunder  
 4506 while carrying out their professional duties, and other  
 4507 supportive services which may be specified by rule. The purpose  
 4508 of such services is to enable residents to age in place in a  
 4509 residential environment despite mental or physical limitations  
 4510 that might otherwise disqualify them from residency in a  
 4511 facility licensed under this part.

4512 (13)~~(14)~~ "Limited nursing services" means acts that may be  
 4513 performed pursuant to part I of chapter 464 by persons licensed  
 4514 thereunder while carrying out their professional duties but  
 4515 limited to those acts which the agency ~~department~~ specifies by  
 4516 rule. Acts which may be specified by rule as allowable limited  
 4517 nursing services shall be for persons who meet the admission  
 4518 criteria established by the agency ~~department~~ for assisted  
 4519 living facilities and shall not be complex enough to require 24-  
 4520 hour nursing supervision and may include such services as the

4521 application and care of routine dressings, and care of casts,  
 4522 braces, and splints.

4523 ~~(16)~~~~(17)~~ "Personal services" means direct physical  
 4524 assistance with or supervision of the activities of daily living  
 4525 and the self-administration of medication and other similar  
 4526 services which the agency ~~department~~ may define by rule.

4527 "Personal services" shall not be construed to mean the provision  
 4528 of medical, nursing, dental, or mental health services.

4529 ~~(19)~~~~(20)~~ "Resident" means a person 18 years of age or  
 4530 older, residing in and receiving care from a facility, including  
 4531 a person receiving services pursuant to s. 400.553(2).

4532 Section 85. Section 400.407, Florida Statutes, is amended  
 4533 to read:

4534 400.407 License required; fee, ~~display.~~--

4535 (1) The requirements of part II of chapter 408 shall apply  
 4536 to the provision of services that require licensure pursuant  
 4537 this part and part II of chapter 408 and to entities licensed by  
 4538 or applying for such licensure from the agency pursuant to this  
 4539 part. However, each applicant for licensure and each licensee is  
 4540 exempt from s. 408.810(10). ~~A license issued by the agency is~~  
 4541 ~~required for an assisted living facility operating in this~~  
 4542 ~~state.~~

4543 (2) Separate licenses shall be required for facilities  
 4544 maintained in separate premises, even though operated under the  
 4545 same management. A separate license shall not be required for  
 4546 separate buildings on the same grounds.

4547 (3) In addition to the requirements of 408.806, each ~~Any~~  
 4548 license granted by the agency must state ~~the maximum resident~~

4549 ~~capacity of the facility,~~ the type of care for which the license  
 4550 is granted, ~~the date the license is issued, the expiration date~~  
 4551 ~~of the license, and any other information deemed necessary by~~  
 4552 ~~the agency.~~ Licenses shall be issued for one or more of the  
 4553 following categories of care: standard, extended congregate  
 4554 care, limited nursing services, or limited mental health.

4555 (a) A standard license shall be issued to facilities  
 4556 providing one or more of the personal services identified in s.  
 4557 400.402. Such facilities may also employ or contract with a  
 4558 person licensed under part I of chapter 464 to administer  
 4559 medications and perform other tasks as specified in s. 400.4255.

4560 (b) An extended congregate care license shall be issued to  
 4561 facilities providing, directly or through contract, services  
 4562 beyond those authorized in paragraph (a), including acts  
 4563 performed pursuant to part I of chapter 464 by persons licensed  
 4564 thereunder, and supportive services defined by rule to persons  
 4565 who otherwise would be disqualified from continued residence in  
 4566 a facility licensed under this part.

4567 1. In order for extended congregate care services to be  
 4568 provided in a facility licensed under this part, the agency must  
 4569 first determine that all requirements established in law and  
 4570 rule are met and must specifically designate, on the facility's  
 4571 license, that such services may be provided and whether the  
 4572 designation applies to all or part of a facility. Such  
 4573 designation may be made at the time of initial licensure or  
 4574 relicensure, or upon request in writing by a licensee under this  
 4575 part and part II of chapter 408. Notification of approval or  
 4576 denial of such request shall be made in accordance with part II

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4577 of chapter 408 ~~within 90 days after receipt of such request and~~  
4578 ~~all necessary documentation.~~ Existing facilities qualifying to  
4579 provide extended congregate care services must have maintained a  
4580 standard license and may not have been subject to administrative  
4581 sanctions during the previous 2 years, or since initial  
4582 licensure if the facility has been licensed for less than 2  
4583 years, for any of the following reasons:

- 4584 a. A class I or class II violation;
- 4585 b. Three or more repeat or recurring class III violations  
4586 of identical or similar resident care standards as specified in  
4587 rule from which a pattern of noncompliance is found by the  
4588 agency;
- 4589 c. Three or more class III violations that were not  
4590 corrected in accordance with the corrective action plan approved  
4591 by the agency;
- 4592 d. Violation of resident care standards resulting in a  
4593 requirement to employ the services of a consultant pharmacist or  
4594 consultant dietitian;
- 4595 e. Denial, suspension, or revocation of a license for  
4596 another facility under this part in which the applicant for an  
4597 extended congregate care license has at least 25 percent  
4598 ownership interest; or
- 4599 f. Imposition of a moratorium ~~on admissions~~ or initiation  
4600 of injunctive proceedings.

4601 2. Facilities that are licensed to provide extended  
4602 congregate care services shall maintain a written progress  
4603 report on each person who receives such services, which report  
4604 describes the type, amount, duration, scope, and outcome of

4605 services that are rendered and the general status of the  
 4606 resident's health. A registered nurse, or appropriate designee,  
 4607 representing the agency shall visit such facilities at least  
 4608 quarterly to monitor residents who are receiving extended  
 4609 congregate care services and to determine if the facility is in  
 4610 compliance with this part, part II of chapter 408, and ~~with~~  
 4611 rules that relate to extended congregate care. One of these  
 4612 visits may be in conjunction with the regular survey. The  
 4613 monitoring visits may be provided through contractual  
 4614 arrangements with appropriate community agencies. A registered  
 4615 nurse shall serve as part of the team that inspects such  
 4616 facility. The agency may waive one of the required yearly  
 4617 monitoring visits for a facility that has been licensed for at  
 4618 least 24 months to provide extended congregate care services,  
 4619 if, during the inspection, the registered nurse determines that  
 4620 extended congregate care services are being provided  
 4621 appropriately, and if the facility has no class I or class II  
 4622 violations and no uncorrected class III violations. Before such  
 4623 decision is made, the agency shall consult with the long-term  
 4624 care ombudsman council for the area in which the facility is  
 4625 located to determine if any complaints have been made and  
 4626 substantiated about the quality of services or care. The agency  
 4627 may not waive one of the required yearly monitoring visits if  
 4628 complaints have been made and substantiated.

4629 3. Facilities that are licensed to provide extended  
 4630 congregate care services shall:

4631 a. Demonstrate the capability to meet unanticipated  
 4632 resident service needs.

4633           b. Offer a physical environment that promotes a homelike  
 4634 setting, provides for resident privacy, promotes resident  
 4635 independence, and allows sufficient congregate space as defined  
 4636 by rule.

4637           c. Have sufficient staff available, taking into account  
 4638 the physical plant and firesafety features of the building, to  
 4639 assist with the evacuation of residents in an emergency, as  
 4640 necessary.

4641           d. Adopt and follow policies and procedures that maximize  
 4642 resident independence, dignity, choice, and decisionmaking to  
 4643 permit residents to age in place to the extent possible, so that  
 4644 moves due to changes in functional status are minimized or  
 4645 avoided.

4646           e. Allow residents or, if applicable, a resident's  
 4647 representative, designee, surrogate, guardian, or attorney in  
 4648 fact to make a variety of personal choices, participate in  
 4649 developing service plans, and share responsibility in  
 4650 decisionmaking.

4651           f. Implement the concept of managed risk.

4652           g. Provide, either directly or through contract, the  
 4653 services of a person licensed pursuant to part I of chapter 464.

4654           h. In addition to the training mandated in s. 400.452,  
 4655 provide specialized training as defined by rule for facility  
 4656 staff.

4657           4. Facilities licensed to provide extended congregate care  
 4658 services are exempt from the criteria for continued residency as  
 4659 set forth in rules adopted under s. 400.441. Facilities so  
 4660 licensed shall adopt their own requirements within guidelines



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4661 for continued residency set forth by ~~the department in~~ rule.  
4662 However, such facilities may not serve residents who require 24-  
4663 hour nursing supervision. Facilities licensed to provide  
4664 extended congregate care services shall provide each resident  
4665 with a written copy of facility policies governing admission and  
4666 retention.

4667 5. The primary purpose of extended congregate care  
4668 services is to allow residents, as they become more impaired,  
4669 the option of remaining in a familiar setting from which they  
4670 would otherwise be disqualified for continued residency. A  
4671 facility licensed to provide extended congregate care services  
4672 may also admit an individual who exceeds the admission criteria  
4673 for a facility with a standard license, if the individual is  
4674 determined appropriate for admission to the extended congregate  
4675 care facility.

4676 6. Before admission of an individual to a facility  
4677 licensed to provide extended congregate care services, the  
4678 individual must undergo a medical examination as provided in s.  
4679 400.426(4) and the facility must develop a preliminary service  
4680 plan for the individual.

4681 7. When a facility can no longer provide or arrange for  
4682 services in accordance with the resident's service plan and  
4683 needs and the facility's policy, the facility shall make  
4684 arrangements for relocating the person in accordance with s.  
4685 400.428(1)(k).

4686 8. Failure to provide extended congregate care services  
4687 may result in denial of extended congregate care license  
4688 renewal.

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4689           9. No later than January 1 of each year, ~~the department,~~  
4690 ~~in consultation with~~ the agency, shall prepare and submit to the  
4691 Governor, the President of the Senate, the Speaker of the House  
4692 of Representatives, and the chairs of appropriate legislative  
4693 committees, a report on the status of, and recommendations  
4694 related to, extended congregate care services. The status report  
4695 must include, but need not be limited to, the following  
4696 information:

4697           a. A description of the facilities licensed to provide  
4698 such services, including total number of beds licensed under  
4699 this part.

4700           b. The number and characteristics of residents receiving  
4701 such services.

4702           c. The types of services rendered that could not be  
4703 provided through a standard license.

4704           d. An analysis of deficiencies cited during licensure  
4705 inspections.

4706           e. The number of residents who required extended  
4707 congregate care services at admission and the source of  
4708 admission.

4709           f. Recommendations for statutory or regulatory changes.

4710           g. The availability of extended congregate care to state  
4711 clients residing in facilities licensed under this part and in  
4712 need of additional services, and recommendations for  
4713 appropriations to subsidize extended congregate care services  
4714 for such persons.

4715           h. Such other information as the department considers  
4716 appropriate.

4717 (c) A limited nursing services license shall be issued to  
 4718 a facility that provides services beyond those authorized in  
 4719 paragraph (a) and as specified in this paragraph.

4720 1. In order for limited nursing services to be provided in  
 4721 a facility licensed under this part, the agency must first  
 4722 determine that all requirements established in law and rule are  
 4723 met and must specifically designate, on the facility's license,  
 4724 that such services may be provided. Such designation may be made  
 4725 at the time of initial licensure or relicensure, or upon request  
 4726 in writing by a licensee under this part and part II of chapter  
 4727 408. Notification of approval or denial of such request shall be  
 4728 made in accordance with part II of chapter 408 ~~within 90 days~~  
 4729 ~~after receipt of such request and all necessary documentation.~~  
 4730 Existing facilities qualifying to provide limited nursing  
 4731 services shall have maintained a standard license and may not  
 4732 have been subject to administrative sanctions that affect the  
 4733 health, safety, and welfare of residents for the previous 2  
 4734 years or since initial licensure if the facility has been  
 4735 licensed for less than 2 years.

4736 2. Facilities that are licensed to provide limited nursing  
 4737 services shall maintain a written progress report on each person  
 4738 who receives such nursing services, which report describes the  
 4739 type, amount, duration, scope, and outcome of services that are  
 4740 rendered and the general status of the resident's health. A  
 4741 registered nurse representing the agency shall visit such  
 4742 facilities at least twice a year to monitor residents who are  
 4743 receiving limited nursing services and to determine if the  
 4744 facility is in compliance with applicable provisions of this

4745 part, part II of chapter 408, and ~~with~~ related rules. The  
 4746 monitoring visits may be provided through contractual  
 4747 arrangements with appropriate community agencies. A registered  
 4748 nurse shall also serve as part of the team that inspects such  
 4749 facility.

4750 3. A person who receives limited nursing services under  
 4751 this part must meet the admission criteria established by the  
 4752 agency for assisted living facilities. When a resident no longer  
 4753 meets the admission criteria for a facility licensed under this  
 4754 part, arrangements for relocating the person shall be made in  
 4755 accordance with s. 400.428(1)(k), unless the facility is  
 4756 licensed to provide extended congregate care services.

4757 (4) In accordance with s. 408.805, an applicant or  
 4758 licensee shall pay a fee for each license application submitted  
 4759 under this part, part II of chapter 408, and applicable rules.  
 4760 The amount of the fee shall be established by rule.

4761 (a) The biennial license fee required of a facility is  
 4762 \$300 per license, with an additional fee of \$50 per resident  
 4763 based on the total licensed resident capacity of the facility,  
 4764 except that no additional fee will be assessed for beds  
 4765 designated for recipients of optional state supplementation  
 4766 payments provided for in s. 409.212. The total fee may not  
 4767 exceed \$10,000, no part of which shall be returned to the  
 4768 facility. ~~The agency shall adjust the per bed license fee and~~  
 4769 ~~the total licensure fee annually by not more than the change in~~  
 4770 ~~the consumer price index based on the 12 months immediately~~  
 4771 ~~preceding the increase.~~

4772 (b) In addition to the total fee assessed under paragraph  
 4773 (a), the agency shall require facilities that are licensed to  
 4774 provide extended congregate care services under this part to pay  
 4775 an additional fee per licensed facility. The amount of the  
 4776 biennial fee shall be \$400 per license, with an additional fee  
 4777 of \$10 per resident based on the total licensed resident  
 4778 capacity of the facility. No part of this fee shall be returned  
 4779 to the facility. ~~The agency may adjust the per bed license fee~~  
 4780 ~~and the annual license fee once each year by not more than the~~  
 4781 ~~average rate of inflation for the 12 months immediately~~  
 4782 ~~preceding the increase.~~

4783 (c) In addition to the total fee assessed under paragraph  
 4784 (a), the agency shall require facilities that are licensed to  
 4785 provide limited nursing services under this part to pay an  
 4786 additional fee per licensed facility. The amount of the biennial  
 4787 fee shall be \$250 per license, with an additional fee of \$10 per  
 4788 resident based on the total licensed resident capacity of the  
 4789 facility. No part of this fee shall be returned to the facility.  
 4790 ~~The agency may adjust the per bed license fee and the biennial~~  
 4791 ~~license fee once each year by not more than the average rate of~~  
 4792 ~~inflation for the 12 months immediately preceding the increase.~~

4793 (5) Counties or municipalities applying for licenses under  
 4794 this part are exempt from the payment of license fees.

4795 ~~(6) The license shall be displayed in a conspicuous place~~  
 4796 ~~inside the facility.~~

4797 ~~(7) A license shall be valid only in the possession of the~~  
 4798 ~~individual, firm, partnership, association, or corporation to~~  
 4799 ~~which it is issued and shall not be subject to sale, assignment,~~

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4800 ~~or other transfer, voluntary or involuntary; nor shall a license~~  
 4801 ~~be valid for any premises other than that for which originally~~  
 4802 ~~issued.~~

4803 ~~(8) A fee may be charged to a facility requesting a~~  
 4804 ~~duplicate license. The fee shall not exceed the actual cost of~~  
 4805 ~~duplication and postage.~~

4806 Section 86. Subsection (1) of section 400.4075, Florida  
 4807 Statutes, is amended to read:

4808 400.4075 Limited mental health license.--An assisted  
 4809 living facility that serves three or more mental health  
 4810 residents must obtain a limited mental health license.

4811 (1) To obtain a limited mental health license, a facility  
 4812 must hold a standard license as an assisted living facility,  
 4813 must not have any current uncorrected deficiencies or  
 4814 violations, and must ensure that, within 6 months after  
 4815 receiving a limited mental health license, the facility  
 4816 administrator and the staff of the facility who are in direct  
 4817 contact with mental health residents must complete training of  
 4818 no less than 6 hours related to their duties. Such designation  
 4819 may be made at the time of initial licensure or relicensure or  
 4820 upon request in writing by a licensee under this part and part  
 4821 II of chapter 408. Notification of approval or denial of such  
 4822 request shall be made in accordance with this part, part II of  
 4823 chapter 408, and applicable rules. This training will be  
 4824 provided by or approved by the Department of Children and Family  
 4825 Services.

4826 Section 87. Section 400.408, Florida Statutes, is amended  
 4827 to read:

4828           400.408 Unlicensed facilities; referral of person for  
 4829 residency to unlicensed facility; penalties; verification of  
 4830 licensure status.--

4831           ~~(1)(a) It is unlawful to own, operate, or maintain an~~  
 4832 ~~assisted living facility without obtaining a license under this~~  
 4833 ~~part.~~

4834           ~~(b) Except as provided under paragraph (d), any person who~~  
 4835 ~~owns, operates, or maintains an unlicensed assisted living~~  
 4836 ~~facility commits a felony of the third degree, punishable as~~  
 4837 ~~provided in s. 775.082, s. 775.083, or s. 775.084. Each day of~~  
 4838 ~~continued operation is a separate offense.~~

4839           ~~(c) Any person found guilty of violating paragraph (a) a~~  
 4840 ~~second or subsequent time commits a felony of the second degree,~~  
 4841 ~~punishable as provided under s. 775.082, s. 775.083, or s.~~  
 4842 ~~775.084. Each day of continued operation is a separate offense.~~

4843           ~~(d)~~ Any person who owns, operates, or maintains an  
 4844 unlicensed assisted living facility due to a change in this part  
 4845 or a modification in ~~department~~ rule within 6 months after the  
 4846 effective date of such change and who, within 10 working days  
 4847 after receiving notification from the agency, fails to cease  
 4848 operation or apply for a license under this part commits a  
 4849 felony of the third degree, punishable as provided in s.  
 4850 775.082, s. 775.083, or s. 775.084. Each day of continued  
 4851 operation is a separate offense.

4852           ~~(e) Any facility that fails to cease operation after~~  
 4853 ~~agency notification may be fined for each day of noncompliance~~  
 4854 ~~pursuant to s. 400.419.~~

4855           ~~(f) When a licensee has an interest in more than one~~  
 4856 ~~assisted living facility, and fails to license any one of these~~  
 4857 ~~facilities, the agency may revoke the license, impose a~~  
 4858 ~~moratorium, or impose a fine pursuant to s. 400.419, on any or~~  
 4859 ~~all of the licensed facilities until such time as the unlicensed~~  
 4860 ~~facility is licensed or ceases operation.~~

4861           ~~(g) If the agency determines that an owner is operating or~~  
 4862 ~~maintaining an assisted living facility without obtaining a~~  
 4863 ~~license and determines that a condition exists in the facility~~  
 4864 ~~that poses a threat to the health, safety, or welfare of a~~  
 4865 ~~resident of the facility, the owner is subject to the same~~  
 4866 ~~actions and fines imposed against a licensed facility as~~  
 4867 ~~specified in ss. 400.414 and 400.419.~~

4868           ~~(h) Any person aware of the operation of an unlicensed~~  
 4869 ~~assisted living facility must report that facility to the~~  
 4870 ~~agency. The agency shall provide to the department's elder~~  
 4871 ~~information and referral providers a list, by county, of~~  
 4872 ~~licensed assisted living facilities, to assist persons who are~~  
 4873 ~~considering an assisted living facility placement in locating a~~  
 4874 ~~licensed facility.~~

4875           (2)(i) Each field office of the Agency for Health Care  
 4876 Administration shall establish a local coordinating workgroup  
 4877 which includes representatives of local law enforcement  
 4878 agencies, state attorneys, the Medicaid Fraud Control Unit of  
 4879 the Department of Legal Affairs, local fire authorities, the  
 4880 Department of Children and Family Services, the district long-  
 4881 term care ombudsman council, and the district human rights  
 4882 advocacy committee to assist in identifying the operation of



4883 unlicensed facilities and to develop and implement a plan to  
 4884 ensure effective enforcement of state laws relating to such  
 4885 facilities. The workgroup shall report its findings, actions,  
 4886 and recommendations semiannually to the Director of Health  
 4887 Facility Regulation of the agency.

4888 (3)~~(2)~~ It is unlawful to knowingly refer a person for  
 4889 residency to an unlicensed assisted living facility; to an  
 4890 assisted living facility the license of which is under denial or  
 4891 has been suspended or revoked; or to an assisted living facility  
 4892 that has a moratorium pursuant to part II of chapter 408, on  
 4893 ~~admissions~~. Any person who violates this subsection commits a  
 4894 noncriminal violation, punishable by a fine not exceeding \$500  
 4895 as provided in s. 775.083.

4896 (a) Any health care practitioner, as defined in s.  
 4897 456.001, who is aware of the operation of an unlicensed facility  
 4898 shall report that facility to the agency. Failure to report a  
 4899 facility that the practitioner knows or has reasonable cause to  
 4900 suspect is unlicensed shall be reported to the practitioner's  
 4901 licensing board.

4902 (b) Any hospital or community mental health center  
 4903 licensed under chapter 395 or chapter 394 which knowingly  
 4904 discharges a patient or client to an unlicensed facility is  
 4905 subject to sanction by the agency.

4906 (c) Any employee of the agency or department, or the  
 4907 Department of Children and Family Services, who knowingly refers  
 4908 a person for residency to an unlicensed facility; to a facility  
 4909 the license of which is under denial or has been suspended or  
 4910 revoked; or to a facility that has a moratorium pursuant to part

4911 II of chapter 408 ~~on admissions~~ is subject to disciplinary  
 4912 action by the agency or department, or the Department of  
 4913 Children and Family Services.

4914 (d) The employer of any person who is under contract with  
 4915 the agency or department, or the Department of Children and  
 4916 Family Services, and who knowingly refers a person for residency  
 4917 to an unlicensed facility; to a facility the license of which is  
 4918 under denial or has been suspended or revoked; or to a facility  
 4919 that has a moratorium pursuant to part II of chapter 408 ~~on~~  
 4920 ~~admissions~~ shall be fined and required to prepare a corrective  
 4921 action plan designed to prevent such referrals.

4922 (e) The agency shall provide the department and the  
 4923 Department of Children and Family Services with a list of  
 4924 licensed facilities within each county and shall update the list  
 4925 at least quarterly.

4926 (f) At least annually, the agency shall notify, in  
 4927 appropriate trade publications, physicians licensed under  
 4928 chapter 458 or chapter 459, hospitals licensed under chapter  
 4929 395, nursing home facilities licensed under part II of this  
 4930 chapter, and employees of the agency or the department, or the  
 4931 Department of Children and Family Services, who are responsible  
 4932 for referring persons for residency, that it is unlawful to  
 4933 knowingly refer a person for residency to an unlicensed assisted  
 4934 living facility and shall notify them of the penalty for  
 4935 violating such prohibition. The department and the Department of  
 4936 Children and Family Services shall, in turn, notify service  
 4937 providers under contract to the respective departments who have  
 4938 responsibility for resident referrals to facilities. Further,

4939 the notice must direct each noticed facility and individual to  
 4940 contact the appropriate agency office in order to verify the  
 4941 licensure status of any facility prior to referring any person  
 4942 for residency. Each notice must include the name, telephone  
 4943 number, and mailing address of the appropriate office to  
 4944 contact.

4945 Section 88. Section 400.411, Florida Statutes, is amended  
 4946 to read:

4947 400.411 Initial application for license; provisional  
 4948 license.--

4949 (1) Each applicant for licensure must comply with all  
 4950 provisions of part II of chapter 408 and must: ~~Application for a~~  
 4951 ~~license shall be made to the agency on forms furnished by it and~~  
 4952 ~~shall be accompanied by the appropriate license fee.~~

4953 ~~(2) The applicant may be an individual owner, a~~  
 4954 ~~corporation, a partnership, a firm, an association, or a~~  
 4955 ~~governmental entity.~~

4956 ~~(3) The application must be signed by the applicant under~~  
 4957 ~~oath and must contain the following:~~

4958 ~~(a) The name, address, date of birth, and social security~~  
 4959 ~~number of the applicant and the name by which the facility is to~~  
 4960 ~~be known. If the applicant is a firm, partnership, or~~  
 4961 ~~association, the application shall contain the name, address,~~  
 4962 ~~date of birth, and social security number of every member~~  
 4963 ~~thereof. If the applicant is a corporation, the application~~  
 4964 ~~shall contain the corporation's name and address; the name,~~  
 4965 ~~address, date of birth, and social security number of each of~~  
 4966 ~~its directors and officers; and the name and address of each~~

4967 ~~person having at least a 5-percent ownership interest in the~~  
 4968 ~~corporation.~~

4969 ~~(b) The name and address of any professional service,~~  
 4970 ~~firm, association, partnership, or corporation that is to~~  
 4971 ~~provide goods, leases, or services to the facility if a 5-~~  
 4972 ~~percent or greater ownership interest in the service, firm,~~  
 4973 ~~association, partnership, or corporation is owned by a person~~  
 4974 ~~whose name must be listed on the application under paragraph~~  
 4975 ~~(a).~~

4976 ~~(c) The name and address of any long-term care facility~~  
 4977 ~~with which the applicant, administrator, or financial officer~~  
 4978 ~~has been affiliated through ownership or employment within 5~~  
 4979 ~~years of the date of this license application; and a signed~~  
 4980 ~~affidavit disclosing any financial or ownership interest that~~  
 4981 ~~the applicant, or any person listed in paragraph (a), holds or~~  
 4982 ~~has held within the last 5 years in any facility licensed under~~  
 4983 ~~this part, or in any other entity licensed by this state or~~  
 4984 ~~another state to provide health or residential care, which~~  
 4985 ~~facility or entity closed or ceased to operate as a result of~~  
 4986 ~~financial problems, or has had a receiver appointed or a license~~  
 4987 ~~denied, suspended or revoked, or was subject to a moratorium on~~  
 4988 ~~admissions, or has had an injunctive proceeding initiated~~  
 4989 ~~against it.~~

4990 ~~(d) A description and explanation of any exclusions,~~  
 4991 ~~permanent suspensions, or terminations of the applicant from the~~  
 4992 ~~Medicare or Medicaid programs. Proof of compliance with~~  
 4993 ~~disclosure of ownership and control interest requirements of the~~

4994 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
 4995 ~~submission.~~

4996 ~~(e) The names and addresses of persons of whom the agency~~  
 4997 ~~may inquire as to the character, reputation, and financial~~  
 4998 ~~responsibility of the owner and, if different from the~~  
 4999 ~~applicant, the administrator and financial officer.~~

5000 ~~(a)(f) Identify Identification of all other homes or~~  
 5001 ~~facilities, including the addresses and the license or licenses~~  
 5002 ~~under which they operate, if applicable, which are currently~~  
 5003 ~~operated by the applicant or administrator and which provide~~  
 5004 ~~housing, meals, and personal services to residents.~~

5005 ~~(b)(g) Provide the location of the facility for which a~~  
 5006 ~~license is sought and documentation, signed by the appropriate~~  
 5007 ~~local government official, which states that the applicant has~~  
 5008 ~~met local zoning requirements.~~

5009 ~~(c)(h) Provide the name, address, date of birth, social~~  
 5010 ~~security number, education, and experience of the administrator,~~  
 5011 ~~if different from the applicant.~~

5012 ~~(4) The applicant shall furnish satisfactory proof of~~  
 5013 ~~financial ability to operate and conduct the facility in~~  
 5014 ~~accordance with the requirements of this part. A certificate of~~  
 5015 ~~authority, pursuant to chapter 651, may be provided as proof of~~  
 5016 ~~financial ability.~~

5017 ~~(5) If the applicant is a continuing care facility~~  
 5018 ~~certified under chapter 651, a copy of the facility's~~  
 5019 ~~certificate of authority must be provided.~~

5020            (2)~~(6)~~ In addition to the requirements of s. 408.810, the  
 5021 applicant shall provide proof of liability insurance as defined  
 5022 in s. 624.605.

5023            ~~(7) If the applicant is a community residential home, the~~  
 5024 ~~applicant must provide proof that it has met the requirements~~  
 5025 ~~specified in chapter 419.~~

5026            ~~(8) The applicant must provide the agency with proof of~~  
 5027 ~~legal right to occupy the property.~~

5028            (3)~~(9)~~ ~~The applicant must furnish proof that the facility~~  
 5029 ~~has received a satisfactory firesafety inspection.~~ The local  
 5030 authority having jurisdiction or the State Fire Marshal must  
 5031 conduct the inspection within 30 days after written request by  
 5032 the applicant.

5033            (4)~~(10)~~ The applicant must furnish documentation of a  
 5034 satisfactory sanitation inspection of the facility by the county  
 5035 health department.

5036            ~~(11) The applicant must furnish proof of compliance with~~  
 5037 ~~level 2 background screening as required under s. 400.4174.~~

5038            (5)~~(12)~~ A provisional license may be issued to an  
 5039 applicant making initial application for licensure or making  
 5040 application for a change of ownership. A provisional license  
 5041 shall be limited in duration to a specific period of time not to  
 5042 exceed 6 months, as determined by the agency.

5043            (6)~~(13)~~ A county or municipality may not issue an  
 5044 occupational license that is being obtained for the purpose of  
 5045 operating a facility regulated under this part without first  
 5046 ascertaining that the applicant has been licensed to operate  
 5047 such facility at the specified location or locations by the

5048 | agency. The agency shall furnish to local agencies responsible  
 5049 | for issuing occupational licenses sufficient instruction for  
 5050 | making such determinations.

5051 | Section 89. Section 400.412, Florida Statutes, is amended  
 5052 | to read:

5053 | 400.412 Sale or transfer of ownership of a facility.--It  
 5054 | is the intent of the Legislature to protect the rights of the  
 5055 | residents of an assisted living facility when the facility is  
 5056 | sold or the ownership thereof is transferred. Therefore, in  
 5057 | addition to the requirements of part II of chapter 408, whenever  
 5058 | a facility is sold or the ownership thereof is transferred,  
 5059 | including leasing:

5060 | ~~(1) The transferee shall make application to the agency~~  
 5061 | ~~for a new license at least 60 days before the date of transfer~~  
 5062 | ~~of ownership. The application must comply with the provisions of~~  
 5063 | ~~s. 400.411.~~

5064 | ~~(2)(a) The transferor shall notify the agency in writing~~  
 5065 | ~~at least 60 days before the date of transfer of ownership.~~

5066 | (1)(b) The transferee new owner shall notify the  
 5067 | residents, in writing, of the change transfer of ownership  
 5068 | within 7 days after ~~of his or her~~ receipt of the new license.

5069 | ~~(3) The transferor shall be responsible and liable for:~~

5070 | ~~(a) The lawful operation of the facility and the welfare~~  
 5071 | ~~of the residents domiciled in the facility until the date the~~  
 5072 | ~~transferee is licensed by the agency.~~

5073 | ~~(b) Any and all penalties imposed against the facility for~~  
 5074 | ~~violations occurring before the date of transfer of ownership~~  
 5075 | ~~unless the penalty imposed is a moratorium on admissions or~~

5076 ~~denial of licensure. The moratorium on admissions or denial of~~  
 5077 ~~licensure remains in effect after the transfer of ownership,~~  
 5078 ~~unless the agency has approved the transferee's corrective~~  
 5079 ~~action plan or the conditions which created the moratorium or~~  
 5080 ~~denial have been corrected, and may be grounds for denial of~~  
 5081 ~~license to the transferee in accordance with chapter 120.~~

5082 ~~(c) Any outstanding liability to the state, unless the~~  
 5083 ~~transferee has agreed, as a condition of sale or transfer, to~~  
 5084 ~~accept the outstanding liabilities and to guarantee payment~~  
 5085 ~~therefor; except that, if the transferee fails to meet these~~  
 5086 ~~obligations, the transferor shall remain liable for the~~  
 5087 ~~outstanding liability.~~

5088 ~~(2)(4)~~ The transferor of a facility the license of which  
 5089 is denied pending an administrative hearing shall, as a part of  
 5090 the written change of ownership ~~transfer of ownership~~ contract,  
 5091 advise the transferee that a plan of correction must be  
 5092 submitted by the transferee and approved by the agency at least  
 5093 7 days before the change ~~transfer~~ of ownership and that failure  
 5094 to correct the condition which resulted in the moratorium  
 5095 pursuant to part II of chapter 408 ~~on admissions~~ or denial of  
 5096 licensure is grounds for denial of the transferee's license.

5097 ~~(5) The transferee must provide the agency with proof of~~  
 5098 ~~legal right to occupy the property before a license may be~~  
 5099 ~~issued. Proof may include, but is not limited to, copies of~~  
 5100 ~~warranty deeds, or copies of lease or rental agreements,~~  
 5101 ~~contracts for deeds, quitclaim deeds, or other such~~  
 5102 ~~documentation.~~



5103 Section 90. Section 400.414, Florida Statutes, is amended  
 5104 to read:

5105 400.414 Denial, revocation, ~~or~~ suspension of license;  
 5106 moratorium; imposition of administrative fine; grounds.--

5107 (1) The agency may deny, revoke, and ~~or~~ suspend any  
 5108 license issued under this part and, ~~or~~ impose a moratorium and  
 5109 an administrative fine in the manner provided in chapter 120 on  
 5110 an assisted living facility for a violation of any provision of  
 5111 this part, part II of chapter 408, or applicable rules, or for  
 5112 any of the following actions by an assisted living facility, for  
 5113 the actions of any person subject to level 2 background  
 5114 screening under s. 408.809 ~~400.4174~~, or for the actions of any  
 5115 facility employee:

5116 (a) An intentional or negligent act seriously affecting  
 5117 the health, safety, or welfare of a resident of the facility.

5118 (b) The determination by the agency that the owner lacks  
 5119 the financial ability to provide continuing adequate care to  
 5120 residents.

5121 (c) Misappropriation or conversion of the property of a  
 5122 resident of the facility.

5123 (d) Failure to follow the criteria and procedures provided  
 5124 under part I of chapter 394 relating to the transportation,  
 5125 voluntary admission, and involuntary examination of a facility  
 5126 resident.

5127 (e) A citation of any of the following deficiencies as  
 5128 defined in s. 400.419:

- 5129 1. One or more cited class I deficiencies.
- 5130 2. Three or more cited class II deficiencies.

5131           3. Five or more cited class III deficiencies that have  
 5132 been cited on a single survey and have not been corrected within  
 5133 the times specified.

5134           (f) A determination that a person subject to level 2  
 5135 background screening under s. 408.809 ~~400.4174(1)~~ does not meet  
 5136 the screening standards of s. 435.04 or that the facility is  
 5137 retaining an employee subject to level 1 background screening  
 5138 standards under s. ~~400.4174(2)~~ who does not meet the screening  
 5139 standards of s. 435.03 and for whom exemptions from  
 5140 disqualification have not been provided by the agency.

5141           (g) A determination that an employee, volunteer,  
 5142 administrator, or owner, or person who otherwise has access to  
 5143 the residents of a facility does not meet the criteria specified  
 5144 in s. 435.03(2), and the owner or administrator has not taken  
 5145 action to remove the person. Exemptions from disqualification  
 5146 may be granted as set forth in s. 435.07. No administrative  
 5147 action may be taken against the facility if the person is  
 5148 granted an exemption.

5149           ~~(h) Violation of a moratorium.~~

5150           ~~(i) Failure of the license applicant, the licensee during~~  
 5151 ~~relicensure, or a licensee that holds a provisional license to~~  
 5152 ~~meet the minimum license requirements of this part, or related~~  
 5153 ~~rules, at the time of license application or renewal.~~

5154           ~~(j) A fraudulent statement or omission of any material~~  
 5155 ~~fact on an application for a license or any other document~~  
 5156 ~~required by the agency, including the submission of a license~~  
 5157 ~~application that conceals the fact that any board member,~~  
 5158 ~~officer, or person owning 5 percent or more of the facility may~~

5159 ~~not meet the background screening requirements of s. 400.4174,~~  
 5160 ~~or that the applicant has been excluded, permanently suspended,~~  
 5161 ~~or terminated from the Medicaid or Medicare programs.~~

5162 (h)~~(k)~~ An intentional or negligent life-threatening act in  
 5163 violation of the uniform firesafety standards for assisted  
 5164 living facilities or other firesafety standards that threatens  
 5165 the health, safety, or welfare of a resident of a facility, as  
 5166 communicated to the agency by the local authority having  
 5167 jurisdiction or the State Fire Marshal.

5168 ~~(l) Exclusion, permanent suspension, or termination from~~  
 5169 ~~the Medicare or Medicaid programs.~~

5170 (i)~~(m)~~ Knowingly operating any unlicensed facility or  
 5171 providing without a license any service that must be licensed  
 5172 under this chapter.

5173 (j)~~(n)~~ Any act constituting a ground upon which  
 5174 application for a license may be denied.

5175  
 5176 ~~Administrative proceedings challenging agency action under this~~  
 5177 ~~subsection shall be reviewed on the basis of the facts and~~  
 5178 ~~conditions that resulted in the agency action.~~

5179 (2) Upon notification by the local authority having  
 5180 jurisdiction or by the State Fire Marshal, the agency may deny  
 5181 or revoke the license of an assisted living facility that fails  
 5182 to correct cited fire code violations that affect or threaten  
 5183 the health, safety, or welfare of a resident of a facility.

5184 (3) The agency may deny a license to any applicant or  
 5185 controlling interest as defined in part II of chapter 408 that  
 5186 ~~to any officer or board member of an applicant who is a firm,~~

5187 ~~corporation, partnership, or association or who owns 5 percent~~  
 5188 ~~or more of the facility, if the applicant, officer, or board~~  
 5189 ~~member~~ has or had a 25-percent or greater financial or ownership  
 5190 interest in any other facility licensed under this part, or in  
 5191 any entity licensed by this state or another state to provide  
 5192 health or residential care, which facility or entity during the  
 5193 5 years prior to the application for a license closed due to  
 5194 financial inability to operate; had a receiver appointed or a  
 5195 license denied, suspended, or revoked; was subject to a  
 5196 moratorium pursuant to part II of chapter 408 ~~on admissions~~; had  
 5197 an injunctive proceeding initiated against it; or has an  
 5198 outstanding fine assessed under this chapter.

5199 (4) The agency shall deny or revoke the license of an  
 5200 assisted living facility that has two or more class I violations  
 5201 that are similar or identical to violations identified by the  
 5202 agency during a survey, inspection, monitoring visit, or  
 5203 complaint investigation occurring within the previous 2 years.

5204 (5) An action taken by the agency to suspend, deny, or  
 5205 revoke a facility's license under this part, in which the agency  
 5206 claims that the facility owner or an employee of the facility  
 5207 has threatened the health, safety, or welfare of a resident of  
 5208 the facility be heard by the Division of Administrative Hearings  
 5209 of the Department of Management Services within 120 days after  
 5210 receipt of the facility's request for a hearing, unless that  
 5211 time limitation is waived by both parties. The administrative  
 5212 law judge must render a decision within 30 days after receipt of  
 5213 a proposed recommended order.

5214 (6) The agency shall provide to the Division of Hotels and  
 5215 Restaurants of the Department of Business and Professional  
 5216 Regulation, on a monthly basis, a list of those assisted living  
 5217 facilities that have had their licenses denied, suspended, or  
 5218 revoked or that are involved in an appellate proceeding pursuant  
 5219 to s. 120.60 related to the denial, suspension, or revocation of  
 5220 a license.

5221 (7) Agency notification of a license suspension or  
 5222 revocation, or denial of a license renewal, shall be posted and  
 5223 visible to the public at the facility.

5224 ~~(8) The agency may issue a temporary license pending final~~  
 5225 ~~disposition of a proceeding involving the suspension or~~  
 5226 ~~revocation of an assisted living facility license.~~

5227 Section 91. Section 400.415, Florida Statutes, is  
 5228 repealed.

5229 Section 92. Section 400.417, Florida Statutes, is amended  
 5230 to read:

5231 400.417 Expiration of license; renewal; conditional  
 5232 license.--

5233 ~~(1) Biennial licenses, unless sooner suspended or revoked,~~  
 5234 ~~shall expire 2 years from the date of issuance.~~ Limited nursing,  
 5235 extended congregate care, and limited mental health licenses  
 5236 shall expire at the same time as the facility's standard  
 5237 license, regardless of when issued. ~~The agency shall notify the~~  
 5238 ~~facility at least 120 days prior to expiration that a renewal~~  
 5239 ~~license is necessary to continue operation. The notification~~  
 5240 ~~must be provided electronically or by mail delivery. Ninety days~~  
 5241 ~~prior to the expiration date, an application for renewal shall~~

5242 ~~be submitted to the agency. Fees must be prorated. The failure~~  
 5243 ~~to file a timely renewal application shall result in a late fee~~  
 5244 ~~charged to the facility in an amount equal to 50 percent of the~~  
 5245 ~~current fee.~~

5246 (2) A license shall be renewed in accordance with part II  
 5247 of chapter 408 ~~within 90 days upon the timely filing of an~~  
 5248 ~~application on forms furnished by the agency and the provision~~  
 5249 ~~of satisfactory proof of ability to operate and conduct the~~  
 5250 ~~facility in accordance with the requirements of this part and~~  
 5251 ~~adopted rules, including proof that the facility has received a~~  
 5252 ~~satisfactory firesafety inspection, conducted by the local~~  
 5253 ~~authority having jurisdiction or the State Fire Marshal, within~~  
 5254 ~~the preceding 12 months and an affidavit of compliance with the~~  
 5255 ~~background screening requirements of s. 400.4174.~~

5256 (3) In addition to the requirements of part II of chapter  
 5257 408, ~~An applicant for renewal of a license who has complied with~~  
 5258 ~~the provisions of s. 400.411 with respect to proof of financial~~  
 5259 ~~ability to operate shall not be required to provide further~~  
 5260 ~~proof unless the facility or any other facility owned or~~  
 5261 ~~operated in whole or in part by the same person has demonstrated~~  
 5262 ~~financial instability as provided under s. 400.447(2) or unless~~  
 5263 ~~the agency suspects that the facility is not financially stable~~  
 5264 ~~as a result of the annual survey or complaints from the public~~  
 5265 ~~or a report from the State Long Term Care Ombudsman Council.~~  
 5266 each facility must report to the agency any adverse court action  
 5267 concerning the facility's financial viability, within 7 days  
 5268 after its occurrence. The agency shall have access to books,  
 5269 records, and any other financial documents maintained by the

5270 facility to the extent necessary to determine the facility's  
 5271 financial stability. ~~A license for the operation of a facility~~  
 5272 ~~shall not be renewed if the licensee has any outstanding fines~~  
 5273 ~~assessed pursuant to this part which are in final order status.~~

5274 ~~(4) A licensee against whom a revocation or suspension~~  
 5275 ~~proceeding is pending at the time of license renewal may be~~  
 5276 ~~issued a conditional license effective until final disposition~~  
 5277 ~~by the agency. If judicial relief is sought from the final~~  
 5278 ~~disposition, the court having jurisdiction may issue a~~  
 5279 ~~conditional license for the duration of the judicial proceeding.~~

5280 (4)~~(5)~~ A conditional license may be issued to an applicant  
 5281 for license renewal if the applicant fails to meet all standards  
 5282 and requirements for licensure. A conditional license issued  
 5283 under this subsection shall be limited in duration to a specific  
 5284 period of time not to exceed 6 months, as determined by the  
 5285 agency, and shall be accompanied by an agency-approved plan of  
 5286 correction.

5287 (5)~~(6)~~ When an extended care or limited nursing license is  
 5288 requested during a facility's biennial license period, the fee  
 5289 shall be prorated in order to permit the additional license to  
 5290 expire at the end of the biennial license period. The fee shall  
 5291 be calculated as of the date the additional license application  
 5292 is received by the agency.

5293 (6)~~(7)~~ The agency ~~department~~ may by rule establish renewal  
 5294 procedures, identify forms, and specify documentation necessary  
 5295 to administer this section and part II of chapter 408.

5296 Section 93. Section 400.4174, Florida Statutes, is amended  
 5297 to read:

5298           400.4174 Background screening; exemptions.--  
 5299           ~~(1)(a) Level 2 background screening must be conducted on~~  
 5300 ~~each of the following persons, who shall be considered employees~~  
 5301 ~~for the purposes of conducting screening under chapter 435:~~  
 5302           ~~1. The facility owner if an individual, the administrator,~~  
 5303 ~~and the financial officer.~~  
 5304           ~~2. An officer or board member if the facility owner is a~~  
 5305 ~~firm, corporation, partnership, or association, or any person~~  
 5306 ~~owning 5 percent or more of the facility if the agency has~~  
 5307 ~~probable cause to believe that such person has been convicted of~~  
 5308 ~~any offense prohibited by s. 435.04. For each officer, board~~  
 5309 ~~member, or person owning 5 percent or more who has been~~  
 5310 ~~convicted of any such offense, the facility shall submit to the~~  
 5311 ~~agency a description and explanation of the conviction at the~~  
 5312 ~~time of license application. This subparagraph does not apply to~~  
 5313 ~~a board member of a not-for-profit corporation or organization~~  
 5314 ~~if the board member serves solely in a voluntary capacity, does~~  
 5315 ~~not regularly take part in the day-to-day operational decisions~~  
 5316 ~~of the corporation or organization, receives no remuneration for~~  
 5317 ~~his or her services, and has no financial interest and has no~~  
 5318 ~~family members with a financial interest in the corporation or~~  
 5319 ~~organization, provided that the board member and facility submit~~  
 5320 ~~a statement affirming that the board member's relationship to~~  
 5321 ~~the facility satisfies the requirements of this subparagraph.~~  
 5322           ~~(b) Proof of compliance with level 2 screening standards~~  
 5323 ~~which has been submitted within the previous 5 years to meet any~~  
 5324 ~~facility or professional licensure requirements of the agency or~~  
 5325 ~~the Department of Health satisfies the requirements of this~~



5326 ~~subsection, provided that such proof is accompanied, under~~  
 5327 ~~penalty of perjury, by an affidavit of compliance with the~~  
 5328 ~~provisions of chapter 435. Proof of compliance with the~~  
 5329 ~~background screening requirements of the Financial Services~~  
 5330 ~~Commission and the Office of Insurance Regulation for applicants~~  
 5331 ~~for a certificate of authority to operate a continuing care~~  
 5332 ~~retirement community under chapter 651, submitted within the~~  
 5333 ~~last 5 years, satisfies the Department of Law Enforcement and~~  
 5334 ~~Federal Bureau of Investigation portions of a level 2 background~~  
 5335 ~~check.~~

5336 ~~(c) The agency may grant a provisional license to a~~  
 5337 ~~facility applying for an initial license when each individual~~  
 5338 ~~required by this subsection to undergo screening has completed~~  
 5339 ~~the Department of Law Enforcement background checks, but has not~~  
 5340 ~~yet received results from the Federal Bureau of Investigation,~~  
 5341 ~~or when a request for an exemption from disqualification has~~  
 5342 ~~been submitted to the agency pursuant to s. 435.07, but a~~  
 5343 ~~response has not been issued.~~

5344 ~~(2)~~ The owner or administrator of an assisted living  
 5345 facility must conduct level 1 background screening, as set forth  
 5346 in chapter 435, on all employees hired on or after October 1,  
 5347 1998, who perform personal services as defined in s.  
 5348 ~~400.402(16)(17)~~. The agency may exempt an individual from  
 5349 employment disqualification as set forth in chapter 435. Such  
 5350 persons shall be considered as having met this requirement if:

5351 ~~(1)(a)~~ Proof of compliance with level 1 screening  
 5352 requirements obtained to meet any professional license  
 5353 requirements in this state is provided and accompanied, under

5354 penalty of perjury, by a copy of the person's current  
 5355 professional license and an affidavit of current compliance with  
 5356 the background screening requirements.

5357 (2)~~(b)~~ The person required to be screened has been  
 5358 continuously employed in the same type of occupation for which  
 5359 the person is seeking employment without a breach in service  
 5360 which exceeds 180 days, and proof of compliance with the level 1  
 5361 screening requirement which is no more than 2 years old is  
 5362 provided. Proof of compliance shall be provided directly from  
 5363 one employer or contractor to another, and not from the person  
 5364 screened. Upon request, a copy of screening results shall be  
 5365 provided by the employer retaining documentation of the  
 5366 screening to the person screened.

5367 (3)~~(e)~~ The person required to be screened is employed by a  
 5368 corporation or business entity or related corporation or  
 5369 business entity that owns, operates, or manages more than one  
 5370 facility or agency licensed under this chapter, and for whom a  
 5371 level 1 screening was conducted by the corporation or business  
 5372 entity as a condition of initial or continued employment.

5373 Section 94. Section 400.4176, Florida Statutes, is amended  
 5374 to read:

5375 400.4176 Notice of change of administrator.--If, during  
 5376 the period for which a license is issued, the owner changes  
 5377 administrators, the owner must notify the agency of the change  
 5378 within 10 days and provide documentation within 90 days that the  
 5379 new administrator has completed the applicable core educational  
 5380 requirements under s. 400.452. ~~Background screening shall be~~  
 5381 ~~completed on any new administrator as specified in s. 400.4174.~~

5382 Section 95. Subsection (8) of section 400.4178, Florida  
 5383 Statutes, is renumbered as subsection (7) and present subsection  
 5384 (7) of said section is amended to read:

5385 400.4178 Special care for persons with Alzheimer's disease  
 5386 or other related disorders.--

5387 ~~(7) Any facility more than 90 percent of whose residents~~  
 5388 ~~receive monthly optional supplementation payments is not~~  
 5389 ~~required to pay for the training and education programs required~~  
 5390 ~~under this section. A facility that has one or more such~~  
 5391 ~~residents shall pay a reduced fee that is proportional to the~~  
 5392 ~~percentage of such residents in the facility. A facility that~~  
 5393 ~~does not have any residents who receive monthly optional~~  
 5394 ~~supplementation payments must pay a reasonable fee, as~~  
 5395 ~~established by the department, for such training and education~~  
 5396 ~~programs.~~

5397 Section 96. Section 400.418, Florida Statutes, is amended  
 5398 to read:

5399 400.418 Disposition of fees and administrative fines.--

5400 ~~(1) Income from license fees, inspection fees, late fees,~~  
 5401 ~~and administrative fines collected under this part generated~~  
 5402 ~~pursuant to ss. 400.407, 400.408, 400.417, 400.419, and 400.431~~  
 5403 ~~shall be deposited in the Health Care Trust Fund administered by~~  
 5404 ~~the agency. Such funds shall be directed to and used by the~~  
 5405 ~~agency for the following purposes:~~

5406 (1)(a) Up to 50 percent of the trust funds accrued each  
 5407 fiscal year under this part may be used to offset the expenses  
 5408 of receivership, pursuant to s. 400.422, if the court determines

5409 | that the income and assets of the facility are insufficient to  
 5410 | provide for adequate management and operation.

5411 |       ~~(2)(b)~~ An amount of \$5,000 of the trust funds accrued each  
 5412 | year under this part shall be allocated to pay for inspection-  
 5413 | related physical and mental health examinations requested by the  
 5414 | agency pursuant to s. 400.426 for residents who are either  
 5415 | recipients of supplemental security income or have monthly  
 5416 | incomes not in excess of the maximum combined federal and state  
 5417 | cash subsidies available to supplemental security income  
 5418 | recipients, as provided for in s. 409.212. Such funds shall only  
 5419 | be used where the resident is ineligible for Medicaid.

5420 |       ~~(3)(e)~~ Any trust funds accrued each year under this part  
 5421 | and not used for the purposes specified in subsections (1) and  
 5422 | (2) paragraphs (a) and (b) shall be used to offset the costs of  
 5423 | the licensure program, ~~including the costs of conducting~~  
 5424 | ~~background investigations,~~ verifying information submitted,  
 5425 | defraying the costs of processing the names of applicants, and  
 5426 | conducting inspections and monitoring visits pursuant to this  
 5427 | part and part II of chapter 408.

5428 |       ~~(2) Income from fees generated pursuant to s. 400.441(5)~~  
 5429 | ~~shall be deposited in the Health Care Trust Fund and used to~~  
 5430 | ~~offset the costs of printing and postage.~~

5431 |       Section 97. Section 400.419, Florida Statutes, is amended  
 5432 | to read:

5433 |       400.419 Violations; imposition of administrative fines;  
 5434 | grounds.--

5435 |       (1) The agency shall impose an administrative fine in the  
 5436 | manner provided in chapter 120 for the violation of any

5437 provision of this part, part II of chapter 408, and applicable  
 5438 rules for any of the actions or violations as set forth within  
 5439 ~~this section~~ by an assisted living facility, for the actions of  
 5440 any person subject to level 2 background screening under s.  
 5441 400.4174, for the actions of any facility employee, or for an  
 5442 intentional or negligent act seriously affecting the health,  
 5443 safety, or welfare of a resident of the facility.

5444 (2) Each violation of this part and adopted rules shall be  
 5445 classified according to the nature of the violation and the  
 5446 gravity of its probable effect on facility residents. The agency  
 5447 shall indicate the classification on the written notice of the  
 5448 violation as follows:

5449 (a) Class "I" violations are those conditions or  
 5450 occurrences related to the operation and maintenance of a  
 5451 facility or to the personal care of residents which the agency  
 5452 determines present an imminent danger to the residents or guests  
 5453 of the facility or a substantial probability that death or  
 5454 serious physical or emotional harm would result therefrom. The  
 5455 condition or practice constituting a class I violation shall be  
 5456 abated or eliminated within 24 hours, unless a fixed period, as  
 5457 determined by the agency, is required for correction. The agency  
 5458 shall impose an administrative fine for a cited class I  
 5459 violation in an amount not less than \$5,000 and not exceeding  
 5460 \$10,000 for each violation. A fine may be levied notwithstanding  
 5461 the correction of the violation.

5462 (b) Class "II" violations are those conditions or  
 5463 occurrences related to the operation and maintenance of a  
 5464 facility or to the personal care of residents which the agency

5465 determines directly threaten the physical or emotional health,  
5466 safety, or security of the facility residents, other than class  
5467 I violations. The agency shall impose an administrative fine for  
5468 a cited class II violation in an amount not less than \$1,000 and  
5469 not exceeding \$5,000 for each violation. A fine shall be levied  
5470 notwithstanding the correction of the violation.

5471 (c) Class "III" violations are those conditions or  
5472 occurrences related to the operation and maintenance of a  
5473 facility or to the personal care of residents which the agency  
5474 determines indirectly or potentially threaten the physical or  
5475 emotional health, safety, or security of facility residents,  
5476 other than class I or class II violations. The agency shall  
5477 impose an administrative fine for a cited class III violation in  
5478 an amount not less than \$500 and not exceeding \$1,000 for each  
5479 violation. A citation for a class III violation must specify the  
5480 time within which the violation is required to be corrected. If  
5481 a class III violation is corrected within the time specified, no  
5482 fine may be imposed, unless it is a repeated offense.

5483 (d) Class "IV" violations are those conditions or  
5484 occurrences related to the operation and maintenance of a  
5485 building or to required reports, forms, or documents that do not  
5486 have the potential of negatively affecting residents. These  
5487 violations are of a type that the agency determines do not  
5488 threaten the health, safety, or security of residents of the  
5489 facility. The agency shall impose an administrative fine for a  
5490 cited class IV violation in an amount not less than \$100 and not  
5491 exceeding \$200 for each violation. A citation for a class IV  
5492 violation must specify the time within which the violation is

5493 required to be corrected. If a class IV violation is corrected  
 5494 within the time specified, no fine shall be imposed. Any class  
 5495 IV violation that is corrected during the time an agency survey  
 5496 is being conducted will be identified as an agency finding and  
 5497 not as a violation.

5498 (3) For purposes of this section, in determining if a  
 5499 penalty is to be imposed and in fixing the amount of the fine,  
 5500 the agency shall consider the following factors:

5501 (a) The gravity of the violation, including the  
 5502 probability that death or serious physical or emotional harm to  
 5503 a resident will result or has resulted, the severity of the  
 5504 action or potential harm, and the extent to which the provisions  
 5505 of the applicable laws or rules were violated.

5506 (b) Actions taken by the owner or administrator to correct  
 5507 violations.

5508 (c) Any previous violations.

5509 (d) The financial benefit to the facility of committing or  
 5510 continuing the violation.

5511 (e) The licensed capacity of the facility.

5512 (4) Each day of continuing violation after the date fixed  
 5513 for termination of the violation, as ordered by the agency,  
 5514 constitutes an additional, separate, and distinct violation.

5515 (5) Any action taken to correct a violation shall be  
 5516 documented in writing by the owner or administrator of the  
 5517 facility and verified through followup visits by agency  
 5518 personnel. The agency may impose a fine and, in the case of an  
 5519 owner-operated facility, revoke or deny a facility's license

5520 when a facility administrator fraudulently misrepresents action  
 5521 taken to correct a violation.

5522 ~~(6) For fines that are upheld following administrative or~~  
 5523 ~~judicial review, the violator shall pay the fine, plus interest~~  
 5524 ~~at the rate as specified in s. 55.03, for each day beyond the~~  
 5525 ~~date set by the agency for payment of the fine.~~

5526 ~~(7) Any unlicensed facility that continues to operate~~  
 5527 ~~after agency notification is subject to a \$1,000 fine per day.~~

5528 ~~(8) Any licensed facility whose owner or administrator~~  
 5529 ~~concurrently operates an unlicensed facility shall be subject to~~  
 5530 ~~an administrative fine of \$5,000 per day.~~

5531 ~~(9) Any facility whose owner fails to apply for a change-~~  
 5532 ~~of-ownership license in accordance with s. 400.412 and operates~~  
 5533 ~~the facility under the new ownership is subject to a fine of~~  
 5534 ~~\$5,000.~~

5535 (6)~~(10)~~ In addition to any administrative fines imposed,  
 5536 the agency may assess a survey fee, equal to the lesser of one  
 5537 half of the facility's biennial license and bed fee or \$500, to  
 5538 cover the cost of conducting initial complaint investigations  
 5539 that result in the finding of a violation that was the subject  
 5540 of the complaint or monitoring visits conducted under s.  
 5541 400.428(3)(c) to verify the correction of the violations.

5542 (7)~~(11)~~ The agency, as an alternative to or in conjunction  
 5543 with an administrative action against a facility for violations  
 5544 of this part and adopted rules, shall make a reasonable attempt  
 5545 to discuss each violation and recommended corrective action with  
 5546 the owner or administrator of the facility, prior to written  
 5547 notification. The agency, instead of fixing a period within



5548 | which the facility shall enter into compliance with standards,  
 5549 | may request a plan of corrective action from the facility which  
 5550 | demonstrates a good faith effort to remedy each violation by a  
 5551 | specific date, subject to the approval of the agency.

5552 | ~~(12) Administrative fines paid by any facility under this~~  
 5553 | ~~section shall be deposited into the Health Care Trust Fund and~~  
 5554 | ~~expended as provided in s. 400.418.~~

5555 | (8)~~(13)~~ The agency shall develop and disseminate an annual  
 5556 | list of all facilities sanctioned or fined \$5,000 or more for  
 5557 | violations of state standards, the number and class of  
 5558 | violations involved, the penalties imposed, and the current  
 5559 | status of cases. The list shall be disseminated, at no charge,  
 5560 | to the Department of Elderly Affairs, the Department of Health,  
 5561 | the Department of Children and Family Services, the area  
 5562 | agencies on aging, the Florida Statewide Advocacy Council, and  
 5563 | the state and local ombudsman councils. The Department of  
 5564 | Children and Family Services shall disseminate the list to  
 5565 | service providers under contract to the department who are  
 5566 | responsible for referring persons to a facility for residency.  
 5567 | The agency may charge a fee commensurate with the cost of  
 5568 | printing and postage to other interested parties requesting a  
 5569 | copy of this list.

5570 | Section 98. Section 400.421, Florida Statutes, is  
 5571 | repealed.

5572 | Section 99. Subsection (9) of section 400.422, Florida  
 5573 | Statutes, is amended to read:

5574 | 400.422 Receivership proceedings.--

5575 (9) The court may direct the agency to allocate funds from  
 5576 the Health Care Trust Fund to the receiver, subject to the  
 5577 provisions of s. 400.418~~(1)~~.

5578 Section 100. Subsection (10) of section 400.423, Florida  
 5579 Statutes, is amended to read:

5580 400.423 Internal risk management and quality assurance  
 5581 program; adverse incidents and reporting requirements.--

5582 (10) The agency ~~Department of Elderly Affairs~~ may adopt  
 5583 rules necessary to administer this section.

5584 Section 101. Subsections (3) and (8) of section 400.424,  
 5585 Florida Statutes, are amended to read:

5586 400.424 Contracts.--

5587 (3)(a) The contract shall include a refund policy to be  
 5588 implemented at the time of a resident's transfer, discharge, or  
 5589 death. The refund policy shall provide that the resident or  
 5590 responsible party is entitled to a prorated refund based on the  
 5591 daily rate for any unused portion of payment beyond the  
 5592 termination date after all charges, including the cost of  
 5593 damages to the residential unit resulting from circumstances  
 5594 other than normal use, have been paid to the licensee. For the  
 5595 purpose of this paragraph, the termination date shall be the  
 5596 date the unit is vacated by the resident and cleared of all  
 5597 personal belongings. If the amount of belongings does not  
 5598 preclude renting the unit, the facility may clear the unit and  
 5599 charge the resident or his or her estate for moving and storing  
 5600 the items at a rate equal to the actual cost to the facility,  
 5601 not to exceed 20 percent of the regular rate for the unit,  
 5602 provided that 14 days' advance written notification is given. If

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5603 the resident's possessions are not claimed within 45 days after  
5604 notification, the facility may dispose of them. The contract  
5605 shall also specify any other conditions under which claims will  
5606 be made against the refund due the resident. Except in the case  
5607 of death or a discharge due to medical reasons, the refunds  
5608 shall be computed in accordance with the notice of relocation  
5609 requirements specified in the contract. However, a resident may  
5610 not be required to provide the licensee with more than 30 days'  
5611 notice of termination. If after a contract is terminated, the  
5612 facility intends to make a claim against a refund due the  
5613 resident, the facility shall notify the resident or responsible  
5614 party in writing of the claim and shall provide said party with  
5615 a reasonable time period of no less than 14 calendar days to  
5616 respond. The facility shall provide a refund to the resident or  
5617 responsible party within 45 days after the transfer, discharge,  
5618 or death of the resident. The agency shall impose a fine upon a  
5619 facility that fails to comply with the refund provisions of this  
5620 ~~the~~ paragraph, which fine shall be equal to three times the  
5621 amount due to the resident and not subject to the provisions of  
5622 s. 400.419(3). One-half of the fine shall be remitted to the  
5623 resident or his or her estate, and the other half to the Health  
5624 Care Trust Fund to be used for the purpose specified in s.  
5625 400.418.

5626 (b) If a licensee agrees to reserve a bed for a resident  
5627 who is admitted to a medical facility, including, but not  
5628 limited to, a nursing home, health care facility, or psychiatric  
5629 facility, the resident or his or her responsible party shall  
5630 notify the licensee of any change in status that would prevent

5631 the resident from returning to the facility. Until such notice  
 5632 is received, the agreed-upon daily rate may be charged by the  
 5633 licensee.

5634 (c) The purpose of any advance payment and a refund policy  
 5635 for such payment, including any advance payment for housing,  
 5636 meals, or personal services, shall be covered in the contract.

5637 (8) The agency ~~department~~ may by rule clarify terms,  
 5638 establish procedures, clarify refund policies and contract  
 5639 provisions, and specify documentation as necessary to administer  
 5640 this section.

5641 Section 102. Subsection (3) of section 400.4255, Florida  
 5642 Statutes, is amended to read:

5643 400.4255 Use of personnel; emergency care.--

5644 (3) Facility staff may withhold or withdraw  
 5645 cardiopulmonary resuscitation if presented with an order not to  
 5646 resuscitate executed pursuant to s. 401.45. The agency  
 5647 ~~department~~ shall adopt rules providing for the implementation of  
 5648 such orders. Facility staff and facilities shall not be subject  
 5649 to criminal prosecution or civil liability, nor be considered to  
 5650 have engaged in negligent or unprofessional conduct, for  
 5651 withholding or withdrawing cardiopulmonary resuscitation  
 5652 pursuant to such an order and applicable rules ~~adopted by the~~  
 5653 ~~department~~. The absence of an order to resuscitate executed  
 5654 pursuant to s. 401.45 does not preclude a physician from  
 5655 withholding or withdrawing cardiopulmonary resuscitation as  
 5656 otherwise permitted by law.

5657 Section 103. Subsection (6) of section 400.4256, Florida  
 5658 Statutes, is amended to read:

5659           400.4256 Assistance with self-administration of  
5660 medication.--

5661           (6) The agency ~~department~~ may by rule establish facility  
5662 procedures and interpret terms as necessary to implement this  
5663 section.

5664           Section 104. Subsection (9) of section 400.426, Florida  
5665 Statutes, is amended to read:

5666           400.426 Appropriateness of placements; examinations of  
5667 residents.--

5668           (9) If, at any time after admission to a facility, a  
5669 resident appears to need care beyond that which the facility is  
5670 licensed to provide, the agency shall require the resident to be  
5671 physically examined by a licensed physician or licensed nurse  
5672 practitioner. This examination shall, to the extent possible, be  
5673 performed by the resident's preferred physician or nurse  
5674 practitioner and shall be paid for by the resident with personal  
5675 funds, except as provided in s. 400.418(2)~~(1)(b)~~. Following this  
5676 examination, the examining physician or licensed nurse  
5677 practitioner shall complete and sign a medical form provided by  
5678 the agency. The completed medical form shall be submitted to the  
5679 agency within 30 days after the date the facility owner or  
5680 administrator is notified by the agency that the physical  
5681 examination is required. After consultation with the physician  
5682 or licensed nurse practitioner who performed the examination, a  
5683 medical review team designated by the agency shall then  
5684 determine whether the resident is appropriately residing in the  
5685 facility. The medical review team shall base its decision on a  
5686 comprehensive review of the resident's physical and functional

5687 status, including the resident's preferences, and not on an  
 5688 isolated health-related problem. In the case of a mental health  
 5689 resident, if the resident appears to have needs in addition to  
 5690 those identified in the community living support plan, the  
 5691 agency may require an evaluation by a mental health  
 5692 professional, as determined by the Department of Children and  
 5693 Family Services. A facility may not be required to retain a  
 5694 resident who requires more services or care than the facility is  
 5695 able to provide in accordance with its policies and criteria for  
 5696 admission and continued residency. Members of the medical review  
 5697 team making the final determination may not include the agency  
 5698 personnel who initially questioned the appropriateness of a  
 5699 resident's placement. Such determination is final and binding  
 5700 upon the facility and the resident. Any resident who is  
 5701 determined by the medical review team to be inappropriately  
 5702 residing in a facility shall be given 30 days' written notice to  
 5703 relocate by the owner or administrator, unless the resident's  
 5704 continued residence in the facility presents an imminent danger  
 5705 to the health, safety, or welfare of the resident or a  
 5706 substantial probability exists that death or serious physical  
 5707 harm would result to the resident if allowed to remain in the  
 5708 facility.

5709 Section 105. Subsection (8) of section 400.427, Florida  
 5710 Statutes, is amended to read:

5711 400.427 Property and personal affairs of residents.--

5712 (8) The agency ~~department~~ may by rule clarify terms and  
 5713 specify procedures and documentation necessary to administer the  
 5714 provisions of this section relating to the proper management of

5715 residents' funds and personal property and the execution of  
 5716 surety bonds.

5717 Section 106. Subsection (4) of section 400.4275, Florida  
 5718 Statutes, is amended to read:

5719 400.4275 Business practice; personnel records; liability  
 5720 insurance.--The assisted living facility shall be administered  
 5721 on a sound financial basis that is consistent with good business  
 5722 practices.

5723 (4) The agency ~~department~~ may by rule clarify terms,  
 5724 establish requirements for financial records, accounting  
 5725 procedures, personnel procedures, insurance coverage, and  
 5726 reporting procedures, and specify documentation as necessary to  
 5727 implement the requirements of this section.

5728 Section 107. Subsections (1), (4), and (5) of section  
 5729 400.431, Florida Statutes, are amended to read:

5730 400.431 Closing of facility; notice; penalty.--

5731 (1) In addition to the requirements of part II of chapter  
 5732 408, ~~Whenever a facility voluntarily discontinues operation, it~~  
 5733 ~~shall inform the agency in writing at least 90 days prior to the~~  
 5734 ~~discontinuance of operation.~~ the facility shall also inform each  
 5735 resident or the next of kin, legal representative, or agency  
 5736 acting on each resident's behalf, of the fact and the proposed  
 5737 time of such discontinuance of operation, following the  
 5738 notification requirements provided in s. 400.428(1)(k). In the  
 5739 event a resident has no person to represent him or her, the  
 5740 facility shall be responsible for referral to an appropriate  
 5741 social service agency for placement.

5742 ~~(4) Immediately upon discontinuance of the operation of a~~  
 5743 ~~facility, the owner shall surrender the license therefor to the~~  
 5744 ~~agency, and the license shall be canceled.~~

5745 (4)~~(5)~~ The agency may levy a fine in an amount no greater  
 5746 than \$5,000 upon each person or business entity that owns any  
 5747 interest in a facility that terminates operation without  
 5748 providing notice to the agency and the residents of the facility  
 5749 at least 30 days before operation ceases. This fine shall not be  
 5750 levied against any facility involuntarily closed at the  
 5751 initiation of the agency. The agency shall use the proceeds of  
 5752 the fines to operate the facility until all residents of the  
 5753 facility are relocated ~~and shall deposit any balance of the~~  
 5754 ~~proceeds into the Health Care Trust Fund established pursuant to~~  
 5755 ~~s. 400.418.~~

5756 Section 108. Section 400.434, Florida Statutes, is amended  
 5757 to read:

5758 400.434 Right of entry and inspection.--Any duly  
 5759 designated officer or employee of the department, the Department  
 5760 of Children and Family Services, ~~the agency,~~ the Medicaid Fraud  
 5761 Control Unit of the Department of Legal Affairs, the state or  
 5762 local fire marshal, ~~or~~ a member of the state or local long-term  
 5763 care ombudsman council, or the agency in accordance with s.  
 5764 408.811 shall have the right to enter unannounced upon and into  
 5765 the premises of any facility licensed pursuant to this part in  
 5766 order to determine the state of compliance with the provisions  
 5767 of this part, part II of chapter 408, and of applicable rules or  
 5768 ~~standards in force pursuant thereto.~~ ~~The right of entry and~~  
 5769 ~~inspection shall also extend to any premises which the agency~~



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5770 ~~has reason to believe is being operated or maintained as a~~  
5771 ~~facility without a license; but no such entry or inspection of~~  
5772 ~~any premises may be made without the permission of the owner or~~  
5773 ~~person in charge thereof, unless a warrant is first obtained~~  
5774 ~~from the circuit court authorizing such entry. The warrant~~  
5775 ~~requirement shall extend only to a facility which the agency has~~  
5776 ~~reason to believe is being operated or maintained as a facility~~  
5777 ~~without a license. Any application for a license or renewal~~  
5778 ~~thereof made pursuant to this part shall constitute permission~~  
5779 ~~for, and complete acquiescence in, any entry or inspection of~~  
5780 ~~the premises for which the license is sought, in order to~~  
5781 ~~facilitate verification of the information submitted on or in~~  
5782 ~~connection with the application; to discover, investigate, and~~  
5783 ~~determine the existence of abuse or neglect; or to elicit,~~  
5784 ~~receive, respond to, and resolve complaints. Any current valid~~  
5785 ~~license shall constitute unconditional permission for, and~~  
5786 ~~complete acquiescence in, any entry or inspection of the~~  
5787 ~~premises by authorized personnel. The agency shall retain the~~  
5788 ~~right of entry and inspection of facilities that have had a~~  
5789 ~~license revoked or suspended within the previous 24 months, to~~  
5790 ~~ensure that the facility is not operating unlawfully. However,~~  
5791 ~~before entering the facility, a statement of probable cause must~~  
5792 ~~be filed with the director of the agency, who must approve or~~  
5793 ~~disapprove the action within 48 hours. Probable cause shall~~  
5794 ~~include, but is not limited to, evidence that the facility holds~~  
5795 ~~itself out to the public as a provider of personal care services~~  
5796 ~~or the receipt of a complaint by the long-term care ombudsman~~  
5797 ~~council about the facility. Data collected by the state or local~~

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

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5798 long-term care ombudsman councils or the state or local advocacy  
 5799 councils may be used by the agency in investigations involving  
 5800 violations of regulatory standards.

5801 Section 109. Subsections (2) and (3) of section 400.435,  
 5802 Florida Statutes, are renumbered as subsections (1) and (2),  
 5803 respectively, and present subsection (1) of said section is  
 5804 amended to read:

5805 400.435 Inspection ~~Maintenance of records~~; reports.--

5806 ~~(1) Every facility shall maintain, as public information~~  
 5807 ~~available for public inspection under such conditions as the~~  
 5808 ~~agency shall prescribe, records containing copies of all~~  
 5809 ~~inspection reports pertaining to the facility that have been~~  
 5810 ~~issued by the agency to the facility. Copies of inspection~~  
 5811 ~~reports shall be retained in the records for 5 years from the~~  
 5812 ~~date the reports are filed or issued.~~

5813 ~~(1)(2)~~ Within 60 days after the date of the biennial  
 5814 inspection visit required under s. 408.811 or within 30 days  
 5815 after the date of any interim visit, the agency shall forward  
 5816 the results of the inspection to the local ombudsman council in  
 5817 whose planning and service area, as defined in part II, the  
 5818 facility is located; to at least one public library or, in the  
 5819 absence of a public library, the county seat in the county in  
 5820 which the inspected assisted living facility is located; and,  
 5821 when appropriate, to the district Adult Services and Mental  
 5822 Health Program Offices.

5823 Section 110. Section 400.441, Florida Statutes, is amended  
 5824 to read:

5825 400.441 Rules establishing standards.--

5826 (1) It is the intent of the Legislature that rules  
 5827 published and enforced pursuant to this section shall include  
 5828 criteria by which a reasonable and consistent quality of  
 5829 resident care and quality of life may be ensured and the results  
 5830 of such resident care may be demonstrated. Such rules shall also  
 5831 ensure a safe and sanitary environment that is residential and  
 5832 noninstitutional in design or nature. It is further intended  
 5833 that reasonable efforts be made to accommodate the needs and  
 5834 preferences of residents to enhance the quality of life in a  
 5835 facility. In order to provide safe and sanitary facilities and  
 5836 the highest quality of resident care accommodating the needs and  
 5837 preferences of residents, the agency ~~department~~, in consultation  
 5838 with the department ~~agency~~, the Department of Children and  
 5839 Family Services, and the Department of Health, shall adopt  
 5840 rules, policies, and procedures to administer this part and part  
 5841 II of chapter 408, which must include reasonable and fair  
 5842 minimum standards in relation to:

5843 (a) The requirements for and maintenance of facilities,  
 5844 not in conflict with the provisions of chapter 553, relating to  
 5845 plumbing, heating, cooling, lighting, ventilation, living space,  
 5846 and other housing conditions, which will ensure the health,  
 5847 safety, and comfort of residents and protection from fire  
 5848 hazard, including adequate provisions for fire alarm and other  
 5849 fire protection suitable to the size of the structure. Uniform  
 5850 firesafety standards shall be established and enforced by the  
 5851 State Fire Marshal in cooperation with the agency, the  
 5852 department, and the Department of Health.

5853 1. Evacuation capability determination.--

5854 a. The provisions of the National Fire Protection  
5855 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
5856 for determining the ability of the residents, with or without  
5857 staff assistance, to relocate from or within a licensed facility  
5858 to a point of safety as provided in the fire codes adopted  
5859 herein. An evacuation capability evaluation for initial  
5860 licensure shall be conducted within 6 months after the date of  
5861 licensure. For existing licensed facilities that are not  
5862 equipped with an automatic fire sprinkler system, the  
5863 administrator shall evaluate the evacuation capability of  
5864 residents at least annually. The evacuation capability  
5865 evaluation for each facility not equipped with an automatic fire  
5866 sprinkler system shall be validated, without liability, by the  
5867 State Fire Marshal, by the local fire marshal, or by the local  
5868 authority having jurisdiction over firesafety, before the  
5869 license renewal date. If the State Fire Marshal, local fire  
5870 marshal, or local authority having jurisdiction over firesafety  
5871 has reason to believe that the evacuation capability of a  
5872 facility as reported by the administrator may have changed, it  
5873 may, with assistance from the facility administrator, reevaluate  
5874 the evacuation capability through timed exiting drills.  
5875 Translation of timed fire exiting drills to evacuation  
5876 capability may be determined:

- 5877 (I) Three minutes or less: prompt.
- 5878 (II) More than 3 minutes, but not more than 13 minutes:  
5879 slow.
- 5880 (III) More than 13 minutes: impractical.

5881           b. The Office of the State Fire Marshal shall provide or  
 5882 cause the provision of training and education on the proper  
 5883 application of Chapter 5, NFPA 101A, 1995 edition, to its  
 5884 employees, to staff of the Agency for Health Care Administration  
 5885 who are responsible for regulating facilities under this part,  
 5886 and to local governmental inspectors. The Office of the State  
 5887 Fire Marshal shall provide or cause the provision of this  
 5888 training within its existing budget, but may charge a fee for  
 5889 this training to offset its costs. The initial training must be  
 5890 delivered within 6 months after July 1, 1995, and as needed  
 5891 thereafter.

5892           c. The Office of the State Fire Marshal, in cooperation  
 5893 with provider associations, shall provide or cause the provision  
 5894 of a training program designed to inform facility operators on  
 5895 how to properly review bid documents relating to the  
 5896 installation of automatic fire sprinklers. The Office of the  
 5897 State Fire Marshal shall provide or cause the provision of this  
 5898 training within its existing budget, but may charge a fee for  
 5899 this training to offset its costs. The initial training must be  
 5900 delivered within 6 months after July 1, 1995, and as needed  
 5901 thereafter.

5902           d. The administrator of a licensed facility shall sign an  
 5903 affidavit verifying the number of residents occupying the  
 5904 facility at the time of the evacuation capability evaluation.

5905           2. Firesafety requirements.--

5906           a. Except for the special applications provided herein,  
 5907 effective January 1, 1996, the provisions of the National Fire  
 5908 Protection Association, Life Safety Code, NFPA 101, 1994

5909 | edition, Chapter 22 for new facilities and Chapter 23 for  
 5910 | existing facilities shall be the uniform fire code applied by  
 5911 | the State Fire Marshal for assisted living facilities, pursuant  
 5912 | to s. 633.022.

5913 |         b. Any new facility, regardless of size, that applies for  
 5914 | a license on or after January 1, 1996, must be equipped with an  
 5915 | automatic fire sprinkler system. The exceptions as provided in  
 5916 | section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein,  
 5917 | apply to any new facility housing eight or fewer residents. On  
 5918 | July 1, 1995, local governmental entities responsible for the  
 5919 | issuance of permits for construction shall inform, without  
 5920 | liability, any facility whose permit for construction is  
 5921 | obtained prior to January 1, 1996, of this automatic fire  
 5922 | sprinkler requirement. As used in this part, the term "a new  
 5923 | facility" does not mean an existing facility that has undergone  
 5924 | change of ownership.

5925 |         c. Notwithstanding any provision of s. 633.022 or of the  
 5926 | National Fire Protection Association, NFPA 101A, Chapter 5, 1995  
 5927 | edition, to the contrary, any existing facility housing eight or  
 5928 | fewer residents is not required to install an automatic fire  
 5929 | sprinkler system, nor to comply with any other requirement in  
 5930 | Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety  
 5931 | requirements of NFPA 101, 1988 edition, that applies to this  
 5932 | size facility, unless the facility has been classified as  
 5933 | impractical to evacuate. Any existing facility housing eight or  
 5934 | fewer residents that is classified as impractical to evacuate  
 5935 | must install an automatic fire sprinkler system within the  
 5936 | timeframes granted in this section.

5937           d. Any existing facility that is required to install an  
 5938 automatic fire sprinkler system under this paragraph need not  
 5939 meet other firesafety requirements of Chapter 23, NFPA 101, 1994  
 5940 edition, which exceed the provisions of NFPA 101, 1988 edition.  
 5941 The mandate contained in this paragraph which requires certain  
 5942 facilities to install an automatic fire sprinkler system  
 5943 supersedes any other requirement.

5944           e. This paragraph does not supersede the exceptions  
 5945 granted in NFPA 101, 1988 edition or 1994 edition.

5946           f. This paragraph does not exempt facilities from other  
 5947 firesafety provisions adopted under s. 633.022 and local  
 5948 building code requirements in effect before July 1, 1995.

5949           g. A local government may charge fees only in an amount  
 5950 not to exceed the actual expenses incurred by local government  
 5951 relating to the installation and maintenance of an automatic  
 5952 fire sprinkler system in an existing and properly licensed  
 5953 assisted living facility structure as of January 1, 1996.

5954           h. If a licensed facility undergoes major reconstruction  
 5955 or addition to an existing building on or after January 1, 1996,  
 5956 the entire building must be equipped with an automatic fire  
 5957 sprinkler system. Major reconstruction of a building means  
 5958 repair or restoration that costs in excess of 50 percent of the  
 5959 value of the building as reported on the tax rolls, excluding  
 5960 land, before reconstruction. Multiple reconstruction projects  
 5961 within a 5-year period the total costs of which exceed 50  
 5962 percent of the initial value of the building at the time the  
 5963 first reconstruction project was permitted are to be considered  
 5964 as major reconstruction. Application for a permit for an

5965 automatic fire sprinkler system is required upon application for  
 5966 a permit for a reconstruction project that creates costs that go  
 5967 over the 50-percent threshold.

5968 i. Any facility licensed before January 1, 1996, that is  
 5969 required to install an automatic fire sprinkler system shall  
 5970 ensure that the installation is completed within the following  
 5971 timeframes based upon evacuation capability of the facility as  
 5972 determined under subparagraph 1.:

5973 (I) Impractical evacuation capability, 24 months.

5974 (II) Slow evacuation capability, 48 months.

5975 (III) Prompt evacuation capability, 60 months.

5976

5977 The beginning date from which the deadline for the automatic  
 5978 fire sprinkler installation requirement must be calculated is  
 5979 upon receipt of written notice from the local fire official that  
 5980 an automatic fire sprinkler system must be installed. The local  
 5981 fire official shall send a copy of the document indicating the  
 5982 requirement of a fire sprinkler system to the Agency for Health  
 5983 Care Administration.

5984 j. It is recognized that the installation of an automatic  
 5985 fire sprinkler system may create financial hardship for some  
 5986 facilities. The appropriate local fire official shall, without  
 5987 liability, grant two 1-year extensions to the timeframes for  
 5988 installation established herein, if an automatic fire sprinkler  
 5989 installation cost estimate and proof of denial from two  
 5990 financial institutions for a construction loan to install the  
 5991 automatic fire sprinkler system are submitted. However, for any  
 5992 facility with a class I or class II, or a history of uncorrected



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5993 class III, firesafety deficiencies, an extension must not be  
5994 granted. The local fire official shall send a copy of the  
5995 document granting the time extension to the Agency for Health  
5996 Care Administration.

5997 k. A facility owner whose facility is required to be  
5998 equipped with an automatic fire sprinkler system under Chapter  
5999 23, NFPA 101, 1994 edition, as adopted herein, must disclose to  
6000 any potential buyer of the facility that an installation of an  
6001 automatic fire sprinkler requirement exists. The sale of the  
6002 facility does not alter the timeframe for the installation of  
6003 the automatic fire sprinkler system.

6004 l. Existing facilities required to install an automatic  
6005 fire sprinkler system as a result of construction-type  
6006 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted  
6007 herein, or evacuation capability requirements shall be notified  
6008 by the local fire official in writing of the automatic fire  
6009 sprinkler requirement, as well as the appropriate date for final  
6010 compliance as provided in this subparagraph. The local fire  
6011 official shall send a copy of the document to the Agency for  
6012 Health Care Administration.

6013 m. Except in cases of life-threatening fire hazards, if an  
6014 existing facility experiences a change in the evacuation  
6015 capability, or if the local authority having jurisdiction  
6016 identifies a construction-type restriction, such that an  
6017 automatic fire sprinkler system is required, it shall be  
6018 afforded time for installation as provided in this subparagraph.

6019

6020 Facilities that are fully sprinkled and in compliance with other  
 6021 firesafety standards are not required to conduct more than one  
 6022 of the required fire drills between the hours of 11 p.m. and 7  
 6023 a.m., per year. In lieu of the remaining drills, staff  
 6024 responsible for residents during such hours may be required to  
 6025 participate in a mock drill that includes a review of evacuation  
 6026 procedures. Such standards must be included or referenced in the  
 6027 rules adopted by the State Fire Marshal. Pursuant to s.  
 6028 633.022(1)(b), the State Fire Marshal is the final  
 6029 administrative authority for firesafety standards established  
 6030 and enforced pursuant to this section. All licensed facilities  
 6031 must have an annual fire inspection conducted by the local fire  
 6032 marshal or authority having jurisdiction.

6033 3. Resident elopement requirements.--Facilities are  
 6034 required to conduct a minimum of two resident elopement  
 6035 prevention and response drills per year. All administrators and  
 6036 direct care staff must participate in the drills which shall  
 6037 include a review of procedures to address resident elopement.  
 6038 Facilities must document the implementation of the drills and  
 6039 ensure that the drills are conducted in a manner consistent with  
 6040 the facility's resident elopement policies and procedures.

6041 (b) The preparation and annual update of a comprehensive  
 6042 emergency management plan. Such standards must be included in  
 6043 the rules adopted by the agency ~~department~~ after consultation  
 6044 with the Department of Community Affairs. At a minimum, the  
 6045 rules must provide for plan components that address emergency  
 6046 evacuation transportation; adequate sheltering arrangements;  
 6047 postdisaster activities, including provision of emergency power,

6048 food, and water; postdisaster transportation; supplies;  
6049 staffing; emergency equipment; individual identification of  
6050 residents and transfer of records; communication with families;  
6051 and responses to family inquiries. The comprehensive emergency  
6052 management plan is subject to review and approval by the local  
6053 emergency management agency. During its review, the local  
6054 emergency management agency shall ensure that the following  
6055 agencies, at a minimum, are given the opportunity to review the  
6056 plan: the Department of Elderly Affairs, the Department of  
6057 Health, the Agency for Health Care Administration, and the  
6058 Department of Community Affairs. Also, appropriate volunteer  
6059 organizations must be given the opportunity to review the plan.  
6060 The local emergency management agency shall complete its review  
6061 within 60 days and either approve the plan or advise the  
6062 facility of necessary revisions.

6063 (c) The number, training, and qualifications of all  
6064 personnel having responsibility for the care of residents. The  
6065 rules must require adequate staff to provide for the safety of  
6066 all residents. Facilities licensed for 17 or more residents are  
6067 required to maintain an alert staff for 24 hours per day.

6068 (d) All sanitary conditions within the facility and its  
6069 surroundings which will ensure the health and comfort of  
6070 residents. The rules must clearly delineate the responsibilities  
6071 of the agency's licensure and survey staff, the county health  
6072 departments, and the local authority having jurisdiction over  
6073 fire safety and ensure that inspections are not duplicative. The  
6074 agency may collect fees for food service inspections conducted

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6075 | by the county health departments and transfer such fees to the  
 6076 | Department of Health.

6077 |       (e) ~~License application and license renewal, transfer of~~  
 6078 | ~~ownership,~~ Proper management of resident funds and personal  
 6079 | property, surety bonds, resident contracts, refund policies,  
 6080 | ~~financial ability to operate,~~ and facility and staff records.

6081 |       (f) Inspections, complaint investigations, moratoriums,  
 6082 | classification of deficiencies, levying and enforcement of  
 6083 | penalties, and use of income from fees and fines.

6084 |       (g) The enforcement of the resident bill of rights  
 6085 | specified in s. 400.428.

6086 |       (h) The care and maintenance of residents, which must  
 6087 | include, but is not limited to:

- 6088 |           1. The supervision of residents;
- 6089 |           2. The provision of personal services;
- 6090 |           3. The provision of, or arrangement for, social and  
 6091 | leisure activities;
- 6092 |           4. The arrangement for appointments and transportation to  
 6093 | appropriate medical, dental, nursing, or mental health services,  
 6094 | as needed by residents;
- 6095 |           5. The management of medication;
- 6096 |           6. The nutritional needs of residents;
- 6097 |           7. Resident records; and
- 6098 |           8. Internal risk management and quality assurance.

6099 |       (i) Facilities holding a limited nursing, extended  
 6100 | congregate care, or limited mental health license.

6101 |       (j) The establishment of specific criteria to define  
 6102 | appropriateness of resident admission and continued residency in

6103 a facility holding a standard, limited nursing, extended  
 6104 congregate care, and limited mental health license.

6105 (k) The use of physical or chemical restraints. The use of  
 6106 physical restraints is limited to half-bed rails as prescribed  
 6107 and documented by the resident's physician with the consent of  
 6108 the resident or, if applicable, the resident's representative or  
 6109 designee or the resident's surrogate, guardian, or attorney in  
 6110 fact. The use of chemical restraints is limited to prescribed  
 6111 dosages of medications authorized by the resident's physician  
 6112 and must be consistent with the resident's diagnosis. Residents  
 6113 who are receiving medications that can serve as chemical  
 6114 restraints must be evaluated by their physician at least  
 6115 annually to assess:

- 6116 1. The continued need for the medication.
- 6117 2. The level of the medication in the resident's blood.
- 6118 3. The need for adjustments in the prescription.

6119 (l) The establishment of specific policies and procedures  
 6120 on resident elopement. Facilities shall conduct a minimum of two  
 6121 resident elopement drills each year. All administrators and  
 6122 direct care staff shall participate in the drills. Facilities  
 6123 shall document the drills.

6124 (2) In adopting any rules pursuant to this part, the  
 6125 agency ~~department~~, in conjunction with the department ~~agency~~,  
 6126 shall make distinct standards for facilities based upon facility  
 6127 size; the types of care provided; the physical and mental  
 6128 capabilities and needs of residents; the type, frequency, and  
 6129 amount of services and care offered; and the staffing  
 6130 characteristics of the facility. Rules developed pursuant to

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6131 this section shall not restrict the use of shared staffing and  
6132 shared programming in facilities that are part of retirement  
6133 communities that provide multiple levels of care and otherwise  
6134 meet the requirements of law and rule. Except for uniform  
6135 firesafety standards, the agency ~~department~~ shall adopt by rule  
6136 separate and distinct standards for facilities with 16 or fewer  
6137 beds and for facilities with 17 or more beds. The standards for  
6138 facilities with 16 or fewer beds shall be appropriate for a  
6139 noninstitutional residential environment, provided that the  
6140 structure is no more than two stories in height and all persons  
6141 who cannot exit the facility unassisted in an emergency reside  
6142 on the first floor. The agency ~~department~~, in conjunction with  
6143 the department ~~agency~~, may make other distinctions among types  
6144 of facilities as necessary to enforce the provisions of this  
6145 part. Where appropriate, the agency shall offer alternate  
6146 solutions for complying with established standards, based on  
6147 distinctions made by the department and the agency relative to  
6148 the physical characteristics of facilities and the types of care  
6149 offered therein.

6150 (3) ~~The department shall submit a copy of proposed rules~~  
6151 ~~to the Speaker of the House of Representatives, the President of~~  
6152 ~~the Senate, and appropriate committees of substance for review~~  
6153 ~~and comment prior to the promulgation thereof.~~

6154 (a) Rules adopted ~~promulgated~~ by the agency ~~department~~  
6155 shall encourage the development of homelike facilities which  
6156 promote the dignity, individuality, personal strengths, and  
6157 decisionmaking ability of residents.

6158            (4)~~(b)~~ The agency, in consultation with the department,  
 6159 may waive rules promulgated pursuant to this part in order to  
 6160 demonstrate and evaluate innovative or cost-effective congregate  
 6161 care alternatives which enable individuals to age in place. Such  
 6162 waivers may be granted only in instances where there is  
 6163 reasonable assurance that the health, safety, or welfare of  
 6164 residents will not be endangered. To apply for a waiver, the  
 6165 licensee shall submit to the agency a written description of the  
 6166 concept to be demonstrated, including goals, objectives, and  
 6167 anticipated benefits; the number and types of residents who will  
 6168 be affected, if applicable; a brief description of how the  
 6169 demonstration will be evaluated; and any other information  
 6170 deemed appropriate by the agency. Any facility granted a waiver  
 6171 shall submit a report of findings to the agency and the  
 6172 department within 12 months. At such time, the agency may renew  
 6173 or revoke the waiver or pursue any regulatory or statutory  
 6174 changes necessary to allow other facilities to adopt the same  
 6175 practices. The agency ~~department~~ may by rule clarify terms and  
 6176 establish waiver application procedures, criteria for reviewing  
 6177 waiver proposals, and procedures for reporting findings, as  
 6178 necessary to implement this subsection.

6179            (5)~~(4)~~ The agency may use an abbreviated biennial standard  
 6180 licensure inspection that consists of a review of key quality-  
 6181 of-care standards in lieu of a full inspection in facilities  
 6182 which have a good record of past performance. However, a full  
 6183 inspection shall be conducted in facilities which have had a  
 6184 history of class I or class II violations, uncorrected class III  
 6185 violations, confirmed ombudsman council complaints, or confirmed

6186 licensure complaints, within the previous licensure period  
 6187 immediately preceding the inspection or when a potentially  
 6188 serious problem is identified during the abbreviated inspection.  
 6189 The agency, in consultation with the department, shall develop  
 6190 the key quality-of-care standards with input from the State  
 6191 Long-Term Care Ombudsman Council and representatives of provider  
 6192 groups for incorporation into its rules. ~~The department, in~~  
 6193 ~~consultation with the agency, shall report annually to the~~  
 6194 ~~Legislature concerning its implementation of this subsection.~~  
 6195 ~~The report shall include, at a minimum, the key quality-of-care~~  
 6196 ~~standards which have been developed; the number of facilities~~  
 6197 ~~identified as being eligible for the abbreviated inspection; the~~  
 6198 ~~number of facilities which have received the abbreviated~~  
 6199 ~~inspection and, of those, the number that were converted to full~~  
 6200 ~~inspection; the number and type of subsequent complaints~~  
 6201 ~~received by the agency or department on facilities which have~~  
 6202 ~~had abbreviated inspections; any recommendations for~~  
 6203 ~~modification to this subsection; any plans by the agency to~~  
 6204 ~~modify its implementation of this subsection; and any other~~  
 6205 ~~information which the department believes should be reported.~~

6206 ~~(5) A fee shall be charged by the department to any person~~  
 6207 ~~requesting a copy of this part or rules promulgated under this~~  
 6208 ~~part. Such fees shall not exceed the actual cost of duplication~~  
 6209 ~~and postage.~~

6210 Section 111. Subsection (4) of section 400.442, Florida  
 6211 Statutes, is amended to read:

6212 400.442 Pharmacy and dietary services.--



6213           (4) The agency ~~department~~ may by rule establish procedures  
6214 and specify documentation as necessary to implement this  
6215 section.

6216           Section 112. Subsection (3) of section 400.444, Florida  
6217 Statutes, is amended to read:

6218           400.444 Construction and renovation; requirements.--

6219           (3) The agency ~~department~~ may adopt rules to establish  
6220 procedures and specify the documentation necessary to implement  
6221 this section.

6222           Section 113. Subsections (4) through (7) of section  
6223 400.447, Florida Statutes, are renumbered as subsections (1)  
6224 through (4) and present subsections (1), (2), and (3) of said  
6225 section are amended to read:

6226           400.447 Prohibited acts; penalties for violation.--

6227           ~~(1) It is unlawful for any person or public body to offer~~  
6228 ~~or advertise to the public, in any way by any medium whatever,~~  
6229 ~~personal services as defined in this act, without obtaining a~~  
6230 ~~valid current license. It is unlawful for any holder of a~~  
6231 ~~license issued pursuant to the provisions of this act to~~  
6232 ~~advertise or hold out to the public that it holds a license for~~  
6233 ~~a facility other than that for which it actually holds a~~  
6234 ~~license.~~

6235           ~~(2) It is unlawful for any holder of a license issued~~  
6236 ~~pursuant to the provisions of this act to withhold from the~~  
6237 ~~agency any evidence of financial instability, including, but not~~  
6238 ~~limited to, bad checks, delinquent accounts, nonpayment of~~  
6239 ~~withholding taxes, unpaid utility expenses, nonpayment for~~  
6240 ~~essential services, or adverse court action concerning the~~

6241 ~~financial viability of the facility or any other facility~~  
 6242 ~~licensed under part II or part III of this chapter which is~~  
 6243 ~~owned by the licensee.~~

6244 ~~(3) Any person found guilty of violating subsection (1) or~~  
 6245 ~~subsection (2) commits a misdemeanor of the second degree,~~  
 6246 ~~punishable as provided in s. 775.083. Each day of continuing~~  
 6247 ~~violation shall be considered a separate offense.~~

6248 Section 114. Section 400.451, Florida Statutes, is  
 6249 repealed.

6250 Section 115. Subsections (1), (3), and (6) of section  
 6251 400.452, Florida Statutes, as amended by section 3 of chapter  
 6252 2003-405, Laws of Florida, are amended to read:

6253 400.452 Staff training and educational programs; core  
 6254 educational requirement.--

6255 (1) Administrators and other assisted living facility  
 6256 staff must meet minimum training and education requirements  
 6257 established by the Department of Elderly Affairs or agency by  
 6258 rule. This training and education is intended to assist  
 6259 facilities to appropriately respond to the needs of residents,  
 6260 to maintain resident care and facility standards, and to meet  
 6261 licensure requirements.

6262 (3) Effective January 1, 2004, a new facility  
 6263 administrator must complete the required training and education,  
 6264 including the competency test, within a reasonable time after  
 6265 being employed as an administrator, as determined by the  
 6266 department. Failure to do so is a violation of this part and  
 6267 subjects the violator to an administrative fine as prescribed in  
 6268 s. 400.419. Administrators licensed in accordance with chapter

6269 468, part II, are exempt from this requirement. Other licensed  
 6270 professionals may be exempted, as determined by ~~the department~~  
 6271 ~~by~~ rule.

6272 (6) Other facility staff shall participate in training  
 6273 relevant to their job duties as specified by rule ~~of the~~  
 6274 ~~department~~.

6275 Section 116. Section 400.454, Florida Statutes, is amended  
 6276 to read:

6277 400.454 Collection of information; local subsidy.--

6278 (1) To enable the agency ~~department~~ to collect the  
 6279 information requested by the Legislature regarding the actual  
 6280 cost of providing room, board, and personal care in facilities,  
 6281 the agency may ~~department is authorized~~ to conduct field visits  
 6282 and audits of facilities as may be necessary. The owners of  
 6283 randomly sampled facilities shall submit such reports, audits,  
 6284 and accountings of cost as required ~~the department may require~~  
 6285 by rule; provided that such reports, audits, and accountings  
 6286 shall be the minimum necessary to implement the provisions of  
 6287 this section. Any facility selected to participate in the study  
 6288 shall cooperate with the agency ~~department~~ by providing cost of  
 6289 operation information to interviewers.

6290 (2) Local governments or organizations may contribute to  
 6291 the cost of care of local facility residents by further  
 6292 subsidizing the rate of state-authorized payment to such  
 6293 facilities. Implementation of local subsidy shall require agency  
 6294 ~~departmental~~ approval and shall not result in reductions in the  
 6295 state supplement.

6296 Section 117. Subsections (1) and (4) of section 400.464,  
 6297 Florida Statutes, are amended to read:

6298 400.464 Home health agencies to be licensed; expiration of  
 6299 license; exemptions; unlawful acts; penalties.--

6300 (1) The requirements of part II of chapter 408 shall apply  
 6301 to the provision of services that require licensure pursuant to  
 6302 this part and part II of chapter 408 and entities licensed or  
 6303 registered by or applying for such licensure or registration  
 6304 from the Agency for Health Care Administration pursuant to this  
 6305 part. However, each applicant for licensure and each licensee is  
 6306 exempt from the provisions of ss. 408.806(1)(e)2. and  
 6307 408.810(10). ~~Any home health agency must be licensed by the~~  
 6308 ~~agency to operate in this state. A license issued to a home~~  
 6309 ~~health agency, unless sooner suspended or revoked, expires 1~~  
 6310 ~~year after its date of issuance.~~

6311 (4)(a) ~~An organization may not provide, offer, or~~  
 6312 ~~advertise home health services to the public unless the~~  
 6313 ~~organization has a valid license or is specifically exempted~~  
 6314 ~~under this part.~~ An organization that offers or advertises to  
 6315 the public any service for which licensure or registration is  
 6316 required under this part must include in the advertisement the  
 6317 license number or regulation number issued to the organization  
 6318 by the agency. The agency shall assess a fine of not less than  
 6319 \$100 to any licensee or registrant who fails to include the  
 6320 license or registration number when submitting the advertisement  
 6321 for publication, broadcast, or printing. The holder of a license  
 6322 issued under this part may not advertise or indicate to the

6323 public that it holds a home health agency or nurse registry  
 6324 license other than the one it has been issued.

6325 (b) A person who violates paragraph (a) is subject to an  
 6326 injunctive proceeding under s. 408.816 ~~400.515~~. A violation of  
 6327 paragraph (a) or s. 408.813 is a deceptive and unfair trade  
 6328 practice and constitutes a violation of the Florida Deceptive  
 6329 and Unfair Trade Practices Act.

6330 ~~(c) A person who violates the provisions of paragraph (a)~~  
 6331 ~~commits a misdemeanor of the second degree, punishable as~~  
 6332 ~~provided in s. 775.082 or s. 775.083. Any person who commits a~~  
 6333 ~~second or subsequent violation commits a misdemeanor of the~~  
 6334 ~~first degree, punishable as provided in s. 775.082 or s.~~  
 6335 ~~775.083. Each day of continuing violation constitutes a separate~~  
 6336 ~~offense.~~

6337 Section 118. Section 400.471, Florida Statutes, is amended  
 6338 to read:

6339 400.471 Application for license; fee; ~~provisional license;~~  
 6340 ~~temporary permit.--~~

6341 (1) Each applicant for licensure must comply with all  
 6342 provisions of this part and part II of chapter 408. ~~Application~~  
 6343 ~~for an initial license or for renewal of an existing license~~  
 6344 ~~must be made under oath to the agency on forms furnished by it~~  
 6345 ~~and must be accompanied by the appropriate license fee as~~  
 6346 ~~provided in subsection (8). The agency must take final action on~~  
 6347 ~~an initial licensure application within 60 days after receipt of~~  
 6348 ~~all required documentation.~~

6349 (2) In addition to the requirements of part II of chapter  
 6350 408, the applicant must file with the application satisfactory

6351 proof that the home health agency is in compliance with this  
 6352 part and applicable rules, including:

6353 (a) A listing of services to be provided, either directly  
 6354 by the applicant or through contractual arrangements with  
 6355 existing providers. ;

6356 (b) The number and discipline of professional staff to be  
 6357 employed. ; and

6358 ~~(c) Proof of financial ability to operate.~~

6359 ~~(3) An applicant for initial licensure must demonstrate~~  
 6360 ~~financial ability to operate by submitting a balance sheet and~~  
 6361 ~~income and expense statement for the first 2 years of operation~~  
 6362 ~~which provide evidence of having sufficient assets, credit, and~~  
 6363 ~~projected revenues to cover liabilities and expenses. The~~  
 6364 ~~applicant shall have demonstrated financial ability to operate~~  
 6365 ~~if the applicant's assets, credit, and projected revenues meet~~  
 6366 ~~or exceed projected liabilities and expenses. All documents~~  
 6367 ~~required under this subsection must be prepared in accordance~~  
 6368 ~~with generally accepted accounting principles, and the financial~~  
 6369 ~~statement must be signed by a certified public accountant.~~

6370 ~~(4) Each applicant for licensure must comply with the~~  
 6371 ~~following requirements:~~

6372 ~~(a) Upon receipt of a completed, signed, and dated~~  
 6373 ~~application, the agency shall require background screening of~~  
 6374 ~~the applicant, in accordance with the level 2 standards for~~  
 6375 ~~screening set forth in chapter 435. As used in this subsection,~~  
 6376 ~~the term "applicant" means the administrator, or a similarly~~  
 6377 ~~titled person who is responsible for the day-to-day operation of~~  
 6378 ~~the licensed home health agency, and the financial officer, or~~

6379 ~~similarly titled individual who is responsible for the financial~~  
 6380 ~~operation of the licensed home health agency.~~

6381 ~~(b) The agency may require background screening for a~~  
 6382 ~~member of the board of directors of the licensee or an officer~~  
 6383 ~~or an individual owning 5 percent or more of the licensee if the~~  
 6384 ~~agency reasonably suspects that such individual has been~~  
 6385 ~~convicted of an offense prohibited under the level 2 standards~~  
 6386 ~~for screening set forth in chapter 435.~~

6387 ~~(c) Proof of compliance with the level 2 background~~  
 6388 ~~screening requirements of chapter 435 which has been submitted~~  
 6389 ~~within the previous 5 years in compliance with any other health~~  
 6390 ~~care or assisted living licensure requirements of this state is~~  
 6391 ~~acceptable in fulfillment of paragraph (a). Proof of compliance~~  
 6392 ~~with background screening which has been submitted within the~~  
 6393 ~~previous 5 years to fulfill the requirements of the Financial~~  
 6394 ~~Services Commission and the Office of Insurance Regulation~~  
 6395 ~~pursuant to chapter 651 as part of an application for a~~  
 6396 ~~certificate of authority to operate a continuing care retirement~~  
 6397 ~~community is acceptable in fulfillment of the Department of Law~~  
 6398 ~~Enforcement and Federal Bureau of Investigation background~~  
 6399 ~~check.~~

6400 ~~(d) A provisional license may be granted to an applicant~~  
 6401 ~~when each individual required by this section to undergo~~  
 6402 ~~background screening has met the standards for the Department of~~  
 6403 ~~Law Enforcement background check, but the agency has not yet~~  
 6404 ~~received background screening results from the Federal Bureau of~~  
 6405 ~~Investigation. A standard license may be granted to the licensee~~  
 6406 ~~upon the agency's receipt of a report of the results of the~~

6407 ~~Federal Bureau of Investigation background screening for each~~  
6408 ~~individual required by this section to undergo background~~  
6409 ~~screening which confirms that all standards have been met, or~~  
6410 ~~upon the granting of a disqualification exemption by the agency~~  
6411 ~~as set forth in chapter 435. Any other person who is required to~~  
6412 ~~undergo level 2 background screening may serve in his or her~~  
6413 ~~capacity pending the agency's receipt of the report from the~~  
6414 ~~Federal Bureau of Investigation. However, the person may not~~  
6415 ~~continue to serve if the report indicates any violation of~~  
6416 ~~background screening standards and a disqualification exemption~~  
6417 ~~has not been requested of and granted by the agency as set forth~~  
6418 ~~in chapter 435.~~

6419 ~~(e) Each applicant must submit to the agency, with its~~  
6420 ~~application, a description and explanation of any exclusions,~~  
6421 ~~permanent suspensions, or terminations of the licensee or~~  
6422 ~~potential licensee from the Medicare or Medicaid programs. Proof~~  
6423 ~~of compliance with the requirements for disclosure of ownership~~  
6424 ~~and control interest under the Medicaid or Medicare programs may~~  
6425 ~~be accepted in lieu of this submission.~~

6426 ~~(f) Each applicant must submit to the agency a description~~  
6427 ~~and explanation of any conviction of an offense prohibited under~~  
6428 ~~the level 2 standards of chapter 435 by a member of the board of~~  
6429 ~~directors of the applicant, its officers, or any individual~~  
6430 ~~owning 5 percent or more of the applicant. This requirement does~~  
6431 ~~not apply to a director of a not-for-profit corporation or~~  
6432 ~~organization if the director serves solely in a voluntary~~  
6433 ~~capacity for the corporation or organization, does not regularly~~  
6434 ~~take part in the day-to-day operational decisions of the~~



6435 ~~corporation or organization, receives no remuneration for his or~~  
6436 ~~her services on the corporation or organization's board of~~  
6437 ~~directors, and has no financial interest and has no family~~  
6438 ~~members with a financial interest in the corporation or~~  
6439 ~~organization, provided that the director and the not-for-profit~~  
6440 ~~corporation or organization include in the application a~~  
6441 ~~statement affirming that the director's relationship to the~~  
6442 ~~corporation satisfies the requirements of this paragraph.~~

6443 ~~(g) A license may not be granted to an applicant if the~~  
6444 ~~applicant, administrator, or financial officer has been found~~  
6445 ~~guilty of, regardless of adjudication, or has entered a plea of~~  
6446 ~~nolo contendere or guilty to, any offense prohibited under the~~  
6447 ~~level 2 standards for screening set forth in chapter 435, unless~~  
6448 ~~an exemption from disqualification has been granted by the~~  
6449 ~~agency as set forth in chapter 435.~~

6450 ~~(h) The agency may deny or revoke licensure if the~~  
6451 ~~applicant:~~

6452 ~~1. Has falsely represented a material fact in the~~  
6453 ~~application required by paragraph (e) or paragraph (f), or has~~  
6454 ~~omitted any material fact from the application required by~~  
6455 ~~paragraph (e) or paragraph (f); or~~

6456 ~~2. Has been or is currently excluded, suspended,~~  
6457 ~~terminated from, or has involuntarily withdrawn from~~  
6458 ~~participation in this state's Medicaid program, or the Medicaid~~  
6459 ~~program of any other state, or from participation in the~~  
6460 ~~Medicare program or any other governmental or private health~~  
6461 ~~care or health insurance program.~~

6462 ~~(i) An application for license renewal must contain the~~  
 6463 ~~information required under paragraphs (e) and (f).~~

6464 (3)(5) In addition to the requirements of s. 408.810, the  
 6465 home health agency must also obtain and maintain the following  
 6466 insurance coverages in an amount of not less than \$250,000 per  
 6467 claim, and the home health agency must submit proof of coverage  
 6468 with an initial application for licensure and with each annual  
 6469 application for license renewal:

6470 (a) Malpractice insurance as defined in s. 624.605(1)(k).~~+~~

6471 (b) Liability insurance as defined in s. 624.605(1)(b).

6472 ~~(6) Ninety days before the expiration date, an application~~  
 6473 ~~for renewal must be submitted to the agency under oath on forms~~  
 6474 ~~furnished by it, and a license must be renewed if the applicant~~  
 6475 ~~has met the requirements established under this part and~~  
 6476 ~~applicable rules. The home health agency must file with the~~  
 6477 ~~application satisfactory proof that it is in compliance with~~  
 6478 ~~this part and applicable rules. If there is evidence of~~  
 6479 ~~financial instability, the home health agency must submit~~  
 6480 ~~satisfactory proof of its financial ability to comply with the~~  
 6481 ~~requirements of this part.~~

6482 ~~(7) When transferring the ownership of a home health~~  
 6483 ~~agency, the transferee must submit an application for a license~~  
 6484 ~~at least 60 days before the effective date of the transfer. If~~  
 6485 ~~the home health agency is being leased, a copy of the lease~~  
 6486 ~~agreement must be filed with the application.~~

6487 (4)(8) In accordance with s. 408.805, an applicant or  
 6488 licensee shall pay a fee for each license application submitted  
 6489 under this part, part II of chapter 408, and applicable rules.

6490 The amount of the fee shall be established by rule and shall be  
 6491 set at ~~The license fee and annual renewal fee required of a home~~  
 6492 ~~health agency are nonrefundable. The agency shall set the fees~~  
 6493 ~~in~~ an amount that is sufficient to cover the agency's ~~its~~ costs  
 6494 in carrying out its responsibilities under this part, but not to  
 6495 exceed \$2,000 per biennium ~~\$1,000~~. However, state, county, or  
 6496 municipal governments applying for licenses under this part are  
 6497 exempt from the payment of license fees. ~~All fees collected~~  
 6498 ~~under this part must be deposited in the Health Care Trust Fund~~  
 6499 ~~for the administration of this part.~~

6500 ~~(9) The license must be displayed in a conspicuous place~~  
 6501 ~~in the administrative office of the home health agency and is~~  
 6502 ~~valid only while in the possession of the person to which it is~~  
 6503 ~~issued. The license may not be sold, assigned, or otherwise~~  
 6504 ~~transferred, voluntarily or involuntarily, and is valid only for~~  
 6505 ~~the home health agency and location for which originally issued.~~

6506 ~~(10) A home health agency against whom a revocation or~~  
 6507 ~~suspension proceeding is pending at the time of license renewal~~  
 6508 ~~may be issued a provisional license effective until final~~  
 6509 ~~disposition by the agency of such proceedings. If judicial~~  
 6510 ~~relief is sought from the final disposition, the court that has~~  
 6511 ~~jurisdiction may issue a temporary permit for the duration of~~  
 6512 ~~the judicial proceeding.~~

6513 ~~(5)~~(11) The agency may not issue a license designated as  
 6514 certified to a home health agency that fails to satisfy the  
 6515 requirements of a Medicare certification survey from the agency.

6516 ~~(12) The agency may not issue a license to a home health~~  
 6517 ~~agency that has any unpaid fines assessed under this part.~~

6518 Section 119. Section 400.474, Florida Statutes, is amended  
 6519 to read:

6520 400.474 Denial, suspension, revocation of license;  
 6521 injunction; grounds; ~~penalties~~.--

6522 (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
 6523 and ~~or~~ impose an administrative fine in the manner provided in  
 6524 chapter 120, or initiate injunctive proceedings under this part,  
 6525 part II of chapter 408, or applicable rules ~~s. 400.515.~~

6526 (2) Any of the following actions by a home health agency  
 6527 or its employee is grounds for disciplinary action by the  
 6528 agency:

6529 (a) Violation of this part, part II of chapter 408, or of  
 6530 applicable rules.

6531 (b) An intentional, reckless, or negligent act that  
 6532 materially affects the health or safety of a patient.

6533 (c) Knowingly providing home health services in an  
 6534 unlicensed assisted living facility or unlicensed adult family-  
 6535 care home, unless the home health agency or employee reports the  
 6536 unlicensed facility or home to the agency within 72 hours after  
 6537 providing the services.

6538 ~~(3) The agency may impose the following penalties for~~  
 6539 ~~operating without a license upon an applicant or owner who has~~  
 6540 ~~in the past operated, or who currently operates, a licensed home~~  
 6541 ~~health agency.~~

6542 ~~(a) If a home health agency that is found to be operating~~  
 6543 ~~without a license wishes to apply for a license, the home health~~  
 6544 ~~agency may submit an application only after the agency has~~

6545 ~~verified that the home health agency no longer operates an~~  
6546 ~~unlicensed home health agency.~~

6547 ~~(b) Any person, partnership, or corporation that violates~~  
6548 ~~paragraph (a) and that previously operated a licensed home~~  
6549 ~~health agency or concurrently operates both a licensed home~~  
6550 ~~health agency and an unlicensed home health agency commits a~~  
6551 ~~felony of the third degree punishable as provided in s. 775.082,~~  
6552 ~~s. 775.083, or s. 775.084. If an owner has an interest in more~~  
6553 ~~than one home health agency and fails to license any one of~~  
6554 ~~those home health agencies, the agency must issue a cease and~~  
6555 ~~desist order for the activities of the unlicensed home health~~  
6556 ~~agency and impose a moratorium on any or all of the licensed~~  
6557 ~~related home health agencies until the unlicensed home health~~  
6558 ~~agency is licensed.~~

6559 ~~(3)(e) If any home health agency is found to be operating~~  
6560 ~~without a license meets the criteria in paragraph (a) or~~  
6561 ~~paragraph (b) and that home health agency has received any~~  
6562 ~~government reimbursement for services provided by an unlicensed~~  
6563 ~~home health agency, the agency shall make a fraud referral to~~  
6564 ~~the appropriate government reimbursement program.~~

6565 ~~(4) The agency may deny, revoke, or suspend the license of~~  
6566 ~~a home health agency, or may impose on a home health agency~~  
6567 ~~administrative fines not to exceed the aggregate sum of \$5,000~~  
6568 ~~if:~~

6569 ~~(a) The agency is unable to obtain entry to the home~~  
6570 ~~health agency to conduct a licensure survey, complaint~~  
6571 ~~investigation, surveillance visit, or monitoring visit.~~

6572           ~~(b) An applicant or a licensed home health agency has~~  
 6573 ~~falsely represented a material fact in the application, or has~~  
 6574 ~~omitted from the application any material fact, including, but~~  
 6575 ~~not limited to, the fact that the controlling or ownership~~  
 6576 ~~interest is held by any officer, director, agent, manager,~~  
 6577 ~~employee, affiliated person, partner, or shareholder who is not~~  
 6578 ~~eligible to participate.~~

6579           ~~(c) An applicant, owner, or person who has a 5 percent or~~  
 6580 ~~greater interest in a licensed entity:~~

6581           ~~1. Has been previously found by any licensing, certifying,~~  
 6582 ~~or professional standards board or agency to have violated the~~  
 6583 ~~standards or conditions that relate to home health-related~~  
 6584 ~~licensure or certification, or to the quality of home health-~~  
 6585 ~~related services provided; or~~

6586           ~~2. Has been or is currently excluded, suspended,~~  
 6587 ~~terminated from, or has involuntarily withdrawn from,~~  
 6588 ~~participation in the Medicaid program of this state or any other~~  
 6589 ~~state, the Medicare program, or any other governmental health~~  
 6590 ~~care or health insurance program.~~

6591           Section 120. Subsection (1) and paragraphs (a) and (b) of  
 6592 subsection (2) of section 400.484, Florida Statutes, are amended  
 6593 to read:

6594           400.484 Right of inspection; deficiencies; fines.--

6595           (1) In accordance with s. 408.811, ~~Any duly authorized~~  
 6596 ~~officer or employee of the agency may make such inspections and~~  
 6597 ~~investigations as are necessary in order to determine the state~~  
 6598 ~~of compliance with this part and with applicable rules. The~~  
 6599 ~~right of inspection extends to any business that the agency has~~

6600 ~~reason to believe is being operated as a home health agency~~  
 6601 ~~without a license, but such inspection of any such business may~~  
 6602 ~~not be made without the permission of the owner or person in~~  
 6603 ~~charge unless a warrant is first obtained from a circuit court.~~  
 6604 ~~Any application for a license issued under this part or for~~  
 6605 ~~license renewal constitutes permission for an appropriate~~  
 6606 ~~inspection to verify the information submitted on or in~~  
 6607 ~~connection with the application.~~

6608 (2) The agency shall impose fines for various classes of  
 6609 deficiencies in accordance with the following schedule:

6610 (a) A class I deficiency is any act, omission, or practice  
 6611 that results in a patient's death, disablement, or permanent  
 6612 injury, or places a patient at imminent risk of death,  
 6613 disablement, or permanent injury. Upon finding a class I  
 6614 deficiency, the agency may impose an administrative fine in the  
 6615 amount of \$5,000 for each occurrence and each day that the  
 6616 deficiency exists. In addition, the agency may immediately  
 6617 revoke the license and, or impose a moratorium pursuant to part  
 6618 II of chapter 408 ~~on the admission of new patients,~~ until the  
 6619 factors causing the deficiency have been corrected.

6620 (b) A class II deficiency is any act, omission, or  
 6621 practice that has a direct adverse effect on the health, safety,  
 6622 or security of a patient. Upon finding a class II deficiency,  
 6623 the agency may impose an administrative fine in the amount of  
 6624 \$1,000 for each occurrence and each day that the deficiency  
 6625 exists. In addition, the agency may suspend the license and, or  
 6626 impose a moratorium pursuant to part II of chapter 408 ~~on the~~

6627 ~~admission of new patients,~~ until the deficiency has been  
 6628 corrected.

6629 Section 121. Subsections (1) and (2) of section 400.487,  
 6630 Florida Statutes, are amended to read:

6631 400.487 Home health service agreements; physician's,  
 6632 physician assistant's, and advanced registered nurse  
 6633 practitioner's treatment orders; patient assessment;  
 6634 establishment and review of plan of care; provision of services;  
 6635 orders not to resuscitate.--

6636 (1) Services provided by a home health agency must be  
 6637 covered by an agreement between the home health agency and the  
 6638 patient or the patient's legal representative specifying the  
 6639 home health services to be provided, the rates or charges for  
 6640 services paid with private funds, and the sources method of  
 6641 payment, which may include Medicare, Medicaid, private  
 6642 insurance, personal funds, or a combination thereof. A home  
 6643 health agency providing skilled care must make an assessment of  
 6644 the patient's needs within 48 hours after the start of services.

6645 (2) When required by the provisions of chapter 464; part  
 6646 I, part III, or part V of chapter 468; or chapter 486, the  
 6647 attending physician, physician assistant, or advanced registered  
 6648 nurse practitioner, acting within his or her respective scope of  
 6649 practice, shall for a patient who is to receive skilled care  
 6650 ~~must~~ establish treatment orders for a patient who is to receive  
 6651 skilled care. The treatment orders must be signed by the  
 6652 physician, physician assistant, or advanced registered nurse  
 6653 practitioner before a claim is submitted to a managed care  
 6654 organization and the treatment orders must be signed in the time



6655 allowed under the provider agreement. The treatment orders shall  
 6656 ~~within 30 days after the start of care and must~~ be reviewed, as  
 6657 frequently as the patient's illness requires, by the physician,  
 6658 physician assistant, or advanced registered nurse practitioner,  
 6659 in consultation with the home health agency ~~personnel that~~  
 6660 ~~provide services to the patient.~~

6661 Section 122. Section 400.494, Florida Statutes, is amended  
 6662 to read:

6663 400.494 Information about patients confidential.--

6664 (1) Information about patients received by persons  
 6665 employed by, or providing services to, a home health agency or  
 6666 received by the licensing agency through reports or inspection  
 6667 shall be confidential and exempt from the provisions of s.  
 6668 119.07(1) and shall not be disclosed to any person other than  
 6669 the patient without the written consent of that patient or the  
 6670 patient's guardian.

6671 (2) This section does not apply to information lawfully  
 6672 requested by the Medicaid Fraud Control Unit of the Office of  
 6673 the Attorney General or requested pursuant to 408.811 Department  
 6674 ~~of Legal Affairs.~~

6675 Section 123. Section 400.495, Florida Statutes, is amended  
 6676 to read:

6677 400.495 Notice of toll-free telephone number for central  
 6678 abuse hotline.--In addition to the requirements of 408.810(5),  
 6679 ~~On or before the first day home health services are provided to~~  
 6680 ~~a patient, any home health agency or nurse registry licensed~~  
 6681 ~~under this part must inform the patient and his or her immediate~~  
 6682 ~~family, if appropriate, of the right to report abusive,~~

6683 ~~neglectful, or exploitative practices. The statewide toll-free~~  
 6684 ~~telephone number for the central abuse hotline must be provided~~  
 6685 ~~to patients in a manner that is clearly legible and must include~~  
 6686 ~~the words: "To report abuse, neglect, or exploitation, please~~  
 6687 ~~call toll-free (phone number)."~~ the Agency for Health Care  
 6688 Administration shall adopt rules ~~that provide for 90 days'~~  
 6689 ~~advance notice of a change in the toll-free telephone number and~~  
 6690 that outline due process procedures, as provided under chapter  
 6691 120, for home health agency personnel and nurse registry  
 6692 personnel who are reported to the central abuse hotline. Home  
 6693 health agencies and nurse registries shall establish appropriate  
 6694 policies and procedures for providing such notice to patients.

6695 Section 124. Section 400.497, Florida Statutes, is amended  
 6696 to read:

6697 400.497 Rules establishing minimum standards.--The agency  
 6698 shall adopt, publish, and enforce rules to implement part II of  
 6699 chapter 408 and this part, including, as applicable, ss. 400.506  
 6700 and 400.509, which must provide reasonable and fair minimum  
 6701 standards relating to:

6702 (1) The home health aide competency test and home health  
 6703 aide training. The agency shall create the home health aide  
 6704 competency test and establish the curriculum and instructor  
 6705 qualifications for home health aide training. Licensed home  
 6706 health agencies may provide this training and shall furnish  
 6707 documentation of such training to other licensed home health  
 6708 agencies upon request. Successful passage of the competency test  
 6709 by home health aides may be substituted for the training

6710 required under this section and any rule adopted pursuant  
 6711 thereto.

6712 (2) Shared staffing. The agency shall allow shared  
 6713 staffing if the home health agency is part of a retirement  
 6714 community that provides multiple levels of care, is located on  
 6715 one campus, is licensed under this chapter, and otherwise meets  
 6716 the requirements of law and rule.

6717 (3) The criteria for the frequency of onsite licensure  
 6718 surveys.

6719 (4) Licensure application and renewal.

6720 (5) The requirements for onsite and electronic  
 6721 accessibility of supervisory personnel of home health agencies.

6722 (6) Information to be included in patients' records.

6723 (7) Geographic service areas.

6724 (8) Preparation of a comprehensive emergency management  
 6725 plan pursuant to s. 400.492.

6726 (a) The Agency for Health Care Administration shall adopt  
 6727 rules establishing minimum criteria for the plan and plan  
 6728 updates, with the concurrence of the Department of Health and in  
 6729 consultation with the Department of Community Affairs.

6730 (b) The rules must address the requirements in s. 400.492.  
 6731 In addition, the rules shall provide for the maintenance of  
 6732 patient-specific medication lists that can accompany patients  
 6733 who are transported from their homes.

6734 (c) The plan is subject to review and approval by the  
 6735 county health department. During its review, the county health  
 6736 department shall ensure that the following agencies, at a  
 6737 minimum, are given the opportunity to review the plan:

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- 6738 | 1. The local emergency management agency.
- 6739 | 2. The Agency for Health Care Administration.
- 6740 | 3. The local chapter of the American Red Cross or other
- 6741 | lead sheltering agency.
- 6742 | 4. The district office of the Department of Children and
- 6743 | Family Services.

6744 |  
 6745 | The county health department shall complete its review within 60  
 6746 | days after receipt of the plan and shall either approve the plan  
 6747 | or advise the home health agency of necessary revisions.

6748 | (d) For any home health agency that operates in more than  
 6749 | one county, the Department of Health shall review the plan,  
 6750 | after consulting with all of the county health departments, the  
 6751 | agency, and all the local chapters of the American Red Cross or  
 6752 | other lead sheltering agencies in the areas of operation for  
 6753 | that particular home health agency. The Department of Health  
 6754 | shall complete its review within 90 days after receipt of the  
 6755 | plan and shall either approve the plan or advise the home health  
 6756 | agency of necessary revisions. The Department of Health shall  
 6757 | make every effort to avoid imposing differing requirements based  
 6758 | on differences between counties on the home health agency.

6759 | (e) The requirements in this subsection do not apply to:

- 6760 | 1. A facility that is certified under chapter 651 and has
- 6761 | a licensed home health agency used exclusively by residents of
- 6762 | the facility; or
- 6763 | 2. A retirement community that consists of residential
- 6764 | units for independent living and either a licensed nursing home
- 6765 | or an assisted living facility, and has a licensed home health

6766 agency used exclusively by the residents of the retirement  
 6767 community, provided the comprehensive emergency management plan  
 6768 for the facility or retirement community provides for continuous  
 6769 care of all residents with special needs during an emergency.

6770 Section 125. Section 400.506, Florida Statutes, is amended  
 6771 to read:

6772 400.506 Licensure of nurse registries; requirements;  
 6773 penalties.--

6774 (1) A nurse registry is exempt from the licensing  
 6775 requirements of a home health agency but must be licensed as a  
 6776 nurse registry. The requirements of part II of chapter 408 shall  
 6777 apply to the provision of services that require licensure  
 6778 pursuant to ss. 400.506-400.518 and part II of chapter 408 and  
 6779 to entities licensed by or applying for such license from the  
 6780 Agency for Health Care Administration pursuant to ss. 400.506-  
 6781 400.518. Each operational site of the nurse registry must be  
 6782 licensed, unless there is more than one site within a county. If  
 6783 there is more than one site within a county, only one license  
 6784 per county is required. Each operational site must be listed on  
 6785 the license.

6786 (2) Each applicant for licensure and each licensee must  
 6787 comply with all provisions of part II and chapter 408, except  
 6788 ss. 408.806(1)(e)2., 408.810(6), and 408.810(10). ~~the following~~  
 6789 ~~requirements:~~

6790 ~~(a) Upon receipt of a completed, signed, and dated~~  
 6791 ~~application, the agency shall require background screening, in~~  
 6792 ~~accordance with the level 2 standards for screening set forth in~~  
 6793 ~~chapter 435, of the managing employee, or other similarly titled~~

6794 ~~individual who is responsible for the daily operation of the~~  
6795 ~~nurse registry, and of the financial officer, or other similarly~~  
6796 ~~titled individual who is responsible for the financial operation~~  
6797 ~~of the registry, including billings for patient care and~~  
6798 ~~services. The applicant shall comply with the procedures for~~  
6799 ~~level 2 background screening as set forth in chapter 435.~~

6800 ~~(b) The agency may require background screening of any~~  
6801 ~~other individual who is an applicant if the agency has probable~~  
6802 ~~cause to believe that he or she has been convicted of a crime or~~  
6803 ~~has committed any other offense prohibited under the level 2~~  
6804 ~~standards for screening set forth in chapter 435.~~

6805 ~~(c) Proof of compliance with the level 2 background~~  
6806 ~~screening requirements of chapter 435 which has been submitted~~  
6807 ~~within the previous 5 years in compliance with any other health~~  
6808 ~~care or assisted living licensure requirements of this state is~~  
6809 ~~acceptable in fulfillment of the requirements of paragraph (a).~~

6810 ~~(d) A provisional license may be granted to an applicant~~  
6811 ~~when each individual required by this section to undergo~~  
6812 ~~background screening has met the standards for the Department of~~  
6813 ~~Law Enforcement background check but the agency has not yet~~  
6814 ~~received background screening results from the Federal Bureau of~~  
6815 ~~Investigation. A standard license may be granted to the~~  
6816 ~~applicant upon the agency's receipt of a report of the results~~  
6817 ~~of the Federal Bureau of Investigation background screening for~~  
6818 ~~each individual required by this section to undergo background~~  
6819 ~~screening which confirms that all standards have been met, or~~  
6820 ~~upon the granting of a disqualification exemption by the agency~~  
6821 ~~as set forth in chapter 435. Any other person who is required to~~

6822 ~~undergo level 2 background screening may serve in his or her~~  
6823 ~~capacity pending the agency's receipt of the report from the~~  
6824 ~~Federal Bureau of Investigation. However, the person may not~~  
6825 ~~continue to serve if the report indicates any violation of~~  
6826 ~~background screening standards and a disqualification exemption~~  
6827 ~~has not been requested of and granted by the agency as set forth~~  
6828 ~~in chapter 435.~~

6829 ~~(e) Each applicant must submit to the agency, with its~~  
6830 ~~application, a description and explanation of any exclusions,~~  
6831 ~~permanent suspensions, or terminations of the applicant from the~~  
6832 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
6833 ~~requirements for disclosure of ownership and control interests~~  
6834 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
6835 ~~of this submission.~~

6836 ~~(f) Each applicant must submit to the agency a description~~  
6837 ~~and explanation of any conviction of an offense prohibited under~~  
6838 ~~the level 2 standards of chapter 435 by a member of the board of~~  
6839 ~~directors of the applicant, its officers, or any individual~~  
6840 ~~owning 5 percent or more of the applicant. This requirement does~~  
6841 ~~not apply to a director of a not-for-profit corporation or~~  
6842 ~~organization if the director serves solely in a voluntary~~  
6843 ~~capacity for the corporation or organization, does not regularly~~  
6844 ~~take part in the day-to-day operational decisions of the~~  
6845 ~~corporation or organization, receives no remuneration for his or~~  
6846 ~~her services on the corporation or organization's board of~~  
6847 ~~directors, and has no financial interest and has no family~~  
6848 ~~members with a financial interest in the corporation or~~  
6849 ~~organization, provided that the director and the not-for-profit~~

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6850 ~~corporation or organization include in the application a~~  
6851 ~~statement affirming that the director's relationship to the~~  
6852 ~~corporation satisfies the requirements of this paragraph.~~

6853 ~~(g) A license may not be granted to an applicant if the~~  
6854 ~~applicant or managing employee has been found guilty of,~~  
6855 ~~regardless of adjudication, or has entered a plea of nolo~~  
6856 ~~contendere or guilty to, any offense prohibited under the level~~  
6857 ~~2 standards for screening set forth in chapter 435, unless an~~  
6858 ~~exemption from disqualification has been granted by the agency~~  
6859 ~~as set forth in chapter 435.~~

6860 ~~(h) The agency may deny or revoke the license if any~~  
6861 ~~applicant:~~

6862 ~~1. Has falsely represented a material fact in the~~  
6863 ~~application required by paragraph (e) or paragraph (f), or has~~  
6864 ~~omitted any material fact from the application required by~~  
6865 ~~paragraph (e) or paragraph (f); or~~

6866 ~~2. Has had prior action taken against the applicant under~~  
6867 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

6868 ~~(i) An application for license renewal must contain the~~  
6869 ~~information required under paragraphs (e) and (f).~~

6870 ~~(3) In accordance with s. 408.805, an applicant or~~  
6871 ~~licensee shall pay a fee for each license application submitted~~  
6872 ~~under ss. 400.508-400.518, part II of chapter 408, and~~  
6873 ~~applicable rules. The amount of the fee shall be established by~~  
6874 ~~rule and may not exceed \$2,000 per biennium. ~~Application for~~~~  
6875 ~~~~license must be made to the Agency for Health Care~~~~  
6876 ~~~~Administration on forms furnished by it and must be accompanied~~~~  
6877 ~~~~by the appropriate licensure fee, as established by rule and not~~~~



6878 ~~to exceed the cost of regulation under this part. The licensure~~  
 6879 ~~fee for nurse registries may not exceed \$1,000 and must be~~  
 6880 ~~deposited in the Health Care Trust Fund.~~

6881 ~~(4) The Agency for Health Care Administration may deny,~~  
 6882 ~~revoke, or suspend a license or impose an administrative fine in~~  
 6883 ~~the manner provided in chapter 120 against a nurse registry~~  
 6884 ~~that:~~

6885 ~~(a) Fails to comply with this section or applicable rules.~~

6886 ~~(b) Commits an intentional, reckless, or negligent act~~  
 6887 ~~that materially affects the health or safety of a person~~  
 6888 ~~receiving services.~~

6889 ~~(5) A license issued for the operation of a nurse~~  
 6890 ~~registry, unless sooner suspended or revoked, expires 1 year~~  
 6891 ~~after its date of issuance. Sixty days before the expiration~~  
 6892 ~~date, an application for renewal must be submitted to the Agency~~  
 6893 ~~for Health Care Administration on forms furnished by it. The~~  
 6894 ~~Agency for Health Care Administration shall renew the license if~~  
 6895 ~~the applicant has met the requirements of this section and~~  
 6896 ~~applicable rules. A nurse registry against which a revocation or~~  
 6897 ~~suspension proceeding is pending at the time of license renewal~~  
 6898 ~~may be issued a conditional license effective until final~~  
 6899 ~~disposition by the Agency for Health Care Administration of such~~  
 6900 ~~proceedings. If judicial relief is sought from the final~~  
 6901 ~~disposition, the court having jurisdiction may issue a~~  
 6902 ~~conditional license for the duration of the judicial proceeding.~~

6903 ~~(6) The Agency for Health Care Administration may~~  
 6904 ~~institute injunctive proceedings under s. 400.515.~~

6905        (4)~~(7)~~ A person that offers or advertises to the public  
 6906 that it provides any service for which licensure is required  
 6907 under this section must include in such advertisement the  
 6908 license number issued to it by the Agency for Health Care  
 6909 Administration.

6910        ~~(8) It is unlawful for a person to offer or advertise to  
 6911 the public services as defined by rule without obtaining a valid  
 6912 license from the Agency for Health Care Administration. It is  
 6913 unlawful for any holder of a license to advertise or hold out to  
 6914 the public that he or she holds a license for other than that  
 6915 for which he or she actually holds a license. A person who  
 6916 violates this subsection is subject to injunctive proceedings  
 6917 under s. 400.515.~~

6918        ~~(9) Any duly authorized officer or employee of the Agency  
 6919 for Health Care Administration may make such inspections and  
 6920 investigations as are necessary to respond to complaints or to  
 6921 determine the state of compliance with this section and  
 6922 applicable rules.~~

6923        ~~(a) If, in responding to a complaint, an agent or employee  
 6924 of the Agency for Health Care Administration has reason to  
 6925 believe that a crime has been committed, he or she shall notify  
 6926 the appropriate law enforcement agency.~~

6927        ~~(b) If, in responding to a complaint, an agent or employee  
 6928 of the Agency for Health Care Administration has reason to  
 6929 believe that abuse, neglect, or exploitation has occurred,  
 6930 according to the definitions in chapter 415, he or she shall  
 6931 file a report under chapter 415.~~

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6932        ~~(5)~~~~(10)~~(a) A nurse registry may refer for contract in  
6933 private residences registered nurses and licensed practical  
6934 nurses registered and licensed under part I of chapter 464,  
6935 certified nursing assistants certified under part II of chapter  
6936 464, home health aides who present documented proof of  
6937 successful completion of the training required by rule of the  
6938 agency, and companions or homemakers for the purposes of  
6939 providing those services authorized under s. 400.509(1). Each  
6940 person referred by a nurse registry must provide current  
6941 documentation that he or she is free from communicable diseases.

6942        (b) A certified nursing assistant or home health aide may  
6943 be referred for a contract to provide care to a patient in his  
6944 or her home only if that patient is under a physician's care. A  
6945 certified nursing assistant or home health aide referred for  
6946 contract in a private residence shall be limited to assisting a  
6947 patient with bathing, dressing, toileting, grooming, eating,  
6948 physical transfer, and those normal daily routines the patient  
6949 could perform for himself or herself were he or she physically  
6950 capable. A certified nursing assistant or home health aide may  
6951 not provide medical or other health care services that require  
6952 specialized training and that may be performed only by licensed  
6953 health care professionals. The nurse registry shall obtain the  
6954 name and address of the attending physician and send written  
6955 notification to the physician within 48 hours after a contract  
6956 is concluded that a certified nursing assistant or home health  
6957 aide will be providing care for that patient.

6958        (c) A nurse registry shall, at the time of contracting for  
6959 services through the nurse registry, advise the patient, the

6960 patient's family, or a person acting on behalf of the patient of  
 6961 the availability of registered nurses to make visits to the  
 6962 patient's home at an additional cost. A registered nurse shall  
 6963 ~~make monthly visits to the patient's home to assess the~~  
 6964 ~~patient's condition and quality of care being provided by the~~  
 6965 ~~certified nursing assistant or home health aide.~~ Any condition  
 6966 that ~~which~~ in the professional judgment of the nurse requires  
 6967 further medical attention shall be reported to the attending  
 6968 physician and the nurse registry. The assessment shall become a  
 6969 part of the patient's file with the nurse registry ~~and may be~~  
 6970 ~~reviewed by the agency during their survey procedure.~~

6971 ~~(6)(11)~~ A person who is referred by a nurse registry for  
 6972 contract in private residences and who is not a nurse licensed  
 6973 under part I of chapter 464 may perform only those services or  
 6974 care to clients that the person has been certified to perform or  
 6975 trained to perform as required by law or rules of the Agency for  
 6976 Health Care Administration or the Department of Business and  
 6977 Professional Regulation. Providing services beyond the scope  
 6978 authorized under this subsection constitutes the unauthorized  
 6979 practice of medicine or a violation of the Nurse Practice Act  
 6980 and is punishable as provided under chapter 458, chapter 459, or  
 6981 part I of chapter 464.

6982 ~~(7)(12)~~ Each nurse registry must require every applicant  
 6983 for contract to complete an application form providing the  
 6984 following information:

6985 (a) The name, address, date of birth, and social security  
 6986 number of the applicant.

6987 (b) The educational background and employment history of  
6988 the applicant.

6989 (c) The number and date of the applicable license or  
6990 certification.

6991 (d) When appropriate, information concerning the renewal  
6992 of the applicable license, registration, or certification.

6993 (8)~~(13)~~ Each nurse registry must comply with the  
6994 procedures set forth in s. 400.512 for maintaining records of  
6995 the employment history of all persons referred for contract and  
6996 is subject to the standards and conditions set forth in that  
6997 section. However, an initial screening may not be required for  
6998 persons who have been continuously registered with the nurse  
6999 registry since September 30, 1990.

7000 (9)~~(14)~~ The nurse registry must maintain the application  
7001 on file, and that file must be open to the inspection of the  
7002 Agency for Health Care Administration. The nurse registry must  
7003 maintain on file the name and address of the client to whom the  
7004 nurse or other nurse registry personnel is sent for contract and  
7005 the amount of the fee received by the nurse registry. A nurse  
7006 registry must maintain the file that includes the application  
7007 and other applicable documentation for 3 years after the date of  
7008 the last file entry of client-related information.

7009 (10)~~(15)~~ Nurse registries shall assist persons who would  
7010 need assistance and sheltering during evacuations because of  
7011 physical, mental, or sensory disabilities in registering with  
7012 the appropriate local emergency management agency pursuant to s.  
7013 252.355.

7014        (11)~~(16)~~ Each nurse registry shall prepare and maintain a  
 7015 comprehensive emergency management plan that is consistent with  
 7016 the criteria in this subsection and with the local special needs  
 7017 plan. The plan shall be updated annually. The plan shall specify  
 7018 how the nurse registry shall facilitate the provision of  
 7019 continuous care by persons referred for contract to persons who  
 7020 are registered pursuant to s. 252.355 during an emergency that  
 7021 interrupts the provision of care or services in private  
 7022 residencies.

7023        (a) All persons referred for contract who care for persons  
 7024 registered pursuant to s. 252.355 must include in the patient  
 7025 record a description of how care will be continued during a  
 7026 disaster or emergency that interrupts the provision of care in  
 7027 the patient's home. It shall be the responsibility of the person  
 7028 referred for contract to ensure that continuous care is  
 7029 provided.

7030        (b) Each nurse registry shall maintain a current  
 7031 prioritized list of patients in private residences who are  
 7032 registered pursuant to s. 252.355 and are under the care of  
 7033 persons referred for contract and who need continued services  
 7034 during an emergency. This list shall indicate, for each patient,  
 7035 if the client is to be transported to a special needs shelter  
 7036 and if the patient is receiving skilled nursing services. Nurse  
 7037 registries shall make this list available to county health  
 7038 departments and to local emergency management agencies upon  
 7039 request.

7040        (c) Each person referred for contract who is caring for a  
 7041 patient who is registered pursuant to s. 252.355 shall provide a

7042 list of the patient's medication and equipment needs to the  
 7043 nurse registry. Each person referred for contract shall make  
 7044 this information available to county health departments and to  
 7045 local emergency management agencies upon request.

7046 (d) Each person referred for contract shall not be  
 7047 required to continue to provide care to patients in emergency  
 7048 situations that are beyond the person's control and that make it  
 7049 impossible to provide services, such as when roads are  
 7050 impassable or when patients do not go to the location specified  
 7051 in their patient records.

7052 (e) The comprehensive emergency management plan required  
 7053 by this subsection is subject to review and approval by the  
 7054 county health department. During its review, the county health  
 7055 department shall ensure that, at a minimum, the local emergency  
 7056 management agency, the Agency for Health Care Administration,  
 7057 and the local chapter of the American Red Cross or other lead  
 7058 sheltering agency are given the opportunity to review the plan.  
 7059 The county health department shall complete its review within 60  
 7060 days after receipt of the plan and shall either approve the plan  
 7061 or advise the nurse registry of necessary revisions.

7062 (f) The Agency for Health Care Administration shall adopt  
 7063 rules establishing minimum criteria for the comprehensive  
 7064 emergency management plan and plan updates required by this  
 7065 subsection, with the concurrence of the Department of Health and  
 7066 in consultation with the Department of Community Affairs.

7067 (12)~~(17)~~ All persons referred for contract in private  
 7068 residences by a nurse registry must comply with the following  
 7069 requirements for a plan of treatment:

7070 (a) When, in accordance with the privileges and  
 7071 restrictions imposed upon a nurse under part I of chapter 464,  
 7072 the delivery of care to a patient is under the direction or  
 7073 supervision of a physician or when a physician is responsible  
 7074 for the medical care of the patient, a medical plan of treatment  
 7075 must be established for each patient receiving care or treatment  
 7076 provided by a licensed nurse in the home. The original medical  
 7077 plan of treatment must be timely signed by the physician,  
 7078 physician assistant, or advanced registered nurse practitioner,  
 7079 acting within his or her respective scope of practice, and  
 7080 reviewed ~~by him or her~~ in consultation with the licensed nurse  
 7081 at least every 2 months. Any additional order or change in  
 7082 orders must be obtained from the physician, physician assistant,  
 7083 or advanced registered nurse practitioner and reduced to writing  
 7084 and timely signed by the physician, physician assistant, or  
 7085 advanced registered nurse practitioner. The delivery of care  
 7086 under a medical plan of treatment must be substantiated by the  
 7087 appropriate nursing notes or documentation made by the nurse in  
 7088 compliance with nursing practices established under part I of  
 7089 chapter 464.

7090 (b) Whenever a medical plan of treatment is established  
 7091 for a patient, the initial medical plan of treatment, any  
 7092 amendment to the plan, additional order or change in orders, and  
 7093 copy of nursing notes must be filed in the office of the nurse  
 7094 registry.

7095 (13)~~(18)~~ The nurse registry must comply with the notice  
 7096 requirements of s. 400.495, relating to abuse reporting.



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7097            ~~(14)(19)~~ In addition to any other penalties imposed  
 7098 pursuant to this section or part, the agency may assess costs  
 7099 related to an investigation that results in a successful  
 7100 prosecution, ~~excluding costs associated with an attorney's~~  
 7101 ~~time. If the agency imposes such an assessment and the~~  
 7102 ~~assessment is not paid, and if challenged is not the subject of~~  
 7103 ~~a pending appeal, prior to the renewal of the license, the~~  
 7104 ~~license shall not be issued until the assessment is paid or~~  
 7105 ~~arrangements for payment of the assessment are made.~~

7106            (15)(20) The Agency for Health Care Administration shall  
 7107 adopt rules to implement this section and part II of chapter  
 7108 408.

7109            Section 126. Section 400.509, Florida Statutes, is amended  
 7110 to read:

7111            400.509 Registration of particular service providers  
 7112 exempt from licensure; certificate of registration; regulation  
 7113 of registrants.--

7114            (1) Any organization that provides companion services or  
 7115 homemaker services and does not provide a home health service to  
 7116 a person is exempt from licensure under this part. However, any  
 7117 organization that provides companion services or homemaker  
 7118 services must register with the agency.

7119            (2) The requirements of part II of chapter 408 shall apply  
 7120 to the provision of services that require registration or  
 7121 licensure pursuant to this section and part II of chapter 408  
 7122 and entities registered by or applying for such registration  
 7123 from the Agency for Health Care Administration pursuant to this  
 7124 section. Each applicant for registration and each registrant

7125 must comply with all provisions of part II of chapter 408 except  
 7126 ss. 408.806(1)(e) and 408.810(6)-(10). Registration consists of  
 7127 annually filing with the agency, under oath, on forms provided  
 7128 by it, the following information:

7129 ~~(a) If the registrant is a firm or partnership, the name,~~  
 7130 ~~address, date of birth, and social security number of every~~  
 7131 ~~member.~~

7132 ~~(b) If the registrant is a corporation or association, its~~  
 7133 ~~name and address; the name, address, date of birth, and social~~  
 7134 ~~security number of each of its directors and officers; and the~~  
 7135 ~~name and address of each person having at least a 5 percent~~  
 7136 ~~interest in the corporation or association.~~

7137 ~~(c) The name, address, date of birth, and social security~~  
 7138 ~~number of each person employed by or under contract with the~~  
 7139 ~~organization.~~

7140 (3) In accordance with s. 408.805, applicants and  
 7141 registrants shall pay fees for all registrations issued under  
 7142 this part, part II of chapter 408, and applicable rules. The  
 7143 amount of the fee shall be \$50 per biennium. The agency shall  
 7144 charge a registration fee of \$25 to be submitted with the  
 7145 information required under subsection (2).

7146 ~~(4) Each applicant for registration must comply with the~~  
 7147 ~~following requirements:~~

7148 ~~(a) Upon receipt of a completed, signed, and dated~~  
 7149 ~~application, the agency shall require background screening, in~~  
 7150 ~~accordance with the level 1 standards for screening set forth in~~  
 7151 ~~chapter 435, of every individual who will have contact with the~~  
 7152 ~~client. The agency shall require background screening of the~~

7153 ~~managing employee or other similarly titled individual who is~~  
7154 ~~responsible for the operation of the entity, and of the~~  
7155 ~~financial officer or other similarly titled individual who is~~  
7156 ~~responsible for the financial operation of the entity, including~~  
7157 ~~billings for client services in accordance with the level 2~~  
7158 ~~standards for background screening as set forth in chapter 435.~~

7159 ~~(b) The agency may require background screening of any~~  
7160 ~~other individual who is affiliated with the applicant if the~~  
7161 ~~agency has a reasonable basis for believing that he or she has~~  
7162 ~~been convicted of a crime or has committed any other offense~~  
7163 ~~prohibited under the level 2 standards for screening set forth~~  
7164 ~~in chapter 435.~~

7165 ~~(c) Proof of compliance with the level 2 background~~  
7166 ~~screening requirements of chapter 435 which has been submitted~~  
7167 ~~within the previous 5 years in compliance with any other health~~  
7168 ~~care or assisted living licensure requirements of this state is~~  
7169 ~~acceptable in fulfillment of paragraph (a).~~

7170 ~~(d) A provisional registration may be granted to an~~  
7171 ~~applicant when each individual required by this section to~~  
7172 ~~undergo background screening has met the standards for the~~  
7173 ~~abuse registry background check through the agency and the~~  
7174 ~~Department of Law Enforcement background check, but the agency~~  
7175 ~~has not yet received background screening results from the~~  
7176 ~~Federal Bureau of Investigation. A standard registration may be~~  
7177 ~~granted to the applicant upon the agency's receipt of a report~~  
7178 ~~of the results of the Federal Bureau of Investigation background~~  
7179 ~~screening for each individual required by this section to~~  
7180 ~~undergo background screening which confirms that all standards~~

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7181 ~~have been met, or upon the granting of a disqualification~~  
7182 ~~exemption by the agency as set forth in chapter 435. Any other~~  
7183 ~~person who is required to undergo level 2 background screening~~  
7184 ~~may serve in his or her capacity pending the agency's receipt of~~  
7185 ~~the report from the Federal Bureau of Investigation. However,~~  
7186 ~~the person may not continue to serve if the report indicates any~~  
7187 ~~violation of background screening standards and if a~~  
7188 ~~disqualification exemption has not been requested of and granted~~  
7189 ~~by the agency as set forth in chapter 435.~~

7190 ~~(e) Each applicant must submit to the agency, with its~~  
7191 ~~application, a description and explanation of any exclusions,~~  
7192 ~~permanent suspensions, or terminations of the applicant from the~~  
7193 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
7194 ~~requirements for disclosure of ownership and control interests~~  
7195 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
7196 ~~of this submission.~~

7197 ~~(f) Each applicant must submit to the agency a description~~  
7198 ~~and explanation of any conviction of an offense prohibited under~~  
7199 ~~the level 2 standards of chapter 435 which was committed by a~~  
7200 ~~member of the board of directors of the applicant, its officers,~~  
7201 ~~or any individual owning 5 percent or more of the applicant.~~  
7202 ~~This requirement does not apply to a director of a not-for-~~  
7203 ~~profit corporation or organization who serves solely in a~~  
7204 ~~voluntary capacity for the corporation or organization, does not~~  
7205 ~~regularly take part in the day-to-day operational decisions of~~  
7206 ~~the corporation or organization, receives no remuneration for~~  
7207 ~~his or her services on the corporation's or organization's board~~  
7208 ~~of directors, and has no financial interest and no family~~

7209 ~~members having a financial interest in the corporation or~~  
 7210 ~~organization, if the director and the not-for-profit corporation~~  
 7211 ~~or organization include in the application a statement affirming~~  
 7212 ~~that the director's relationship to the corporation satisfies~~  
 7213 ~~the requirements of this paragraph.~~

7214 ~~(g) A registration may not be granted to an applicant if~~  
 7215 ~~the applicant or managing employee has been found guilty of,~~  
 7216 ~~regardless of adjudication, or has entered a plea of nolo~~  
 7217 ~~contendere or guilty to, any offense prohibited under the level~~  
 7218 ~~2 standards for screening set forth in chapter 435, unless an~~  
 7219 ~~exemption from disqualification has been granted by the agency~~  
 7220 ~~as set forth in chapter 435.~~

7221 ~~(h) The agency may deny or revoke the registration of any~~  
 7222 ~~applicant who:~~

7223 ~~1. Has falsely represented a material fact in the~~  
 7224 ~~application required by paragraph (e) or paragraph (f), or has~~  
 7225 ~~omitted any material fact from the application required by~~  
 7226 ~~paragraph (e) or paragraph (f); or~~

7227 ~~2. Has had prior action taken against the applicant under~~  
 7228 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

7229 ~~(i) An application for licensure renewal must contain the~~  
 7230 ~~information required under paragraphs (e) and (f).~~

7231 (4)(5) Each registrant must obtain the employment or  
 7232 contract history of persons who are employed by or under  
 7233 contract with the organization and who will have contact at any  
 7234 time with patients or clients in their homes by:

7235 (a) Requiring such persons to submit an employment or  
 7236 contractual history to the registrant; and

7237 (b) Verifying the employment or contractual history,  
 7238 unless through diligent efforts such verification is not  
 7239 possible. The agency shall prescribe by rule the minimum  
 7240 requirements for establishing that diligent efforts have been  
 7241 made.

7242  
 7243 There is no monetary liability on the part of, and no cause of  
 7244 action for damages arises against, a former employer of a  
 7245 prospective employee of or prospective independent contractor  
 7246 with a registrant who reasonably and in good faith communicates  
 7247 his or her honest opinions about the former employee's or  
 7248 contractor's job performance. This subsection does not affect  
 7249 the official immunity of an officer or employee of a public  
 7250 corporation.

7251 ~~(6) On or before the first day on which services are~~  
 7252 ~~provided to a patient or client, any registrant under this part~~  
 7253 ~~must inform the patient or client and his or her immediate~~  
 7254 ~~family, if appropriate, of the right to report abusive,~~  
 7255 ~~neglectful, or exploitative practices. The statewide toll-free~~  
 7256 ~~telephone number for the central abuse hotline must be provided~~  
 7257 ~~to patients or clients in a manner that is clearly legible and~~  
 7258 ~~must include the words: "To report abuse, neglect, or~~  
 7259 ~~exploitation, please call toll-free (phone number)."~~  
 7260 ~~Registrants must establish appropriate policies and procedures~~  
 7261 ~~for providing such notice to patients or clients.~~

7262 ~~(7) The provisions of s. 400.512 regarding screening apply~~  
 7263 ~~to any person or business entity registered under this section~~  
 7264 ~~on or after October 1, 1994.~~

7265           ~~(8) Upon verification that all requirements for~~  
 7266 ~~registration have been met, the Agency for Health Care~~  
 7267 ~~Administration shall issue a certificate of registration valid~~  
 7268 ~~for no more than 1 year.~~

7269           ~~(9) The Agency for Health Care Administration may deny,~~  
 7270 ~~suspend, or revoke the registration of a person that:~~

7271           ~~(a) Fails to comply with this section or applicable rules.~~

7272           ~~(b) Commits an intentional, reckless, or negligent act~~  
 7273 ~~that materially affects the health or safety of a person~~  
 7274 ~~receiving services.~~

7275           ~~(10) The Agency for Health Care Administration may~~  
 7276 ~~institute injunctive proceedings under s. 400.515.~~

7277           (5)~~(11)~~ A person that offers or advertises to the public a  
 7278 service for which registration is required must include in its  
 7279 advertisement the registration number issued by the Agency for  
 7280 Health Care Administration.

7281           ~~(12) It is unlawful for a person to offer or advertise to~~  
 7282 ~~the public services, as defined by rule, without obtaining a~~  
 7283 ~~certificate of registration from the Agency for Health Care~~  
 7284 ~~Administration. It is unlawful for any holder of a certificate~~  
 7285 ~~of registration to advertise or hold out to the public that he~~  
 7286 ~~or she holds a certificate of registration for other than that~~  
 7287 ~~for which he or she actually holds a certificate of~~  
 7288 ~~registration. Any person who violates this subsection is subject~~  
 7289 ~~to injunctive proceedings under s. 400.515.~~

7290           ~~(13) Any duly authorized officer or employee of the Agency~~  
 7291 ~~for Health Care Administration has the right to make such~~  
 7292 ~~inspections and investigations as are necessary in order to~~

7293 ~~respond to complaints or to determine the state of compliance~~  
 7294 ~~with this section and applicable rules.~~

7295 ~~(a) If, in responding to a complaint, an officer or~~  
 7296 ~~employee of the Agency for Health Care Administration has reason~~  
 7297 ~~to believe that a crime has been committed, he or she shall~~  
 7298 ~~notify the appropriate law enforcement agency.~~

7299 ~~(b) If, in responding to a complaint, an officer or~~  
 7300 ~~employee of the Agency for Health Care Administration has reason~~  
 7301 ~~to believe that abuse, neglect, or exploitation has occurred,~~  
 7302 ~~according to the definitions in chapter 415, he or she shall~~  
 7303 ~~file a report under chapter 415.~~

7304 (6)~~(14)~~ In addition to any other penalties imposed  
 7305 pursuant to this section or part, the agency may assess costs  
 7306 related to an investigation that results in a successful  
 7307 prosecution, excluding costs associated with an attorney's time.  
 7308 If the agency imposes such an assessment and the assessment is  
 7309 not paid, and if challenged is not the subject of a pending  
 7310 appeal, prior to the renewal of the registration, the  
 7311 registration shall not be issued until the assessment is paid or  
 7312 arrangements for payment of the assessment are made.

7313 (7)~~(15)~~ The Agency for Health Care Administration shall  
 7314 adopt rules to administer this section and part II of chapter  
 7315 408.

7316 Section 127. Subsections (3) through (7) of section  
 7317 400.512, Florida Statutes, are renumbered as subsections (2)  
 7318 through (6) and present subsections (2) and (7) are amended to  
 7319 read:



7320           400.512 Screening of home health agency personnel; nurse  
 7321 registry personnel; and companions and homemakers.--The agency  
 7322 shall require employment or contractor screening as provided in  
 7323 chapter 435, using the level 1 standards for screening set forth  
 7324 in that chapter, for home health agency personnel; persons  
 7325 referred for employment by nurse registries; and persons  
 7326 employed by companion or homemaker services registered under s.  
 7327 400.509.

7328           ~~(2) The administrator of each home health agency, the~~  
 7329 ~~managing employee of each nurse registry, and the managing~~  
 7330 ~~employee of each companion or homemaker service registered under~~  
 7331 ~~s. 400.509 must sign an affidavit annually, under penalty of~~  
 7332 ~~perjury, stating that all personnel hired, contracted with, or~~  
 7333 ~~registered on or after October 1, 1994, who enter the home of a~~  
 7334 ~~patient or client in their service capacity have been screened~~  
 7335 ~~and that its remaining personnel have worked for the home health~~  
 7336 ~~agency or registrant continuously since before October 1, 1994.~~

7337           (6)~~(7)~~(a) It is a misdemeanor of the first degree,  
 7338 punishable under s. 775.082 or s. 775.083, for any person  
 7339 willfully, knowingly, or intentionally to:

- 7340           1. Fail, by false statement, misrepresentation,
- 7341 impersonation, or other fraudulent means, to disclose in any
- 7342 application for voluntary or paid employment a material fact
- 7343 used in making a determination as to such person's
- 7344 qualifications to be an employee under this section; or
- 7345           2. ~~Operate or attempt to operate an entity licensed or~~
- 7346 ~~registered under this part with persons who do not meet the~~

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7347 ~~minimum standards for good moral character as contained in this~~  
 7348 ~~section; or~~

7349 2.3. Use information from the criminal records obtained  
 7350 under this section for any purpose other than screening that  
 7351 person for employment as specified in this section or release  
 7352 such information to any other person for any purpose other than  
 7353 screening for employment under this section.

7354 (b) It is a felony of the third degree, punishable under  
 7355 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,  
 7356 knowingly, or intentionally to use information from the juvenile  
 7357 records of a person obtained under this section for any purpose  
 7358 other than screening for employment under this section.

7359 Section 128. Section 400.515, Florida Statutes, is  
 7360 repealed.

7361 Section 129. Subsections (6) and (7) of section 400.551,  
 7362 Florida Statutes, are amended to read:

7363 400.551 Definitions.--As used in this part, the term:

7364 (6) "Operator" means the licensee or person having general  
 7365 administrative charge of an adult day care center.

7366 (7) "Owner" means the licensee ~~owner~~ of an adult day care  
 7367 center.

7368 Section 130. Section 400.554, Florida Statutes, is amended  
 7369 to read:

7370 400.554 License requirement; fee; exemption; display.--

7371 (1) The requirements of part II of chapter 408 shall apply  
 7372 to the provision of services that require licensure pursuant  
 7373 this part and part II of chapter 408 and to entities licensed by  
 7374 or applying for such licensure from the Agency for Health Care

7375 Administration pursuant this part. However, each applicant for  
 7376 licensure and each licensee is exempt from the provisions of s.  
 7377 408.810(10). It is unlawful to operate an adult day care center  
 7378 without first obtaining from the agency a license authorizing  
 7379 such operation. The agency is responsible for licensing adult  
 7380 day care centers in accordance with this part.

7381 (2) Separate licenses are required for centers operated on  
 7382 separate premises, even though operated under the same  
 7383 management. Separate licenses are not required for separate  
 7384 buildings on the same premises.

7385 (3) In accordance with s. 408.805, an applicant or  
 7386 licensee shall pay a fee for each license application submitted  
 7387 under this part and part II of chapter 408. The amount of the  
 7388 fee shall be established by rule and ~~The biennial license fee~~  
 7389 ~~required of a center shall be determined by the department, but~~  
 7390 may not exceed \$150.

7391 (4) County-operated or municipally operated centers  
 7392 applying for licensure under this part are exempt from the  
 7393 payment of license fees.

7394 ~~(5) The license for a center shall be displayed in a~~  
 7395 ~~conspicuous place inside the center.~~

7396 ~~(6) A license is valid only in the possession of the~~  
 7397 ~~individual, firm, partnership, association, or corporation to~~  
 7398 ~~which it is issued and is not subject to sale, assignment, or~~  
 7399 ~~other transfer, voluntary or involuntary; nor is a license valid~~  
 7400 ~~for any premises other than the premises for which originally~~  
 7401 ~~issued.~~

7402 Section 131. Section 400.555, Florida Statutes, is amended  
 7403 to read:

7404 400.555 Application for license.--

7405 ~~(1) An application for a license to operate an adult day~~  
 7406 ~~care center must be made to the agency on forms furnished by the~~  
 7407 ~~agency and must be accompanied by the appropriate license fee~~  
 7408 ~~unless the applicant is exempt from payment of the fee as~~  
 7409 ~~provided in s. 400.554(4).~~

7410 (2) In addition to all provisions of part II of chapter  
 7411 408, the applicant for licensure must furnish:

7412 (a) a description of the physical and mental capabilities  
 7413 and needs of the participants to be served and the availability,  
 7414 frequency, and intensity of basic services and of supportive and  
 7415 optional services to be provided and proof of adequate liability  
 7416 insurance coverage.

7417 ~~(b) Satisfactory proof of financial ability to operate and~~  
 7418 ~~conduct the center in accordance with the requirements of this~~  
 7419 ~~part, which must include, in the case of an initial application,~~  
 7420 ~~a 1-year operating plan and proof of a 3-month operating reserve~~  
 7421 ~~fund; and~~

7422 ~~(c) Proof of adequate liability insurance coverage.~~

7423 ~~(d) Proof of compliance with level 2 background screening~~  
 7424 ~~as required under s. 400.5572.~~

7425 ~~(e) A description and explanation of any exclusions,~~  
 7426 ~~permanent suspensions, or terminations of the application from~~  
 7427 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
 7428 ~~disclosure of ownership and control interest requirements of the~~

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7429 ~~Medicare or Medicaid programs shall be accepted in lieu of this~~  
 7430 ~~submission.~~

7431 Section 132. Section 400.556, Florida Statutes, is amended  
 7432 to read:

7433 400.556 Denial, suspension, revocation of license;  
 7434 emergency action; administrative fines; investigations and  
 7435 inspections.--

7436 (1) The agency may deny, revoke, or suspend a license  
 7437 under this part, impose an action under s. 408.814, and ~~or may~~  
 7438 impose an administrative fine against the owner of an adult day  
 7439 care center or its operator or employee in the manner provided  
 7440 in chapter 120 for the violation of any provision of this part,  
 7441 part II of chapter 408, or applicable rules.

7442 (2) Each of the following actions by the owner of an adult  
 7443 day care center or by its operator or employee is a ground for  
 7444 action by the agency against the owner of the center or its  
 7445 operator or employee:

7446 (a) An intentional or negligent act materially affecting  
 7447 the health or safety of center participants.

7448 ~~(b) A violation of this part or of any standard or rule~~  
 7449 ~~under this part.~~

7450 (b)(e) A failure of persons subject to level 2 background  
 7451 screening under s. 408.809 ~~400.4174(1)~~ to meet the screening  
 7452 standards of s. 435.04, or the retention by the center of an  
 7453 employee subject to level 1 background screening standards under  
 7454 s. ~~400.4174(2)~~ who does not meet the screening standards of s.  
 7455 435.03 and for whom exemptions from disqualification have not  
 7456 been provided by the agency.

7457            ~~(c)(d)~~ Failure to follow the criteria and procedures  
 7458 provided under part I of chapter 394 relating to the  
 7459 transportation, voluntary admission, and involuntary examination  
 7460 of center participants.

7461            ~~(d)(e)~~ Multiple or repeated violations of this part or of  
 7462 any standard or rule adopted under this part or part II of  
 7463 chapter 408.

7464            ~~(f) Exclusion, permanent suspension, or termination of the~~  
 7465 ~~owner, if an individual, officer, or board member of the adult~~  
 7466 ~~day care center, if the owner is a firm, corporation,~~  
 7467 ~~partnership, or association, or any person owning 5 percent or~~  
 7468 ~~more of the center, from the Medicare or Medicaid program.~~

7469            (3) The agency is responsible for all investigations and  
 7470 inspections conducted pursuant to this part.

7471            Section 133. Section 400.5565, Florida Statutes, is  
 7472 amended to read:

7473            400.5565 Administrative fines; ~~interest.~~--

7474            (1)(a) If the agency determines that an adult day care  
 7475 center is not operated in compliance with this part, part II of  
 7476 chapter 408, or applicable with rules adopted under this part,  
 7477 the agency, notwithstanding any other administrative action it  
 7478 takes, shall make a reasonable attempt to discuss with the owner  
 7479 each violation and recommended corrective action prior to  
 7480 providing the owner with written notification. The agency may  
 7481 request the submission of a corrective action plan for the  
 7482 center which demonstrates a good faith effort to remedy each  
 7483 violation by a specific date, subject to the approval of the  
 7484 agency.

7485 (b) The owner of a center or its operator or employee  
 7486 found in violation of this part, part II of chapter 408, or  
 7487 applicable rules ~~or of rules adopted under this part~~ may be  
 7488 fined by the agency. A fine may not exceed \$500 for each  
 7489 violation. In no event, however, may such fines in the aggregate  
 7490 exceed \$5,000.

7491 (c) The failure to correct a violation by the date set by  
 7492 the agency, or the failure to comply with an approved corrective  
 7493 action plan, is a separate violation for each day such failure  
 7494 continues, unless the agency approves an extension to a specific  
 7495 date.

7496 ~~(d) If the owner of a center or its operator or employee~~  
 7497 ~~appeals an agency action under this section and the fine is~~  
 7498 ~~upheld, the violator shall pay the fine, plus interest at the~~  
 7499 ~~legal rate specified in s. 687.01 for each day that the fine~~  
 7500 ~~remains unpaid after the date set by the agency for payment of~~  
 7501 ~~the fine.~~

7502 (2) In determining whether to impose a fine and in fixing  
 7503 the amount of any fine, the agency shall consider the following  
 7504 factors:

7505 (a) The gravity of the violation, including the  
 7506 probability that death or serious physical or emotional harm to  
 7507 a participant will result or has resulted, the severity of the  
 7508 actual or potential harm, and the extent to which the provisions  
 7509 of the applicable statutes or rules were violated.

7510 (b) Actions taken by the owner or operator to correct  
 7511 violations.

7512 (c) Any previous violations.

7513 (d) The financial benefit to the center of committing or  
7514 continuing the violation.

7515 Section 134. Section 400.557, Florida Statutes, is amended  
7516 to read:

7517 400.557 ~~Expiration of license; renewal; Conditional~~  
7518 ~~license or permit.--~~

7519 ~~(1) A license issued for the operation of an adult day~~  
7520 ~~care center, unless sooner suspended or revoked, expires 2 years~~  
7521 ~~after the date of issuance. The agency shall notify a licensee~~  
7522 ~~at least 120 days before the expiration date that license~~  
7523 ~~renewal is required to continue operation. The notification must~~  
7524 ~~be provided electronically or by mail delivery. At least 90 days~~  
7525 ~~prior to the expiration date, an application for renewal must be~~  
7526 ~~submitted to the agency. A license shall be renewed, upon the~~  
7527 ~~filing of an application on forms furnished by the agency, if~~  
7528 ~~the applicant has first met the requirements of this part and of~~  
7529 ~~the rules adopted under this part. The applicant must file with~~  
7530 ~~the application satisfactory proof of financial ability to~~  
7531 ~~operate the center in accordance with the requirements of this~~  
7532 ~~part and in accordance with the needs of the participants to be~~  
7533 ~~served and an affidavit of compliance with the background~~  
7534 ~~screening requirements of s. 400.5572.~~

7535 ~~(2) A licensee against whom a revocation or suspension~~  
7536 ~~proceeding is pending at the time for license renewal may be~~  
7537 ~~issued a conditional license effective until final disposition~~  
7538 ~~by the agency of the proceeding. If judicial relief is sought~~  
7539 ~~from the final disposition, the court having jurisdiction may~~



7540 ~~issue a conditional permit effective for the duration of the~~  
 7541 ~~judicial proceeding.~~

7542 ~~(3)~~ The agency may issue a conditional license to an  
 7543 applicant for license renewal or change of ownership if the  
 7544 applicant fails to meet all standards and requirements for  
 7545 licensure. A conditional license issued under this subsection  
 7546 must be limited to a specific period not exceeding 6 months, as  
 7547 determined by the agency, and must be accompanied by an approved  
 7548 plan of correction.

7549 Section 135. Section 400.5572, Florida Statutes, is  
 7550 amended to read:

7551 400.5572 Background screening.--

7552 ~~(1)(a) Level 2 background screening must be conducted on~~  
 7553 ~~each of the following persons, who shall be considered employees~~  
 7554 ~~for the purposes of conducting screening under chapter 435:~~

7555 ~~1. The adult day care center owner if an individual, the~~  
 7556 ~~operator, and the financial officer.~~

7557 ~~2. An officer or board member if the owner of the adult~~  
 7558 ~~day care center is a firm, corporation, partnership, or~~  
 7559 ~~association, or any person owning 5 percent or more of the~~  
 7560 ~~facility, if the agency has probable cause to believe that such~~  
 7561 ~~person has been convicted of any offense prohibited by s.~~  
 7562 ~~435.04. For each officer, board member, or person owning 5~~  
 7563 ~~percent or more who has been convicted of any such offense, the~~  
 7564 ~~facility shall submit to the agency a description and~~  
 7565 ~~explanation of the conviction at the time of license~~  
 7566 ~~application. This subparagraph does not apply to a board member~~  
 7567 ~~of a not-for-profit corporation or organization if the board~~

7568 ~~member serves solely in a voluntary capacity, does not regularly~~  
 7569 ~~take part in the day-to-day operational decisions of the~~  
 7570 ~~corporation or organization, receives no remuneration for his or~~  
 7571 ~~her services, and has no financial interest and has no family~~  
 7572 ~~members with a financial interest in the corporation or~~  
 7573 ~~organization, provided that the board member and facility submit~~  
 7574 ~~a statement affirming that the board member's relationship to~~  
 7575 ~~the facility satisfies the requirements of this subparagraph.~~

7576 ~~(b) Proof of compliance with level 2 screening standards~~  
 7577 ~~which has been submitted within the previous 5 years to meet any~~  
 7578 ~~facility or professional licensure requirements of the agency or~~  
 7579 ~~the Department of Health satisfies the requirements of this~~  
 7580 ~~subsection.~~

7581 ~~(c) The agency may grant a provisional license to an adult~~  
 7582 ~~day care center applying for an initial license when each~~  
 7583 ~~individual required by this subsection to undergo screening has~~  
 7584 ~~completed the Department of Law Enforcement background check,~~  
 7585 ~~but has not yet received results from the Federal Bureau of~~  
 7586 ~~Investigation, or when a request for an exemption from~~  
 7587 ~~disqualification has been submitted to the agency pursuant to s.~~  
 7588 ~~435.07, but a response has not been issued.~~

7589 ~~(2) The owner or administrator of an adult day care center~~  
 7590 ~~must conduct level 1 background screening as set forth in~~  
 7591 ~~chapter 435 on all employees hired on or after October 1, 1998,~~  
 7592 ~~who provide basic services or supportive and optional services~~  
 7593 ~~to the participants. Such persons satisfy this requirement if:~~

7594 ~~(1)(a) Proof of compliance with level 1 screening~~  
 7595 ~~requirements obtained to meet any professional license~~

7596 requirements in this state is provided and accompanied, under  
 7597 penalty of perjury, by a copy of the person's current  
 7598 professional license and an affidavit of current compliance with  
 7599 the background screening requirements.

7600 (2)(b) The person required to be screened has been  
 7601 continuously employed, without a breach in service that exceeds  
 7602 180 days, in the same type of occupation for which the person is  
 7603 seeking employment and provides proof of compliance with the  
 7604 level 1 screening requirement which is no more than 2 years old.  
 7605 Proof of compliance must be provided directly from one employer  
 7606 or contractor to another, and not from the person screened. Upon  
 7607 request, a copy of screening results shall be provided to the  
 7608 person screened by the employer retaining documentation of the  
 7609 screening.

7610 (3)(e) The person required to be screened is employed by a  
 7611 corporation or business entity or related corporation or  
 7612 business entity that owns, operates, or manages more than one  
 7613 facility or agency licensed under this chapter, and for whom a  
 7614 level 1 screening was conducted by the corporation or business  
 7615 entity as a condition of initial or continued employment.

7616 Section 136. Section 400.5575, Florida Statutes, is  
 7617 repealed.

7618 Section 137. Section 400.558, Florida Statutes, is  
 7619 repealed.

7620 Section 138. Section 400.559, Florida Statutes, is amended  
 7621 to read:

7622 400.559 Discontinuance of operation of adult day care  
 7623 centers ~~Closing or change of owner or operator of center.--~~

7624           (1) Before operation of an adult day care center may be  
 7625 voluntarily discontinued, the operator must ~~inform the agency in~~  
 7626 ~~writing~~ at least 60 days prior to the discontinuance of  
 7627 operation. ~~The operator must also, at such time,~~ inform each  
 7628 participant of the fact and the proposed date of such  
 7629 discontinuance of operation.

7630           (2) ~~Immediately upon discontinuance of the operation of a~~  
 7631 ~~center, the owner or operator shall surrender the license for~~  
 7632 ~~the center to the agency, and the license shall be canceled by~~  
 7633 ~~the agency.~~

7634           (3) ~~If a center has a change of ownership, the new owner~~  
 7635 ~~shall apply to the agency for a new license at least 60 days~~  
 7636 ~~before the date of the change of ownership.~~

7637           (4) ~~If a center has a change of operator, the new operator~~  
 7638 ~~shall notify the agency in writing within 30 days after the~~  
 7639 ~~change of operator.~~

7640           Section 139. Section 400.56, Florida Statutes, is amended  
 7641 to read:

7642           400.56 Right of entry and inspection.--In accordance with  
 7643 s. 408.811, ~~Any duly designated officer or employee of the~~  
 7644 agency or department has the right to enter the premises of any  
 7645 adult day care center licensed pursuant to this part, at any  
 7646 reasonable time, in order to determine the state of compliance  
 7647 with this part, part II of chapter 408, and applicable ~~the rules~~  
 7648 ~~or standards in force pursuant to this part. The right of entry~~  
 7649 ~~and inspection also extends to any premises that the agency has~~  
 7650 ~~reason to believe are being operated as a center without a~~  
 7651 ~~license, but no entry or inspection of any unlicensed premises~~

7652 ~~may be made without the permission of the owner or operator~~  
 7653 ~~unless a warrant is first obtained from the circuit court~~  
 7654 ~~authorizing entry or inspection. Any application for a center~~  
 7655 ~~license or license renewal made pursuant to this part~~  
 7656 ~~constitutes permission for, and complete acquiescence in, any~~  
 7657 ~~entry or inspection of the premises for which the license is~~  
 7658 ~~sought in order to facilitate verification of the information~~  
 7659 ~~submitted on or in connection with the application.~~

7660 Section 140. Section 400.562, Florida Statutes, is amended  
 7661 to read:

7662 400.562 Rules establishing standards.--

7663 (1) The agency ~~Department of Elderly Affairs~~, in  
 7664 conjunction with the Department of Elderly Affairs ~~agency~~, shall  
 7665 adopt rules to implement the provisions of this part and part II  
 7666 of chapter 408. The rules must include reasonable and fair  
 7667 standards. Any conflict between these standards and those that  
 7668 may be set forth in local, county, or municipal ordinances shall  
 7669 be resolved in favor of those having statewide effect. Such  
 7670 standards must relate to:

7671 (a) The maintenance of adult day care centers with respect  
 7672 to plumbing, heating, lighting, ventilation, and other building  
 7673 conditions, including adequate meeting space, to ensure the  
 7674 health, safety, and comfort of participants and protection from  
 7675 fire hazard. Such standards may not conflict with chapter 553  
 7676 and must be based upon the size of the structure and the number  
 7677 of participants.

7678 (b) The number and qualifications of all personnel  
 7679 employed by adult day care centers who have responsibilities for  
 7680 the care of participants.

7681 (c) All sanitary conditions within adult day care centers  
 7682 and their surroundings, including water supply, sewage disposal,  
 7683 food handling, and general hygiene, and maintenance of sanitary  
 7684 conditions, to ensure the health and comfort of participants.

7685 (d) Basic services provided by adult day care centers.

7686 (e) Supportive and optional services provided by adult day  
 7687 care centers.

7688 (f) Data and information relative to participants and  
 7689 programs of adult day care centers, including, but not limited  
 7690 to, the physical and mental capabilities and needs of the  
 7691 participants, the availability, frequency, and intensity of  
 7692 basic services and of supportive and optional services provided,  
 7693 the frequency of participation, the distances traveled by  
 7694 participants, the hours of operation, the number of referrals to  
 7695 other centers or elsewhere, and the incidence of illness.

7696 (g) Components of a comprehensive emergency management  
 7697 plan, developed in consultation with the Department of Health,  
 7698 the Department of Elderly Affairs ~~Agency for Health Care~~  
 7699 ~~Administration~~, and the Department of Community Affairs.

7700 ~~(2) Pursuant to s. 119.07, the agency may charge a fee for~~  
 7701 ~~furnishing a copy of this part, or of the rules adopted under~~  
 7702 ~~this part, to any person upon request for the copy.~~

7703 (2)(3) Pursuant to this part, s. 408.811, and applicable  
 7704 ~~rules adopted by the department~~, the agency may conduct an  
 7705 abbreviated biennial inspection of key quality-of-care

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7706 standards, in lieu of a full inspection, of a center that has a  
 7707 record of good performance. However, the agency must conduct a  
 7708 full inspection of a center that has had one or more confirmed  
 7709 complaints within the licensure period immediately preceding the  
 7710 inspection or which has a serious problem identified during the  
 7711 abbreviated inspection. The agency shall by rule develop the key  
 7712 quality-of-care standards, taking into consideration the  
 7713 comments and recommendations of the Department of Elderly  
 7714 Affairs and of provider groups. ~~These standards shall be~~  
 7715 ~~included in rules adopted by the Department of Elderly Affairs.~~

7716 Section 141. Section 400.564, Florida Statutes, is  
 7717 repealed.

7718 Section 142. Section 400.602, Florida Statutes, is amended  
 7719 to read:

7720 400.602 Licensure required; prohibited acts; exemptions;  
 7721 display, transferability of license.--

7722 (1)(a) The requirements of part II of chapter 408 shall  
 7723 apply to the provision of services that require licensure  
 7724 pursuant to this part and part II of chapter 408 and to entities  
 7725 licensed by or applying for such licensure from the agency  
 7726 pursuant to this part. ~~It is unlawful to operate or maintain a~~  
 7727 ~~hospice without first obtaining a license from the agency.~~

7728 ~~(b) It is unlawful for~~ Any person or legal entity not  
 7729 licensed as a hospice under this part may not ~~to~~ use the word  
 7730 "hospice" in its name, or to offer or advertise hospice services  
 7731 or hospice-like services in such a way as to mislead a person to  
 7732 believe that the offeror is a hospice licensed under this part.

7733 (2) Services provided by a hospital, nursing home, or  
 7734 other health care facility, health care provider, or caregiver,  
 7735 or under the Community Care for the Elderly Act, do not  
 7736 constitute a hospice unless the facility, provider, or caregiver  
 7737 establishes a separate and distinct administrative program to  
 7738 provide home, residential, and homelike inpatient hospice  
 7739 services.

7740 (3)(a) A separately licensed hospice may not use a name  
 7741 which is substantially the same as the name of another hospice  
 7742 licensed under this part.

7743 (b) A licensed hospice which intends to change its name or  
 7744 address must notify the agency at least 60 days before making  
 7745 the change.

7746 ~~(4) The license shall be displayed in a conspicuous place~~  
 7747 ~~inside the hospice program office; shall be valid only in the~~  
 7748 ~~possession of the person or public agency to which it is issued;~~  
 7749 ~~shall not be subject to sale, assignment, or other transfer,~~  
 7750 ~~voluntary or involuntary; and shall not be valid for any hospice~~  
 7751 ~~other than the hospice for which originally issued.~~

7752 (4)~~(5)~~ Notwithstanding s. 400.601(3), any hospice  
 7753 operating in corporate form exclusively as a hospice,  
 7754 incorporated on or before July 1, 1978, may be transferred to a  
 7755 for-profit or not-for-profit entity, and may transfer the  
 7756 license to that entity.

7757 (5)~~(6)~~ Notwithstanding s. 400.601(3), at any time after  
 7758 July 1, 1995, any entity entitled to licensure under subsection  
 7759 (5) may obtain a license for up to two additional hospices in  
 7760 accordance with the other requirements of this part and upon



7761 receipt of any certificate of need that may be required under  
 7762 the provisions of part I of chapter 408 ~~ss. 408.031-408.045~~.

7763 Section 143. Section 400.605, Florida Statutes, is amended  
 7764 to read:

7765 400.605 Administration; forms; fees; rules; inspections;  
 7766 fines.--

7767 (1) The agency ~~department~~, in consultation with the  
 7768 department ~~agency~~, shall by rule establish minimum standards and  
 7769 procedures for a hospice pursuant to this part and part II of  
 7770 chapter 408. The rules must include:

7771 ~~(a) License application procedures and requirements.~~

7772 (a)~~(b)~~ The qualifications of professional and ancillary  
 7773 personnel to ensure the provision of appropriate and adequate  
 7774 hospice care.

7775 (b)~~(c)~~ Standards and procedures for the administrative  
 7776 management of a hospice.

7777 (c)~~(d)~~ Standards for hospice services that ensure the  
 7778 provision of quality patient care.

7779 (d)~~(e)~~ Components of a patient plan of care.

7780 (e)~~(f)~~ Procedures relating to the implementation of  
 7781 advanced directives and do-not-resuscitate orders.

7782 (f)~~(g)~~ Procedures for maintaining and ensuring  
 7783 confidentiality of patient records.

7784 (g)~~(h)~~ Standards for hospice care provided in freestanding  
 7785 inpatient facilities that are not otherwise licensed medical  
 7786 facilities and in residential care facilities such as nursing  
 7787 homes, assisted living facilities, adult family care homes, and  
 7788 hospice residential units and facilities.

7789            ~~(h)(i)~~ Physical plant standards for hospice residential  
 7790 and inpatient facilities and units.

7791            ~~(i)(j)~~ Components of a comprehensive emergency management  
 7792 plan, developed in consultation with the Department of Health,  
 7793 the Department of Elderly Affairs, and the Department of  
 7794 Community Affairs.

7795            ~~(j)(k)~~ Standards and procedures relating to the  
 7796 establishment and activities of a quality assurance and  
 7797 utilization review committee.

7798            ~~(k)(l)~~ Components and procedures relating to the  
 7799 collection of patient demographic data and other information on  
 7800 the provision of hospice care in this state.

7801            (2) In accordance with s. 408.805, an applicant or  
 7802 licensee shall pay a fee for each license application submitted  
 7803 under this part, part II of chapter 408, and applicable rules.  
 7804 The amount of the fee shall be established by rule and may not  
 7805 exceed \$1,200 per biennium. The agency shall:

7806            ~~(a) Prepare and furnish all forms necessary under the~~  
 7807 ~~provisions of this part in relation to applications for~~  
 7808 ~~licensure or licensure renewals.~~

7809            ~~(b) Collect from the applicant at the time of filing an~~  
 7810 ~~application for a license or at the time of renewal of a license~~  
 7811 ~~a fee which must be reasonably calculated to cover the cost of~~  
 7812 ~~regulation under this part, but may not exceed \$600 per program.~~  
 7813 ~~All fees collected under this part shall be deposited in the~~  
 7814 ~~Health Care Trust Fund for the administration of this part.~~

7815            ~~(c) Issue hospice licenses to all applicants which meet~~  
 7816 ~~the provisions of this part and applicable rules.~~

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7817            (3)(d) In accordance with s. 408.811, the agency shall  
7818 conduct annual licensure inspections of all licensees, except  
7819 that licensure inspections may be conducted biennially for  
7820 hospices having a 3-year record of substantial compliance. The  
7821 agency shall

7822            ~~(e)~~ conduct such inspections and investigations as are  
7823 necessary in order to determine the state of compliance with the  
7824 provisions of this part, part II of chapter 408, and applicable  
7825 ~~adopted rules. The right of inspection also extends to any~~  
7826 ~~program that the agency has reason to believe is offering or~~  
7827 ~~advertising itself as a hospice without a license, but no~~  
7828 ~~inspection may be made without the permission of the owner or~~  
7829 ~~person in charge thereof unless a warrant is first obtained from~~  
7830 ~~a circuit court authorizing such inspection. An application for~~  
7831 ~~a license or license renewal made pursuant to this part~~  
7832 ~~constitutes permission for an inspection of the hospice for~~  
7833 ~~which the license is sought in order to facilitate verification~~  
7834 ~~of the information submitted on or in connection with the~~  
7835 ~~application.~~

7836            (4)(f) In accordance with part II of chapter 408, the  
7837 agency may impose an administrative fine for any violation of  
7838 the provisions of this part, part II of chapter 408, or  
7839 applicable rules.

7840            Section 144. Section 400.606, Florida Statutes, is amended  
7841 to read:

7842            400.606 License; application; renewal; conditional license  
7843 or permit; certificate of need.--

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- 7844           (1) ~~A license application must be filed on a form provided~~  
7845 ~~by the agency and must be accompanied by the appropriate license~~  
7846 ~~fee as well as satisfactory proof that the hospice is in~~  
7847 ~~compliance with this part and any rules adopted by the~~  
7848 ~~department and proof of financial ability to operate and conduct~~  
7849 ~~the hospice in accordance with the requirements of this part.~~  
7850 The initial application and change of ownership application must  
7851 be accompanied by a plan for the delivery of home, residential,  
7852 and homelike inpatient hospice services to terminally ill  
7853 persons and their families. Such plan must contain, but need not  
7854 be limited to:
- 7855           (a) The estimated average number of terminally ill persons  
7856 to be served monthly.
- 7857           (b) The geographic area in which hospice services will be  
7858 available.
- 7859           (c) A listing of services which are or will be provided,  
7860 either directly by the applicant or through contractual  
7861 arrangements with existing providers.
- 7862           (d) Provisions for the implementation of hospice home care  
7863 within 3 months after licensure.
- 7864           (e) Provisions for the implementation of hospice homelike  
7865 inpatient care within 12 months after licensure.
- 7866           (f) The number and disciplines of professional staff to be  
7867 employed.
- 7868           (g) The name and qualifications of any existing or  
7869 potential contractee.
- 7870           (h) A plan for attracting and training volunteers.
- 7871           (i) The projected annual operating cost of the hospice.

7872           ~~(j) A statement of financial resources and personnel~~  
 7873 ~~available to the applicant to deliver hospice care.~~

7874  
 7875 If the applicant is an existing licensed health care provider,  
 7876 the application must be accompanied by a copy of the most recent  
 7877 profit-loss statement and, if applicable, the most recent  
 7878 licensure inspection report.

7879           ~~(2) Each applicant must submit to the agency with its~~  
 7880 ~~application a description and explanation of any exclusions,~~  
 7881 ~~permanent suspensions, or terminations from the Medicaid or~~  
 7882 ~~Medicare programs of the owner, if an individual; of any officer~~  
 7883 ~~or board member of the hospice, if the owner is a firm,~~  
 7884 ~~corporation, partnership, or association; or of any person~~  
 7885 ~~owning 5 percent or more of the hospice. Proof of compliance~~  
 7886 ~~with disclosure of ownership and control interest requirements~~  
 7887 ~~of the Medicaid or Medicare programs may be accepted in lieu of~~  
 7888 ~~this submission.~~

7889           ~~(2)(3) A license issued for the operation of a hospice,~~  
 7890 ~~unless sooner suspended or revoked, shall expire automatically 1~~  
 7891 ~~year from the date of issuance. Sixty days prior to the~~  
 7892 ~~expiration date, a hospice wishing to renew its license shall~~  
 7893 ~~submit an application for renewal to the agency on forms~~  
 7894 ~~furnished by the agency. The agency shall renew the license if~~  
 7895 ~~the applicant has first met the requirements established under~~  
 7896 ~~this part and all applicable rules and has provided the~~  
 7897 ~~information described under this section in addition to the~~  
 7898 ~~application. However, The application for license renewal shall~~  
 7899 ~~be accompanied by an update of the plan for delivery of hospice~~

7900 care only if information contained in the plan submitted  
 7901 pursuant to subsection (1) is no longer applicable.

7902 ~~(4) A hospice against which a revocation or suspension~~  
 7903 ~~proceeding is pending at the time of license renewal may be~~  
 7904 ~~issued a conditional license by the agency effective until final~~  
 7905 ~~disposition of such proceeding. If judicial relief is sought~~  
 7906 ~~from the final agency action, the court having jurisdiction may~~  
 7907 ~~issue a conditional permit for the duration of the judicial~~  
 7908 ~~proceeding.~~

7909 (3)~~(5)~~ The agency shall not issue a license to a hospice  
 7910 that fails to receive a certificate of need under the provisions  
 7911 of part I of chapter 408 ss. 408.031-408.045. A licensed hospice  
 7912 is a health care facility as that term is used in s. 408.039(5)  
 7913 and is entitled to initiate or intervene in an administrative  
 7914 hearing.

7915 (4)~~(6)~~ A freestanding hospice facility that is primarily  
 7916 engaged in providing inpatient and related services and that is  
 7917 not otherwise licensed as a health care facility shall be  
 7918 required to obtain a certificate of need. However, a  
 7919 freestanding hospice facility with six or fewer beds shall not  
 7920 be required to comply with institutional standards such as, but  
 7921 not limited to, standards requiring sprinkler systems, emergency  
 7922 electrical systems, or special lavatory devices.

7923 Section 145. Section 400.6065, Florida Statutes, is  
 7924 amended to read:

7925 400.6065 Background screening.--

7926 ~~(1) Upon receipt of a completed application under s.~~  
 7927 ~~400.606, the agency shall require level 2 background screening~~

7928 ~~on each of the following persons, who shall be considered~~  
 7929 ~~employees for the purposes of conducting screening under chapter~~  
 7930 ~~435:~~

7931 ~~(a) The hospice administrator and financial officer.~~

7932 ~~(b) An officer or board member if the hospice is a firm,~~  
 7933 ~~corporation, partnership, or association, or any person owning 5~~  
 7934 ~~percent or more of the hospice if the agency has probable cause~~  
 7935 ~~to believe that such officer, board member, or owner has been~~  
 7936 ~~convicted of any offense prohibited by s. 435.04. For each~~  
 7937 ~~officer, board member, or person owning 5 percent or more who~~  
 7938 ~~has been convicted of any such offense, the hospice shall submit~~  
 7939 ~~to the agency a description and explanation of the conviction at~~  
 7940 ~~the time of license application. This paragraph does not apply~~  
 7941 ~~to a board member of a not-for-profit corporation or~~  
 7942 ~~organization if the board member serves solely in a voluntary~~  
 7943 ~~capacity, does not regularly take part in the day-to-day~~  
 7944 ~~operational decisions of the corporation or organization,~~  
 7945 ~~receives no remuneration for his or her services, and has no~~  
 7946 ~~financial interest and has no family members with a financial~~  
 7947 ~~interest in the corporation or organization, provided that the~~  
 7948 ~~board member and the corporation or organization submit a~~  
 7949 ~~statement affirming that the board member's relationship to the~~  
 7950 ~~corporation or organization satisfies the requirements of this~~  
 7951 ~~paragraph.~~

7952 ~~(2) Proof of compliance with level 2 screening standards~~  
 7953 ~~which has been submitted within the previous 5 years to meet any~~  
 7954 ~~facility or professional licensure requirements of the agency or~~

7955 ~~the Department of Health satisfies the requirements of this~~  
 7956 ~~section.~~

7957 ~~(3) The agency may grant a provisional license to a~~  
 7958 ~~hospice applying for an initial license when each individual~~  
 7959 ~~required by this section to undergo screening has completed the~~  
 7960 ~~Department of Law Enforcement background check, but has not yet~~  
 7961 ~~received results from the Federal Bureau of Investigation.~~

7962 (1)~~(4)~~ The agency shall require employment or contractor  
 7963 screening as provided in chapter 435, using the level 1  
 7964 standards for screening set forth in that chapter, for hospice  
 7965 personnel.

7966 (2)~~(5)~~ The agency may grant exemptions from  
 7967 disqualification from employment under this section as provided  
 7968 in s. 435.07.

7969 ~~(6) The administration of each hospice must sign an~~  
 7970 ~~affidavit annually, under penalty of perjury, stating that all~~  
 7971 ~~personnel employed or contracted with on or after October 1,~~  
 7972 ~~1998, who provide hospice services in a facility, or who enter~~  
 7973 ~~the home of a patient in their service capacity, have been~~  
 7974 ~~screened.~~

7975 (3)~~(7)~~ Proof of compliance with the screening requirements  
 7976 of chapter 435 shall be accepted in lieu of the requirements of  
 7977 this section if the person has been continuously employed or  
 7978 registered without a breach in service that exceeds 180 days,  
 7979 the proof of compliance is not more than 2 years old, and the  
 7980 person has been screened, at the discretion of the hospice.



7981            (4)~~(8)~~(a) It is a misdemeanor of the first degree,  
 7982 punishable under s. 775.082 or s. 775.083, for any person  
 7983 willfully, knowingly, or intentionally to:

7984            1. Fail, by false statement, misrepresentation,  
 7985 impersonation, or other fraudulent means, to disclose in any  
 7986 application for voluntary or paid employment a material fact  
 7987 used in making a determination as to such person's  
 7988 qualifications to be employed or contracted with under this  
 7989 section;

7990            ~~2. Operate or attempt to operate an entity licensed under  
 7991 this part with persons who do not meet the minimum standards for  
 7992 good moral character as contained in this section; or~~

7993            2.3. Use information from the criminal records obtained  
 7994 under this section for any purpose other than screening as  
 7995 specified in this section, or release such information to any  
 7996 other person for any purpose other than screening under this  
 7997 section.

7998            (b) It is a felony of the third degree, punishable under  
 7999 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,  
 8000 knowingly, or intentionally to use information from the juvenile  
 8001 records of a person obtained under this section for any purpose  
 8002 other than screening for employment under this section.

8003            Section 146. Section 400.607, Florida Statutes, is amended  
 8004 to read:

8005            400.607 Denial, suspension, ~~or~~ revocation of license;  
 8006 emergency actions; imposition of administrative fine; grounds;  
 8007 injunctions.--

8008           (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
 8009 impose an action under s. 408.814, and ~~or~~ impose an  
 8010 administrative fine, which may not exceed \$5,000 per violation,  
 8011 for the violation of any provision of this part, part II of  
 8012 chapter 408, or applicable rules ~~in the manner provided in~~  
 8013 ~~chapter 120.~~

8014           (2) Any of the following actions by a licensed hospice or  
 8015 any of its employees shall be grounds for action by the agency  
 8016 against a hospice:

8017           (a) A violation of the provisions of this part or  
 8018 applicable rules.

8019           (b) An intentional or negligent act materially affecting  
 8020 the health or safety of a patient.

8021           ~~(3) The agency may deny or revoke a license upon a~~  
 8022 ~~determination that:~~

8023           ~~(a) Persons subject to level 2 background screening under~~  
 8024 ~~s. 400.6065 do not meet the screening standards of s. 435.04,~~  
 8025 ~~and exemptions from disqualification have not been provided by~~  
 8026 ~~the agency.~~

8027           ~~(b) An officer, board member, or person owning 5 percent~~  
 8028 ~~or more of the hospice has been excluded, permanently suspended,~~  
 8029 ~~or terminated from the Medicare or Medicaid programs.~~

8030           (3)(4) If, 3 months after the date of obtaining a license,  
 8031 or at any time thereafter, a hospice does not have in operation  
 8032 the home-care component of hospice care, the agency shall  
 8033 immediately revoke the license of such hospice.

8034           (4)(5) If, 12 months after the date of obtaining a license  
 8035 pursuant to s. 400.606, or at any time thereafter, a hospice

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8036 | does not have in operation the inpatient components of hospice  
 8037 | care, the agency shall immediately revoke the license of such  
 8038 | hospice.

8039 | ~~(6) The agency may institute a civil action in a court of~~  
 8040 | ~~competent jurisdiction to seek injunctive relief to enforce~~  
 8041 | ~~compliance with this part or any rule adopted pursuant to this~~  
 8042 | ~~part.~~

8043 | (5)~~(7)~~ The remedies set forth in this section are  
 8044 | independent of and cumulative to other remedies provided by law.

8045 | Section 147. Subsection (8) of section 400.6095, Florida  
 8046 | Statutes, is amended to read:

8047 | 400.6095 Patient admission; assessment; plan of care;  
 8048 | discharge; death.--

8049 | (8) The hospice care team may withhold or withdraw  
 8050 | cardiopulmonary resuscitation if presented with an order not to  
 8051 | resuscitate executed pursuant to s. 401.45. The agency  
 8052 | ~~department~~ shall adopt rules providing for the implementation of  
 8053 | such orders. Hospice staff shall not be subject to criminal  
 8054 | prosecution or civil liability, nor be considered to have  
 8055 | engaged in negligent or unprofessional conduct, for withholding  
 8056 | or withdrawing cardiopulmonary resuscitation pursuant to such an  
 8057 | order and applicable rules ~~adopted by the department~~. The  
 8058 | absence of an order to resuscitate executed pursuant to s.  
 8059 | 401.45 does not preclude a physician from withholding or  
 8060 | withdrawing cardiopulmonary resuscitation as otherwise permitted  
 8061 | by law.

8062 | Section 148. Subsection (5) of section 400.617, Florida  
 8063 | Statutes, is amended to read:

8064 400.617 Legislative intent; purpose.--

8065 (5) Rules of the agency ~~department~~ relating to adult  
 8066 family-care homes shall be as minimal and flexible as possible  
 8067 to ensure the protection of residents while minimizing the  
 8068 obstacles that could inhibit the establishment of adult family-  
 8069 care homes.

8070 Section 149. Section 400.619, Florida Statutes, is amended  
 8071 to read:

8072 400.619 Licensure ~~application and renewal~~.--

8073 (1) The requirements of part II of chapter 408 shall apply  
 8074 to the provision of services that require licensure pursuant to  
 8075 this part and part II of chapter 408 and to entities licensed by  
 8076 or applying for such licensure from the Agency for Health Care  
 8077 Administration pursuant to this part. However, each applicant  
 8078 for licensure and each licensee is exempt from s. 408.810(7)-  
 8079 (10). Each person who intends to be an adult family-care home  
 8080 provider must apply for a license from the agency at least 90  
 8081 days before the applicant intends to operate the adult family-  
 8082 care home.

8083 (2) A person who intends to be an adult family-care home  
 8084 provider must own or rent the adult family-care home that is to  
 8085 be licensed and reside therein.

8086 (3) In accordance with s. 408.805, an applicant or  
 8087 licensee shall pay a fee for each license application submitted  
 8088 under this part, part II of chapter 408, and applicable rules.  
 8089 The amount of the fee shall be \$200 per biennium. The agency  
 8090 shall notify a licensee at least 120 days before the expiration  
 8091 date that license renewal is required to continue operation. The

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8092 ~~notification must be provided electronically or by mail~~  
8093 ~~delivery. Application for a license or annual license renewal~~  
8094 ~~must be made on a form provided by the agency, signed under~~  
8095 ~~oath, and must be accompanied by a licensing fee of \$100 per~~  
8096 ~~year.~~

8097 (4) Upon receipt of a completed license application or  
8098 license renewal, and the fee, the agency shall initiate a level  
8099 1 background screening as provided under chapter 435 on the  
8100 adult family-care home provider, the designated relief person,  
8101 all adult household members, and all staff members. The  
8102 applicant or licensee is responsible for paying the fees  
8103 associated with obtaining the required screening. The agency  
8104 shall conduct an onsite visit to the home that is to be  
8105 licensed.

8106 (a) Proof of compliance with level 1 screening standards  
8107 which has been submitted within the previous 5 years to meet any  
8108 facility or professional licensure requirements of the agency or  
8109 the Department of Health satisfies the requirements of this  
8110 subsection. Such proof must be accompanied, under penalty of  
8111 perjury, by a copy of the person's current professional license  
8112 and an affidavit of current compliance with the background  
8113 screening requirements.

8114 (b) The person required to be screened must have been  
8115 continuously employed in the same type of occupation for which  
8116 the person is seeking employment without a breach in service  
8117 that exceeds 180 days, and proof of compliance with the level 1  
8118 screening requirement which is no more than 2 years old must be  
8119 provided. Proof of compliance shall be provided directly from

8120 one employer or contractor to another, and not from the person  
 8121 screened. Upon request, a copy of screening results shall be  
 8122 provided to the person screened by the employer retaining  
 8123 documentation of the screening.

8124 ~~(5) The application must be accompanied by a description~~  
 8125 ~~and explanation of any exclusions, permanent suspensions, or~~  
 8126 ~~terminations of the applicant from participation in the Medicaid~~  
 8127 ~~or Medicare programs or any other governmental health care or~~  
 8128 ~~health insurance program.~~

8129 ~~(6) Unless the adult family care home is a community~~  
 8130 ~~residential home subject to chapter 419, the applicant must~~  
 8131 ~~provide documentation, signed by the appropriate governmental~~  
 8132 ~~official, that the home has met local zoning requirements for~~  
 8133 ~~the location for which the license is sought.~~

8134 (5)(7) Access to a licensed adult family-care home must be  
 8135 provided at reasonable times for the appropriate officials of  
 8136 the department, the Department of Health, the Department of  
 8137 Children and Family Services, the agency, and the State Fire  
 8138 Marshal, who are responsible for the development and maintenance  
 8139 of fire, health, sanitary, and safety standards, to inspect the  
 8140 facility to assure compliance with these standards. In addition,  
 8141 access to a licensed adult family-care home must be provided at  
 8142 reasonable times for the local long-term care ombudsman council.

8143 ~~(8) A license is effective for 1 year after the date of~~  
 8144 ~~issuance unless revoked sooner. Each license must state the name~~  
 8145 ~~of the provider, the address of the home to which the license~~  
 8146 ~~applies, and the maximum number of residents of the home.~~

8147 ~~Failure to timely file a license renewal application shall~~  
 8148 ~~result in a late fee equal to 50 percent of the license fee.~~

8149 ~~(9) A license is not transferable or applicable to any~~  
 8150 ~~location or person other than the location and person indicated~~  
 8151 ~~on the license.~~

8152 (6)~~(10)~~ The licensed maximum capacity of each adult  
 8153 family-care home is based on the service needs of the residents  
 8154 and the capability of the provider to meet the needs of the  
 8155 residents. Any relative who lives in the adult family-care home  
 8156 and who is a disabled adult or frail elder must be included in  
 8157 that limitation.

8158 (7)~~(11)~~ Each adult family-care home must designate at  
 8159 least one licensed space for a resident receiving optional state  
 8160 supplementation. The Department of Children and Family Services  
 8161 shall specify by rule the procedures to be followed for  
 8162 referring residents who receive optional state supplementation  
 8163 to adult family-care homes. Those homes licensed as adult foster  
 8164 homes or assisted living facilities prior to January 1, 1994,  
 8165 that convert to adult family-care homes, are exempt from this  
 8166 requirement.

8167 (8)~~(12)~~ The agency may issue a conditional license to a  
 8168 provider for the purpose of bringing the adult family-care home  
 8169 into compliance with licensure requirements. A conditional  
 8170 license must be limited to a specific period, not exceeding 6  
 8171 months. The agency ~~department~~ shall, by rule, establish criteria  
 8172 for issuing conditional licenses.

8173           ~~(13) All moneys collected under this section must be~~  
 8174 ~~deposited into the Department of Elderly Affairs Administrative~~  
 8175 ~~Trust Fund.~~

8176           (9)~~(14)~~ The agency ~~department~~ may adopt rules to establish  
 8177 procedures, identify forms, specify documentation, and clarify  
 8178 terms, as necessary, to administer this section and part II of  
 8179 chapter 408.

8180           Section 150. Section 400.6194, Florida Statutes, is  
 8181 amended to read:

8182           400.6194 Denial, revocation, ~~or~~ suspension of a  
 8183 license.--In addition to the requirements of part II of chapter  
 8184 408 the agency may deny, suspend, and ~~or~~ revoke a license for  
 8185 any of the following reasons:

8186           (1) Failure of any of the persons required to undergo  
 8187 background screening under s. 400.619 to meet the level 1  
 8188 screening standards of s. 435.03, unless an exemption from  
 8189 disqualification has been provided by the agency.

8190           (2) An intentional or negligent act materially affecting  
 8191 the health, safety, or welfare of the adult family-care home  
 8192 residents.

8193           ~~(3) Submission of fraudulent information or omission of~~  
 8194 ~~any material fact on a license application or any other document~~  
 8195 ~~required by the agency.~~

8196           ~~(4) Failure to pay an administrative fine assessed under~~  
 8197 ~~this part.~~

8198           ~~(5) A violation of this part or adopted rules which~~  
 8199 ~~results in conditions or practices that directly threaten the~~  
 8200 ~~physical or emotional health, safety, or welfare of residents.~~



8201            ~~(3)(6)~~ Failure to correct cited fire code violations that  
 8202 threaten the health, safety, or welfare of residents.

8203            ~~(7) Failure to submit a completed initial license~~  
 8204 ~~application or to complete an application for license renewal~~  
 8205 ~~within the specified timeframes.~~

8206            ~~(8) Exclusion, permanent suspension, or termination of the~~  
 8207 ~~provider from the Medicare or Medicaid program.~~

8208            Section 151. Section 400.6196, Florida Statutes, is  
 8209 amended to read:

8210            400.6196 Classification of deficiencies; administrative  
 8211 fin ~~Violations; penalties.~~--

8212            (1) In accordance with part II of chapter 408 and in  
 8213 addition to any other liability or penalty provided by law, the  
 8214 agency may impose an administrative fine a civil penalty on a  
 8215 provider according to the following classification for the  
 8216 violation of any provision of this part, part II of chapter 408,  
 8217 or applicable rules:

8218            (a) Class I violations are those conditions or practices  
 8219 related to the operation and maintenance of an adult family-care  
 8220 home or to the care of residents which the agency determines  
 8221 present an imminent danger to the residents or guests of the  
 8222 facility or a substantial probability that death or serious  
 8223 physical or emotional harm would result therefrom. The condition  
 8224 or practice that constitutes a class I violation must be abated  
 8225 or eliminated within 24 hours, unless a fixed period, as  
 8226 determined by the agency, is required for correction. A class I  
 8227 deficiency is subject to an administrative fine in an amount not  
 8228 less than \$500 and not exceeding \$1,000 for each violation. A

8229 fine may be levied notwithstanding the correction of the  
 8230 deficiency.

8231 (b) Class II violations are those conditions or practices  
 8232 related to the operation and maintenance of an adult family-care  
 8233 home or to the care of residents which the agency determines  
 8234 directly threaten the physical or emotional health, safety, or  
 8235 security of the residents, other than class I violations. A  
 8236 class II violation is subject to an administrative fine in an  
 8237 amount not less than \$250 and not exceeding \$500 for each  
 8238 violation. A citation for a class II violation must specify the  
 8239 time within which the violation is required to be corrected. If  
 8240 a class II violation is corrected within the time specified, no  
 8241 civil penalty shall be imposed, unless it is a repeated offense.

8242 (c) Class III violations are those conditions or practices  
 8243 related to the operation and maintenance of an adult family-care  
 8244 home or to the care of residents which the agency determines  
 8245 indirectly or potentially threaten the physical or emotional  
 8246 health, safety, or security of residents, other than class I or  
 8247 class II violations. A class III violation is subject to an  
 8248 administrative fine in an amount not less than \$100 and not  
 8249 exceeding \$250 for each violation. A citation for a class III  
 8250 violation shall specify the time within which the violation is  
 8251 required to be corrected. If a class III violation is corrected  
 8252 within the time specified, no civil penalty shall be imposed,  
 8253 unless it is a repeated offense.

8254 (d) Class IV violations are those conditions or  
 8255 occurrences related to the operation and maintenance of an adult  
 8256 family-care home, or related to the required reports, forms, or

8257 documents, which do not have the potential of negatively  
 8258 affecting the residents. A provider that does not correct a  
 8259 class IV violation within the time limit specified by the agency  
 8260 is subject to an administrative fine in an amount not less than  
 8261 \$50 and not exceeding \$100 for each violation. Any class IV  
 8262 violation that is corrected during the time the agency survey is  
 8263 conducted will be identified as an agency finding and not as a  
 8264 violation.

8265 (2) The agency may impose an administrative fine for  
 8266 violations which do not qualify as class I, class II, class III,  
 8267 or class IV violations. The amount of the fine shall not exceed  
 8268 \$250 for each violation or \$2,000 in the aggregate. Unclassified  
 8269 violations include:

8270 (a) Violating any term or condition of a license.

8271 (b) Violating any provision of rule ~~adopted under this~~  
 8272 ~~part, part II of chapter 408, or applicable rules.~~

8273 (c) Failure to follow the criteria and procedures provided  
 8274 under part I of chapter 394 relating to the transportation,  
 8275 voluntary admission, and involuntary examination of adult  
 8276 family-care home residents.

8277 (d) Exceeding licensed capacity.

8278 (e) Providing services beyond the scope of the license.

8279 (f) Violating a moratorium.

8280 ~~(3) Each day during which a violation occurs constitutes a~~  
 8281 ~~separate offense.~~

8282 (3)~~(4)~~ In determining whether a penalty is to be imposed,  
 8283 and in fixing the amount of any penalty to be imposed, the  
 8284 agency must consider:

- 8285 (a) The gravity of the violation.
- 8286 (b) Actions taken by the provider to correct a violation.
- 8287 (c) Any previous violation by the provider.
- 8288 (d) The financial benefit to the provider of committing or
- 8289 continuing the violation.

8290 (4)~~(5)~~ As an alternative to or in conjunction with an  
 8291 administrative action against a provider, the agency may request  
 8292 a plan of corrective action that demonstrates a good faith  
 8293 effort to remedy each violation by a specific date, subject to  
 8294 the approval of the agency.

8295 (5)~~(6)~~ The agency ~~department~~ shall set forth, by rule,  
 8296 notice requirements and procedures for correction of  
 8297 deficiencies.

8298 ~~(7) Civil penalties paid by a provider must be deposited~~  
 8299 ~~into the Department of Elderly Affairs Administrative Trust Fund~~  
 8300 ~~and used to offset the expenses of departmental training and~~  
 8301 ~~education for adult family care home providers.~~

8302 ~~(8) The agency may impose an immediate moratorium on~~  
 8303 ~~admissions to any adult family care home if the agency finds~~  
 8304 ~~that a condition in the home presents a threat to the health,~~  
 8305 ~~safety, or welfare of its residents. The department may by rule~~  
 8306 ~~establish facility conditions that constitute grounds for~~  
 8307 ~~imposing a moratorium and establish procedures for imposing and~~  
 8308 ~~lifting a moratorium.~~

8309 Section 152. Section 400.621, Florida Statutes, is amended  
 8310 to read:

8311 400.621 Rules and standards relating to adult family-care  
 8312 homes.--

8313 (1) The agency ~~department~~, in consultation with the  
 8314 Department of Health, the Department of Children and Family  
 8315 Services, and the department ~~agency~~ shall, by rule, establish  
 8316 minimum standards to ensure the health, safety, and well-being  
 8317 of each resident in the adult family-care home pursuant to this  
 8318 part and part II of chapter 408. The rules must address:

8319 (a) Requirements for the physical site of the facility and  
 8320 facility maintenance.

8321 (b) Services that must be provided to all residents of an  
 8322 adult family-care home and standards for such services, which  
 8323 must include, but need not be limited to:

- 8324 1. Room and board.
- 8325 2. Assistance necessary to perform the activities of daily  
 8326 living.
- 8327 3. Assistance necessary to administer medication.
- 8328 4. Supervision of residents.
- 8329 5. Health monitoring.
- 8330 6. Social and leisure activities.

8331 (c) Standards and procedures for license application and  
 8332 annual license renewal, advertising, proper management of each  
 8333 resident's funds and personal property and personal affairs,  
 8334 financial ability to operate, medication management,  
 8335 inspections, complaint investigations, and facility, staff, and  
 8336 resident records.

8337 (d) Qualifications, training, standards, and  
 8338 responsibilities for providers and staff.

8339 (e) Compliance with chapter 419, relating to community  
 8340 residential homes.

8341 (f) Criteria and procedures for determining the  
 8342 appropriateness of a resident's placement and continued  
 8343 residency in an adult family-care home. A resident who requires  
 8344 24-hour nursing supervision may not be retained in an adult  
 8345 family-care home unless such resident is an enrolled hospice  
 8346 patient and the resident's continued residency is mutually  
 8347 agreeable to the resident and the provider.

8348 (g) Procedures for providing notice and assuring the least  
 8349 possible disruption of residents' lives when residents are  
 8350 relocated, an adult family-care home is closed, or the ownership  
 8351 of an adult family-care home is transferred.

8352 (h) Procedures to protect the residents' rights as  
 8353 provided in s. 400.628.

8354 (i) Procedures to promote the growth of adult family-care  
 8355 homes as a component of a long-term care system.

8356 (j) Procedures to promote the goal of aging in place for  
 8357 residents of adult family-care homes.

8358 (2) The agency ~~department~~ shall by rule provide minimum  
 8359 standards and procedures for emergencies. Pursuant to s.  
 8360 633.022, the State Fire Marshal, in consultation with the  
 8361 department and the agency, shall adopt uniform firesafety  
 8362 standards for adult family-care homes.

8363 (3) The agency ~~department~~ shall adopt rules providing for  
 8364 the implementation of orders not to resuscitate. The provider  
 8365 may withhold or withdraw cardiopulmonary resuscitation if  
 8366 presented with an order not to resuscitate executed pursuant to  
 8367 s. 401.45. The provider shall not be subject to criminal  
 8368 prosecution or civil liability, nor be considered to have

8369 engaged in negligent or unprofessional conduct, for withholding  
 8370 or withdrawing cardiopulmonary resuscitation pursuant to such an  
 8371 order and applicable rules ~~adopted by the department.~~

8372 ~~(4) The provider of any adult family care home that is in~~  
 8373 ~~operation at the time any rules are adopted or amended under~~  
 8374 ~~this part may be given a reasonable time, not exceeding 6~~  
 8375 ~~months, within which to comply with the new or revised rules and~~  
 8376 ~~standards.~~

8377 Section 153. Subsection (3) of section 400.6211, Florida  
 8378 Statutes, is amended to read:

8379 400.6211 Training and education programs.--

8380 (3) Effective January 1, 2004, providers must complete the  
 8381 training and education program within a reasonable time  
 8382 determined by the agency ~~department~~. Failure to complete the  
 8383 training and education program within the time set by the agency  
 8384 ~~department~~ is a violation of this part and subjects the provider  
 8385 to revocation of the license.

8386 Section 154. Section 400.622, Florida Statutes, is  
 8387 repealed.

8388 Section 155. Subsection (2) of section 400.625, Florida  
 8389 Statutes, is amended to read:

8390 400.625 Residency agreements.--

8391 (2) Each residency agreement must specify the personal  
 8392 care and accommodations to be provided by the adult family-care  
 8393 home, the rates or charges, a requirement of at least 30 days'  
 8394 notice before a rate increase, and any other provisions required  
 8395 by rule of the agency ~~department~~.

8396 Section 156. Section 400.801, Florida Statutes, is amended  
 8397 to read:

8398 400.801 Homes for special services.--

8399 (1) As used in this section, the term:

8400 (a) "Agency" means the "Agency for Health Care  
 8401 Administration."

8402 (b) "Home for special services" means a site where  
 8403 specialized health care services are provided, including  
 8404 personal and custodial care, but not continuous nursing  
 8405 services.

8406 (2) The requirements of part II of chapter 408 shall apply  
 8407 to the provision of services that require licensure pursuant to  
 8408 this section and part II of chapter 408 and entities licensed by  
 8409 or applying for such licensure from the agency pursuant to this  
 8410 section. However, each applicant for licensure and each licensee  
 8411 is exempt from the provisions of s. 408.810(7)-(10). A person  
 8412 must obtain a license from the agency to operate a home for  
 8413 special services. A license is valid for 1 year.

8414 (3) In accordance with s. 408.805, an applicant or  
 8415 licensee shall pay a fee for each license application submitted  
 8416 under this part, part II of chapter 408, and applicable rules.  
 8417 The amount of the fee shall be established by rule and shall not  
 8418 be more than \$2,000 per biennium. The application for a license  
 8419 under this section must be made on a form provided by the  
 8420 agency. A nonrefundable license fee of not more than \$1,000 must  
 8421 be submitted with the license application.

8422 (4) ~~Each applicant for licensure must comply with the~~  
 8423 ~~following requirements:~~



8424           ~~(a) Upon receipt of a completed, signed, and dated~~  
8425 ~~application, the agency shall require background screening, in~~  
8426 ~~accordance with the level 2 standards for screening set forth in~~  
8427 ~~chapter 435, of the managing employee, or other similarly titled~~  
8428 ~~individual who is responsible for the daily operation of the~~  
8429 ~~facility, and of the financial officer, or other similarly~~  
8430 ~~titled individual who is responsible for the financial operation~~  
8431 ~~of the facility, including billings for client care and~~  
8432 ~~services, in accordance with the level 2 standards for screening~~  
8433 ~~set forth in chapter 435. The applicant must comply with the~~  
8434 ~~procedures for level 2 background screening as set forth in~~  
8435 ~~chapter 435.~~

8436           ~~(b) The agency may require background screening of any~~  
8437 ~~other individual who is an applicant if the agency has probable~~  
8438 ~~cause to believe that he or she has been convicted of a crime or~~  
8439 ~~has committed any other offense prohibited under the level 2~~  
8440 ~~standards for screening set forth in chapter 435.~~

8441           ~~(c) Proof of compliance with the level 2 background~~  
8442 ~~screening requirements of chapter 435 which has been submitted~~  
8443 ~~within the previous 5 years in compliance with any other health~~  
8444 ~~care or assisted living licensure requirements of this state is~~  
8445 ~~acceptable in fulfillment of the requirements of paragraph (a).~~

8446           ~~(d) A provisional license may be granted to an applicant~~  
8447 ~~when each individual required by this section to undergo~~  
8448 ~~background screening has met the standards for the Department of~~  
8449 ~~Law Enforcement background check, but the agency has not yet~~  
8450 ~~received background screening results from the Federal Bureau of~~  
8451 ~~Investigation, or a request for a disqualification exemption has~~

8452 ~~been submitted to the agency as set forth in chapter 435, but a~~  
8453 ~~response has not yet been issued. A standard license may be~~  
8454 ~~granted to the applicant upon the agency's receipt of a report~~  
8455 ~~of the results of the Federal Bureau of Investigation background~~  
8456 ~~screening for each individual required by this section to~~  
8457 ~~undergo background screening which confirms that all standards~~  
8458 ~~have been met, or upon the granting of a disqualification~~  
8459 ~~exemption by the agency as set forth in chapter 435. Any other~~  
8460 ~~person who is required to undergo level 2 background screening~~  
8461 ~~may serve in his or her capacity pending the agency's receipt of~~  
8462 ~~the report from the Federal Bureau of Investigation. However,~~  
8463 ~~the person may not continue to serve if the report indicates any~~  
8464 ~~violation of background screening standards and a~~  
8465 ~~disqualification exemption has not been requested of and granted~~  
8466 ~~by the agency as set forth in chapter 435.~~

8467 ~~(e) Each applicant must submit to the agency, with its~~  
8468 ~~application, a description and explanation of any exclusions,~~  
8469 ~~permanent suspensions, or terminations of the applicant from the~~  
8470 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
8471 ~~requirements for disclosure of ownership and control interests~~  
8472 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
8473 ~~of this submission.~~

8474 ~~(f) Each applicant must submit to the agency a description~~  
8475 ~~and explanation of any conviction of an offense prohibited under~~  
8476 ~~the level 2 standards of chapter 435 by a member of the board of~~  
8477 ~~directors of the applicant, its officers, or any individual~~  
8478 ~~owning 5 percent or more of the applicant. This requirement does~~  
8479 ~~not apply to a director of a not-for-profit corporation or~~

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8480 ~~organization if the director serves solely in a voluntary~~  
8481 ~~capacity for the corporation or organization, does not regularly~~  
8482 ~~take part in the day-to-day operational decisions of the~~  
8483 ~~corporation or organization, receives no remuneration for his or~~  
8484 ~~her services on the corporation or organization's board of~~  
8485 ~~directors, and has no financial interest and has no family~~  
8486 ~~members with a financial interest in the corporation or~~  
8487 ~~organization, provided that the director and the not-for-profit~~  
8488 ~~corporation or organization include in the application a~~  
8489 ~~statement affirming that the director's relationship to the~~  
8490 ~~corporation satisfies the requirements of this paragraph.~~

8491 ~~(g) A license may not be granted to an applicant if the~~  
8492 ~~applicant or managing employee has been found guilty of,~~  
8493 ~~regardless of adjudication, or has entered a plea of nolo~~  
8494 ~~contendere or guilty to, any offense prohibited under the level~~  
8495 ~~2 standards for screening set forth in chapter 435, unless an~~  
8496 ~~exemption from disqualification has been granted by the agency~~  
8497 ~~as set forth in chapter 435.~~

8498 ~~(h) The agency may deny or revoke licensure if the~~  
8499 ~~applicant:~~

8500 ~~1. Has falsely represented a material fact in the~~  
8501 ~~application required by paragraph (e) or paragraph (f), or has~~  
8502 ~~omitted any material fact from the application required by~~  
8503 ~~paragraph (e) or paragraph (f); or~~

8504 ~~2. Has had prior action taken against the applicant under~~  
8505 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

8506 ~~(i) An application for license renewal must contain the~~  
8507 ~~information required under paragraphs (e) and (f).~~

8508 ~~(5) Application for license renewal must be submitted 90~~  
 8509 ~~days before the expiration of the license.~~

8510 ~~(6) A change of ownership or control of a home for special~~  
 8511 ~~services must be reported to the agency in writing at least 60~~  
 8512 ~~days before the change is scheduled to take effect.~~

8513 ~~(4)(7)~~ The agency may ~~shall~~ adopt rules for implementing  
 8514 and enforcing this section and part II of chapter 408.

8515 ~~(8)(a) It is unlawful for any person to establish,~~  
 8516 ~~conduct, manage, or operate a home for special services without~~  
 8517 ~~obtaining a license from the agency.~~

8518 ~~(b) It is unlawful for any person to offer or advertise to~~  
 8519 ~~the public, in any medium whatever, specialized health care~~  
 8520 ~~services without obtaining a license from the agency.~~

8521 ~~(c) It is unlawful for a holder of a license issued under~~  
 8522 ~~this section to advertise or represent to the public that it~~  
 8523 ~~holds a license for a type of facility other than the facility~~  
 8524 ~~for which its license is issued.~~

8525 ~~(5)(9)(a)~~ In accordance with part II of chapter 408, a  
 8526 violation of any provision of this section, part II of chapter  
 8527 408, or applicable rules adopted by the agency for implementing  
 8528 ~~this section~~ is punishable by payment of an administrative fine  
 8529 not to exceed \$5,000.

8530 ~~(b) A violation of subsection (8) or rules adopted under~~  
 8531 ~~that subsection is a misdemeanor of the first degree, punishable~~  
 8532 ~~as provided in s. 775.082 or s. 775.083. Each day of continuing~~  
 8533 ~~violation is a separate offense.~~

8534 Section 157. Section 400.805, Florida Statutes, is amended  
 8535 to read:

8536 400.805 Transitional living facilities.--  
 8537 (1) As used in this section, the term:  
 8538 (a) "Agency" means the Agency for Health Care  
 8539 Administration.  
 8540 (b) "Department" means the Department of Health.  
 8541 (c) "Transitional living facility" means a site where  
 8542 specialized health care services are provided, including, but  
 8543 not limited to, rehabilitative services, community reentry  
 8544 training, aids for independent living, and counseling to spinal-  
 8545 cord-injured persons and head-injured persons. This term does  
 8546 not include a hospital licensed under chapter 395 or any  
 8547 federally operated hospital or facility.  
 8548 (2)(a) The requirements of part II of chapter 408 shall  
 8549 apply to the provision of services that require licensure  
 8550 pursuant to this section and part II of chapter 408 and to  
 8551 entities licensed by or applying for such licensure from the  
 8552 agency pursuant to this section. However, each applicant for  
 8553 licensure and each licensee is exempt from the provisions of s.  
 8554 408.810(7)-(10). A person must obtain a license from the agency  
 8555 to operate a transitional living facility. A license issued  
 8556 under this section is valid for 1 year.  
 8557 (b) In accordance with this section, an applicant or a  
 8558 licensee shall pay a fee for each license application submitted  
 8559 under this part, part II of chapter 408, and applicable rules.  
 8560 The fee shall consist of a \$4,000 license fee and a \$78.50 per  
 8561 bed fee per biennium, unless modified by rule. The application  
 8562 for a license must be made on a form provided by the agency. A

8563 ~~nonrefundable license fee of \$2,000 and a fee of up to \$39.25~~  
 8564 ~~per bed must be submitted with the license application.~~

8565 (c) The agency may not issue a license to an applicant  
 8566 until the agency receives notice from the department as provided  
 8567 in paragraph (3)~~(6)~~(b).

8568 ~~(3) Each applicant for licensure must comply with the~~  
 8569 ~~following requirements:~~

8570 ~~(a) Upon receipt of a completed, signed, and dated~~  
 8571 ~~application, the agency shall require background screening, in~~  
 8572 ~~accordance with the level 2 standards for screening set forth in~~  
 8573 ~~chapter 435, of the managing employee, or other similarly titled~~  
 8574 ~~individual who is responsible for the daily operation of the~~  
 8575 ~~facility, and of the financial officer, or other similarly~~  
 8576 ~~titled individual who is responsible for the financial operation~~  
 8577 ~~of the facility, including billings for client care and~~  
 8578 ~~services. The applicant must comply with the procedures for~~  
 8579 ~~level 2 background screening as set forth in chapter 435.~~

8580 ~~(b) The agency may require background screening of any~~  
 8581 ~~other individual who is an applicant if the agency has probable~~  
 8582 ~~cause to believe that he or she has been convicted of a crime or~~  
 8583 ~~has committed any other offense prohibited under the level 2~~  
 8584 ~~standards for screening set forth in chapter 435.~~

8585 ~~(c) Proof of compliance with the level 2 background~~  
 8586 ~~screening requirements of chapter 435 which has been submitted~~  
 8587 ~~within the previous 5 years in compliance with any other health~~  
 8588 ~~care or assisted living licensure requirements of this state is~~  
 8589 ~~acceptable in fulfillment of the requirements of paragraph (a).~~

8590           ~~(d) A provisional license may be granted to an applicant~~  
8591 ~~when each individual required by this section to undergo~~  
8592 ~~background screening has met the standards for the Department of~~  
8593 ~~Law Enforcement background check, but the agency has not yet~~  
8594 ~~received background screening results from the Federal Bureau of~~  
8595 ~~Investigation, or a request for a disqualification exemption has~~  
8596 ~~been submitted to the agency as set forth in chapter 435, but a~~  
8597 ~~response has not yet been issued. A standard license may be~~  
8598 ~~granted to the applicant upon the agency's receipt of a report~~  
8599 ~~of the results of the Federal Bureau of Investigation background~~  
8600 ~~screening for each individual required by this section to~~  
8601 ~~undergo background screening which confirms that all standards~~  
8602 ~~have been met, or upon the granting of a disqualification~~  
8603 ~~exemption by the agency as set forth in chapter 435. Any other~~  
8604 ~~person who is required to undergo level 2 background screening~~  
8605 ~~may serve in his or her capacity pending the agency's receipt of~~  
8606 ~~the report from the Federal Bureau of Investigation. However,~~  
8607 ~~the person may not continue to serve if the report indicates any~~  
8608 ~~violation of background screening standards and a~~  
8609 ~~disqualification exemption has not been requested of and granted~~  
8610 ~~by the agency as set forth in chapter 435.~~

8611           ~~(e) Each applicant must submit to the agency, with its~~  
8612 ~~application, a description and explanation of any exclusions,~~  
8613 ~~permanent suspensions, or terminations of the applicant from the~~  
8614 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
8615 ~~requirements for disclosure of ownership and control interests~~  
8616 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
8617 ~~of this submission.~~

8618           ~~(f) Each applicant must submit to the agency a description~~  
 8619 ~~and explanation of any conviction of an offense prohibited under~~  
 8620 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 8621 ~~directors of the applicant, its officers, or any individual~~  
 8622 ~~owning 5 percent or more of the applicant. This requirement does~~  
 8623 ~~not apply to a director of a not-for-profit corporation or~~  
 8624 ~~organization if the director serves solely in a voluntary~~  
 8625 ~~capacity for the corporation or organization, does not regularly~~  
 8626 ~~take part in the day-to-day operational decisions of the~~  
 8627 ~~corporation or organization, receives no remuneration for his or~~  
 8628 ~~her services on the corporation or organization's board of~~  
 8629 ~~directors, and has no financial interest and has no family~~  
 8630 ~~members with a financial interest in the corporation or~~  
 8631 ~~organization, provided that the director and the not-for-profit~~  
 8632 ~~corporation or organization include in the application a~~  
 8633 ~~statement affirming that the director's relationship to the~~  
 8634 ~~corporation satisfies the requirements of this paragraph.~~

8635           ~~(g) A license may not be granted to an applicant if the~~  
 8636 ~~applicant or managing employee has been found guilty of,~~  
 8637 ~~regardless of adjudication, or has entered a plea of nolo~~  
 8638 ~~contendere or guilty to, any offense prohibited under the level~~  
 8639 ~~2 standards for screening set forth in chapter 435, unless an~~  
 8640 ~~exemption from disqualification has been granted by the agency~~  
 8641 ~~as set forth in chapter 435.~~

8642           ~~(h) The agency may deny or revoke licensure if the~~  
 8643 ~~applicant:~~

8644           ~~1. Has falsely represented a material fact in the~~  
 8645 ~~application required by paragraph (e) or paragraph (f), or has~~



8646 ~~omitted any material fact from the application required by~~  
 8647 ~~paragraph (e) or paragraph (f); or~~

8648 ~~2. Has had prior action taken against the applicant under~~  
 8649 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

8650 ~~(i) An application for license renewal must contain the~~  
 8651 ~~information required under paragraphs (e) and (f).~~

8652 ~~(4) An application for renewal of license must be~~  
 8653 ~~submitted 90 days before the expiration of the license. Upon~~  
 8654 ~~renewal of licensure, each applicant must submit to the agency,~~  
 8655 ~~under penalty of perjury, an affidavit as set forth in paragraph~~  
 8656 ~~(3)(d).~~

8657 ~~(5) A change of ownership or control of a transitional~~  
 8658 ~~living facility must be reported to the agency in writing at~~  
 8659 ~~least 60 days before the change is scheduled to take effect.~~

8660 (3)(6)(a) The agency shall adopt rules in consultation  
 8661 with the department governing the physical plant of transitional  
 8662 living facilities and the fiscal management of transitional  
 8663 living facilities.

8664 (b) The department shall adopt rules in consultation with  
 8665 the agency governing the services provided to clients of  
 8666 transitional living facilities. The department shall enforce all  
 8667 requirements for providing services to the facility's clients.  
 8668 The department must notify the agency when it determines that an  
 8669 applicant for licensure meets the service requirements adopted  
 8670 by the department.

8671 (c) The agency and the department shall enforce  
 8672 requirements under this section, as such requirements relate to  
 8673 them respectively, and their respective adopted rules.

8674           ~~(7)(a) It is unlawful for any person to establish,~~  
 8675 ~~conduct, manage, or operate a transitional living facility~~  
 8676 ~~without obtaining a license from the agency.~~

8677           ~~(b) It is unlawful for any person to offer or advertise to~~  
 8678 ~~the public, in any medium whatever, services or care defined in~~  
 8679 ~~paragraph (1)(c) without obtaining a license from the agency.~~

8680           ~~(c) It is unlawful for a holder of a license issued under~~  
 8681 ~~this section to advertise or represent to the public that it~~  
 8682 ~~holds a license for a type of facility other than the facility~~  
 8683 ~~for which its license is issued.~~

8684           (4)(8) Any designated officer or employee of the agency,  
 8685 of the state, or of the local fire marshal may enter unannounced  
 8686 upon and into the premises of any facility licensed under this  
 8687 section in order to determine the state of compliance with this  
 8688 section and the rules or standards in force under this section.  
 8689 The right of entry and inspection also extends to any premises  
 8690 that the agency has reason to believe are being operated or  
 8691 maintained as a facility without a license; but such an entry or  
 8692 inspection may not be made without the permission of the owner  
 8693 or person in charge of the facility unless a warrant that  
 8694 authorizes the entry is first obtained from the circuit court.  
 8695 The warrant requirement extends only to a facility that the  
 8696 agency has reason to believe is being operated or maintained as  
 8697 a facility without a license. An application for a license or  
 8698 renewal thereof which is made under this section constitutes  
 8699 permission for, and acquiescence in, any entry or inspection of  
 8700 the premises for which the license is sought, in order to  
 8701 facilitate verification of the information submitted on or in

8702 connection with the application; to discover, investigate, and  
 8703 determine the existence of abuse or neglect; or to elicit,  
 8704 receive, respond to, and resolve complaints. A current valid  
 8705 license constitutes unconditional permission for, and  
 8706 acquiescence in, any entry or inspection of the premises by  
 8707 authorized personnel. The agency retains the right of entry and  
 8708 inspection of facilities that have had a license revoked or  
 8709 suspended within the previous 24 months, to ensure that the  
 8710 facility is not operating unlawfully. However, before the  
 8711 facility is entered, a statement of probable cause must be filed  
 8712 with the director of the agency, who must approve or disapprove  
 8713 the action within 48 hours. Probable cause includes, but is not  
 8714 limited to, evidence that the facility holds itself out to the  
 8715 public as a provider of personal assistance services, or the  
 8716 receipt by the advisory council on brain and spinal cord  
 8717 injuries of a complaint about the facility.

8718 (5)~~(9)~~ The agency may institute injunctive proceedings in  
 8719 a court of competent jurisdiction for temporary or permanent  
 8720 relief to:

8721 (a) Enforce this section or any minimum standard, rule, or  
 8722 order issued pursuant thereto if the agency's effort to correct  
 8723 a violation through administrative fines has failed or when the  
 8724 violation materially affects the health, safety, or welfare of  
 8725 residents; or

8726 (b) Terminate the operation of a facility if a violation  
 8727 of this section or of any standard or rule adopted pursuant  
 8728 thereto exists which materially affects the health, safety, or  
 8729 welfare of residents.

8730  
8731 The Legislature recognizes that, in some instances, action is  
8732 necessary to protect residents of facilities from immediately  
8733 life-threatening situations. If it appears by competent evidence  
8734 or a sworn, substantiated affidavit that a temporary injunction  
8735 should issue, the court, pending the determination on final  
8736 hearing, shall enjoin operation of the facility.

8737 ~~(10) The agency may impose an immediate moratorium on~~  
8738 ~~admissions to a facility when the agency determines that any~~  
8739 ~~condition in the facility presents a threat to the health,~~  
8740 ~~safety, or welfare of the residents in the facility. If a~~  
8741 ~~facility's license is denied, revoked, or suspended, the~~  
8742 ~~facility may be subject to the immediate imposition of a~~  
8743 ~~moratorium on admissions to run concurrently with licensure~~  
8744 ~~denial, revocation, or suspension.~~

8745 (6)(11)(a) In accordance with part II of chapter 408, a  
8746 violation of any provision of this section, part II of chapter  
8747 408, or applicable rules adopted by the agency or department  
8748 under this section is punishable by payment of an administrative  
8749 or a civil penalty fine not to exceed \$5,000.

8750 ~~(b) A violation of subsection (7) or rules adopted under~~  
8751 ~~that subsection is a misdemeanor of the first degree, punishable~~  
8752 ~~as provided in s. 775.082 or s. 775.083. Each day of a~~  
8753 ~~continuing violation is a separate offense.~~

8754 Section 158. Subsection (4) of section 400.902, Florida  
8755 Statutes, is amended to read:

8756 400.902 Definitions.--As used in this part, the term:

8757 (4) "Owner or operator" means a licensee ~~any individual~~  
 8758 ~~who has general administrative charge of a PPEC center.~~

8759 Section 159. Subsection (3) is added to section 400.903,  
 8760 Florida Statutes, to read:

8761 400.903 PPEC centers to be licensed; exemptions.--

8762 (3) The requirements of part II of chapter 408 shall apply  
 8763 to the provision of services that require licensure pursuant to  
 8764 this part and part II of chapter 408 and to entities licensed by  
 8765 or applying for such licensure from the agency pursuant to this  
 8766 part. However, each applicant for licensure and each licensee is  
 8767 exempt from the provisions of s. 408.810(10).

8768 Section 160. Section 400.905, Florida Statutes, is amended  
 8769 to read:

8770 400.905 License required; fee; exemption; ~~display~~.--

8771 ~~(1)(a) It is unlawful to operate or maintain a PPEC center~~  
 8772 ~~without first obtaining from the agency a license authorizing~~  
 8773 ~~such operation. The agency is responsible for licensing PPEC~~  
 8774 ~~centers in accordance with the provisions of this part.~~

8775 ~~(b) Any person who violates paragraph (a) is guilty of a~~  
 8776 ~~felony of the third degree, punishable as provided in s.~~  
 8777 ~~775.082, s. 775.083, or s. 775.084.~~

8778 (1)(2) Separate licenses are required for PPEC centers  
 8779 maintained on separate premises, even though they are operated  
 8780 under the same management. Separate licenses are not required  
 8781 for separate buildings on the same grounds.

8782 (2)(3) In accordance with s. 408.805, an applicant or  
 8783 licensee shall pay a fee for each license application submitted  
 8784 under this part, part II of chapter 408, and applicable rules.

8785 The amount of the fee shall be established by rule and shall not  
 8786 be less than \$1,000 or more than \$3,000 per biennium. ~~The annual~~  
 8787 ~~license fee required of a PPEC center shall be in an amount~~  
 8788 ~~determined by the agency to be sufficient to cover the agency's~~  
 8789 ~~costs in carrying out its responsibilities under this part, but~~  
 8790 ~~shall not be less than \$500 or more than \$1,500.~~

8791 (3)(4) County-operated or municipally operated PPEC  
 8792 centers applying for licensure under this part are exempt from  
 8793 the payment of license fees.

8794 ~~(5) The license shall be displayed in a conspicuous place~~  
 8795 ~~inside the PPEC center.~~

8796 ~~(6) A license shall be valid only in the possession of the~~  
 8797 ~~individual, firm, partnership, association, or corporation to~~  
 8798 ~~whom it is issued and shall not be subject to sale, assignment,~~  
 8799 ~~or other transfer, voluntary or involuntary; nor shall a license~~  
 8800 ~~be valid for any premises other than that for which originally~~  
 8801 ~~issued.~~

8802 ~~(7) Any license granted by the agency shall state the~~  
 8803 ~~maximum capacity of the facility, the date the license was~~  
 8804 ~~issued, the expiration date of the license, and any other~~  
 8805 ~~information deemed necessary by the agency.~~

8806 Section 161. Section 400.906, Florida Statutes, is  
 8807 repealed.

8808 Section 162. Section 400.907, Florida Statutes, is amended  
 8809 to read:

8810 400.907 Denial, suspension, revocation of licensure;  
 8811 administrative fines; grounds.--

8812           (1) In accordance with part II of chapter 408, the agency  
 8813 may deny, revoke, and ~~or~~ suspend a license and ~~or~~ impose an  
 8814 administrative fine for the violation of any provision of this  
 8815 part, part II of chapter 408, or applicable rules ~~in the manner~~  
 8816 ~~provided in chapter 120.~~

8817           (2) Any of the following actions by a PPEC center or its  
 8818 employee is grounds for action by the agency against a PPEC  
 8819 center or its employee:

8820           (a) An intentional or negligent act materially affecting  
 8821 the health or safety of children in the PPEC center.

8822           (b) A violation of the provisions of this part, part II of  
 8823 chapter 408, or applicable rules ~~or of any standards or rules~~  
 8824 ~~adopted pursuant to this part.~~

8825           (c) Multiple and repeated violations of this part or of  
 8826 minimum standards or rules adopted pursuant to this part.

8827           ~~(3) The agency shall be responsible for all investigations~~  
 8828 ~~and inspections conducted pursuant to this part.~~

8829           Section 163. Section 400.908, Florida Statutes, is amended  
 8830 to read:

8831           400.908 Administrative fines; disposition of fees and  
 8832 fines.--

8833           (1)(a) If the agency determines that a PPEC center is  
 8834 ~~being operated without a license or is otherwise not in~~  
 8835 compliance with ~~rules adopted under~~ this part, part II of  
 8836 chapter 408, or applicable rules, the agency, ~~notwithstanding~~  
 8837 ~~any other administrative action it takes,~~ shall make a  
 8838 ~~reasonable attempt to discuss each violation and recommended~~  
 8839 ~~corrective action with the owner of the PPEC center prior to~~

8840 ~~written notification thereof.~~ The agency may request that the  
 8841 PPEC center submit a corrective action plan which demonstrates a  
 8842 good faith effort to remedy each violation by a specific date,  
 8843 subject to the approval of the agency.

8844 (b) In accordance with part II of chapter 408, the agency  
 8845 may fine a PPEC center or employee found in violation of ~~rules~~  
 8846 ~~adopted pursuant to this part,~~ part II of chapter 408, or  
 8847 applicable rules, in an amount not to exceed \$500 for each  
 8848 violation. Such fine may not exceed \$5,000 in the aggregate.

8849 (c) The failure to correct a violation by the date set by  
 8850 the agency, or the failure to comply with an approved corrective  
 8851 action plan, is a separate violation for each day such failure  
 8852 continues, unless the agency approves an extension to a specific  
 8853 date.

8854 ~~(d) If a PPEC center desires to appeal any agency action~~  
 8855 ~~under this section and the fine is upheld, the violator shall~~  
 8856 ~~pay the fine, plus interest at the legal rate specified in s.~~  
 8857 ~~687.01, for each day beyond the date set by the agency for~~  
 8858 ~~payment of the fine.~~

8859 (2) In determining if a fine is to be imposed and in  
 8860 fixing the amount of any fine, the agency shall consider the  
 8861 following factors:

8862 (a) The gravity of the violation, including the  
 8863 probability that death or serious physical or emotional harm to  
 8864 a child will result or has resulted, the severity of the actual  
 8865 or potential harm, and the extent to which the provisions of the  
 8866 applicable statutes or rules were violated.



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8867 (b) Actions taken by the owner or operator to correct  
8868 violations.

8869 (c) Any previous violations.

8870 (d) The financial benefit to the PPEC center of committing  
8871 or continuing the violation.

8872 ~~(3) Fees and fines received by the agency under this part~~  
8873 ~~shall be deposited in the Health Care Trust Fund created in s.~~  
8874 ~~408.16.~~

8875 Section 164. Section 400.910, Florida Statutes, is  
8876 repealed.

8877 Section 165. Section 400.911, Florida Statutes, is  
8878 repealed.

8879 Section 166. Section 400.912, Florida Statutes, is amended  
8880 to read:

8881 400.912 Closing of a PPEC center.--

8882 ~~(1)~~ Whenever a PPEC center voluntarily discontinues  
8883 operation, it shall, inform the agency in writing at least 30  
8884 days before the discontinuance of operation. ~~The PPEC center~~  
8885 ~~shall also, at such time, inform each child's legal guardian of~~  
8886 the fact and the proposed time of such discontinuance.

8887 ~~(2) Immediately upon discontinuance of the operation of a~~  
8888 ~~PPEC center, the owner or operator shall surrender the license~~  
8889 ~~therefor to the agency and the license shall be canceled.~~

8890 Section 167. Section 400.913, Florida Statutes, is  
8891 repealed.

8892 Section 168. Subsection (1) of section 400.914, Florida  
8893 Statutes, is amended to read:

8894 400.914 Rules establishing standards.--

8895 (1) Pursuant to the intention of the Legislature to  
 8896 provide safe and sanitary facilities and healthful programs, the  
 8897 agency in conjunction with the Division of Children's Medical  
 8898 Services Prevention and Intervention of the Department of Health  
 8899 shall adopt and publish rules to implement the provisions of  
 8900 this part and part II of chapter 408, which shall include  
 8901 reasonable and fair standards. Any conflict between these  
 8902 standards and those that may be set forth in local, county, or  
 8903 city ordinances shall be resolved in favor of those having  
 8904 statewide effect. Such standards shall relate to:

8905 (a) The assurance that PPEC services are family centered  
 8906 and provide individualized medical, developmental, and family  
 8907 training services.

8908 (b) The maintenance of PPEC centers, not in conflict with  
 8909 the provisions of chapter 553 and based upon the size of the  
 8910 structure and number of children, relating to plumbing, heating,  
 8911 lighting, ventilation, and other building conditions, including  
 8912 adequate space, which will ensure the health, safety, comfort,  
 8913 and protection from fire of the children served.

8914 (c) The appropriate provisions of the most recent edition  
 8915 of the "Life Safety Code" (NFPA-101) shall be applied.

8916 (d) The number and qualifications of all personnel who  
 8917 have responsibility for the care of the children served.

8918 (e) All sanitary conditions within the PPEC center and its  
 8919 surroundings, including water supply, sewage disposal, food  
 8920 handling, and general hygiene, and maintenance thereof, which  
 8921 will ensure the health and comfort of children served.

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8922 (f) Programs and basic services promoting and maintaining  
 8923 the health and development of the children served and meeting  
 8924 the training needs of the children's legal guardians.

8925 (g) Supportive, contracted, other operational, and  
 8926 transportation services.

8927 (h) Maintenance of appropriate medical records, data, and  
 8928 information relative to the children and programs. Such records  
 8929 shall be maintained in the facility for inspection by the  
 8930 agency.

8931 Section 169. Subsection (3) of section 400.915, Florida  
 8932 Statutes, is amended to read:

8933 400.915 Construction and renovation; requirements.--The  
 8934 requirements for the construction or renovation of a PPEC center  
 8935 shall comply with:

8936 (3) The standards or rules adopted pursuant to this part  
 8937 and part II of chapter 408.

8938 Section 170. Section 400.916, Florida Statutes, is  
 8939 repealed.

8940 Section 171. Section 400.917, Florida Statutes, is  
 8941 repealed.

8942 Section 172. Section 400.925, Florida Statutes, is amended  
 8943 to read:

8944 400.925 Definitions.--As used in this part, the term:

8945 (1) "Accrediting organizations" means the Joint Commission  
 8946 on Accreditation of Healthcare Organizations or other national  
 8947 accreditation agencies whose standards for accreditation are  
 8948 comparable to those required by this part for licensure.

8949 ~~(2) "Affiliated person" means any person who directly or~~  
 8950 ~~indirectly manages, controls, or oversees the operation of a~~  
 8951 ~~corporation or other business entity that is a licensee,~~  
 8952 ~~regardless of whether such person is a partner, shareholder,~~  
 8953 ~~owner, officer, director, agent, or employee of the entity.~~

8954 (2)~~(3)~~ "Agency" means the Agency for Health Care  
 8955 Administration.

8956 ~~(4) "Applicant" means an individual applicant in the case~~  
 8957 ~~of a sole proprietorship, or any officer, director, agent,~~  
 8958 ~~managing employee, general manager, or affiliated person, or any~~  
 8959 ~~partner or shareholder having an ownership interest equal to 5~~  
 8960 ~~percent or greater in the corporation, partnership, or other~~  
 8961 ~~business entity.~~

8962 (3)~~(5)~~ "Consumer" or "patient" means any person who uses  
 8963 home medical equipment in his or her place of residence.

8964 (4)~~(6)~~ "Department" means the Department of Children and  
 8965 Family Services.

8966 (5)~~(7)~~ "General manager" means the individual who has the  
 8967 general administrative charge of the premises of a licensed home  
 8968 medical equipment provider.

8969 (6)~~(8)~~ "Home medical equipment" includes any product as  
 8970 defined by the Federal Drug Administration's Drugs, Devices and  
 8971 Cosmetics Act, any products reimbursed under the Medicare Part B  
 8972 Durable Medical Equipment benefits, or any products reimbursed  
 8973 under the Florida Medicaid durable medical equipment program.  
 8974 Home medical equipment includes oxygen and related respiratory  
 8975 equipment; manual, motorized, or customized wheelchairs and  
 8976 related seating and positioning, but does not include

8977 prosthetics or orthotics or any splints, braces, or aids custom  
 8978 fabricated by a licensed health care practitioner; motorized  
 8979 scooters; personal transfer systems; and specialty beds, for use  
 8980 by a person with a medical need.

8981 (7)~~(9)~~ "Home medical equipment provider" means any person  
 8982 or entity that sells or rents or offers to sell or rent to or  
 8983 for a consumer:

8984 (a) Any home medical equipment and services; or

8985 (b) Home medical equipment that requires any home medical  
 8986 equipment services.

8987 (8)~~(10)~~ "Home medical equipment provider personnel" means  
 8988 persons who are employed by or under contract with a home  
 8989 medical equipment provider.

8990 (9)~~(11)~~ "Home medical equipment services" means equipment  
 8991 management and consumer instruction, including selection,  
 8992 delivery, setup, and maintenance of equipment, and other related  
 8993 services for the use of home medical equipment in the consumer's  
 8994 regular or temporary place of residence.

8995 (10)~~(12)~~ "Licensee" means the person or entity to whom a  
 8996 license to operate as a home medical equipment provider is  
 8997 issued by the agency.

8998 (11)~~(13)~~ "Moratorium" has the same meaning as in s.  
 8999 408.803, except that ~~means a mandated temporary cessation or~~  
 9000 ~~suspension of the sale, rental, or offering of equipment after~~  
 9001 ~~the imposition of the moratorium.~~ services related to equipment  
 9002 sold or rented prior to the moratorium must be continued without  
 9003 interruption, unless deemed otherwise by the agency.

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9004            ~~(12)(14)~~ "Person" means any individual, firm, partnership,  
 9005 corporation, or association.

9006            ~~(13)(15)~~ "Premises" means those buildings and equipment  
 9007 which are located at the address of the licensed home medical  
 9008 equipment provider for the provision of home medical equipment  
 9009 services, which are in such reasonable proximity as to appear to  
 9010 the public to be a single provider location, and which comply  
 9011 with zoning ordinances.

9012            ~~(14)(16)~~ "Residence" means the consumer's home or place of  
 9013 residence, which may include nursing homes, assisted living  
 9014 facilities, transitional living facilities, adult family-care  
 9015 homes, or other congregate residential facilities.

9016            Section 173. Subsection (3) and paragraphs (b), (d), and  
 9017 (e) of subsection (6) of section 400.93, Florida Statutes, are  
 9018 amended to read:

9019            400.93 Licensure required; exemptions; unlawful acts;  
 9020 penalties.--

9021            (3) The requirements of part II of chapter 408 shall apply  
 9022 to the provision of services that require licensure pursuant to  
 9023 this part and part II of chapter 408 and to entities licensed by  
 9024 or applying for such licensure from the agency pursuant to this  
 9025 part. However, each applicant for licensure and each licensee is  
 9026 exempt from the provisions of s. 408.810(10). ~~A home medical~~  
 9027 ~~equipment provider must be licensed by the agency to operate in~~  
 9028 ~~this state or to provide home medical equipment and services to~~  
 9029 ~~consumers in this state. A standard license issued to a home~~  
 9030 ~~medical equipment provider, unless sooner suspended or revoked,~~  
 9031 ~~expires 2 years after its effective date.~~

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(6)

(b) A person who violates paragraph (a) is subject to an injunctive proceeding under this part, part II of chapter 408, or applicable rules ~~s. 400.956~~. A violation of paragraph (a) is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

~~(d) The following penalties shall be imposed for operating an unlicensed home medical equipment provider:~~

- ~~1. Any person or entity who operates an unlicensed provider commits a felony of the third degree.~~
- ~~2. For any person or entity who has received government reimbursement for services provided by an unlicensed provider, the agency shall make a fraud referral to the appropriate government reimbursement program.~~
- ~~3. For any licensee found to be concurrently operating licensed and unlicensed provider premises, the agency may impose a fine or moratorium, or revoke existing licenses of any or all of the licensee's licensed provider locations until such time as the unlicensed provider premises is licensed.~~

~~(e) A provider found to be operating without a license may apply for licensure, and must cease operations until a license is awarded by the agency.~~

Section 174. Section 400.931, Florida Statutes, is amended to read:

400.931 Application for license; fee; provisional license; temporary permit.--

9059           ~~(1) Application for an initial license or for renewal of~~  
 9060 ~~an existing license must be made under oath to the agency on~~  
 9061 ~~forms furnished by it and must be accompanied by the appropriate~~  
 9062 ~~license fee as provided in subsection (12).~~

9063           (1)~~(2)~~ The applicant must file with the application  
 9064 satisfactory proof that the home medical equipment provider is  
 9065 in compliance with this part and applicable rules, including:

9066           (a) A report, by category, of the equipment to be  
 9067 provided, indicating those offered either directly by the  
 9068 applicant or through contractual arrangements with existing  
 9069 providers. Categories of equipment include:

- 9070           1. Respiratory modalities.
- 9071           2. Ambulation aids.
- 9072           3. Mobility aids.
- 9073           4. Sickroom setup.
- 9074           5. Disposables.

9075           (b) A report, by category, of the services to be provided,  
 9076 indicating those offered either directly by the applicant or  
 9077 through contractual arrangements with existing providers.

9078 Categories of services include:

- 9079           1. Intake.
- 9080           2. Equipment selection.
- 9081           3. Delivery.
- 9082           4. Setup and installation.
- 9083           5. Patient training.
- 9084           6. Ongoing service and maintenance.
- 9085           7. Retrieval.



9086 (c) A listing of those with whom the applicant contracts,  
 9087 both the providers the applicant uses to provide equipment or  
 9088 services to its consumers and the providers for whom the  
 9089 applicant provides services or equipment.

9090 (2)(3) As an alternative to submitting proof of financial  
 9091 ability to operate as required in s. 408.810(8) ~~The applicant~~  
 9092 ~~for initial licensure must demonstrate financial ability to~~  
 9093 ~~operate, the applicant may submit which may be accomplished by~~  
 9094 ~~the submission of a \$50,000 surety bond to the agency.~~

9095 ~~(4) An applicant for renewal who has demonstrated~~  
 9096 ~~financial inability to operate must demonstrate financial~~  
 9097 ~~ability to operate.~~

9098 ~~(5) Each applicant for licensure must comply with the~~  
 9099 ~~following requirements:~~

9100 ~~(a) Upon receipt of a completed, signed, and dated~~  
 9101 ~~application, the agency shall require background screening of~~  
 9102 ~~the applicant, in accordance with the level 2 standards for~~  
 9103 ~~screening set forth in chapter 435. As used in this subsection,~~  
 9104 ~~the term "applicant" means the general manager and the financial~~  
 9105 ~~officer or similarly titled individual who is responsible for~~  
 9106 ~~the financial operation of the licensed facility.~~

9107 ~~(b) The agency may require background screening for a~~  
 9108 ~~member of the board of directors of the licensee or an officer~~  
 9109 ~~or an individual owning 5 percent or more of the licensee if the~~  
 9110 ~~agency has probable cause to believe that such individual has~~  
 9111 ~~been convicted of an offense prohibited under the level 2~~  
 9112 ~~standards for screening set forth in chapter 435.~~

9113           ~~(c) Proof of compliance with the level 2 background~~  
9114 ~~screening requirements of chapter 435 which has been submitted~~  
9115 ~~within the previous 5 years in compliance with any other health~~  
9116 ~~care licensure requirements of this state is acceptable in~~  
9117 ~~fulfillment of paragraph (a).~~

9118           ~~(d) Each applicant must submit to the agency, with its~~  
9119 ~~application, a description and explanation of any exclusions,~~  
9120 ~~permanent suspensions, or terminations of the applicant from the~~  
9121 ~~Medicare or Medicaid programs. Proof of compliance with~~  
9122 ~~disclosure of ownership and control interest requirements of the~~  
9123 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
9124 ~~submission.~~

9125           ~~(e) Each applicant must submit to the agency a description~~  
9126 ~~and explanation of any conviction of an offense prohibited under~~  
9127 ~~the level 2 standards of chapter 435 by a member of the board of~~  
9128 ~~directors of the applicant, its officers, or any individual~~  
9129 ~~owning 5 percent or more of the applicant. This requirement does~~  
9130 ~~not apply to a director of a not-for-profit corporation or~~  
9131 ~~organization if the director serves solely in a voluntary~~  
9132 ~~capacity for the corporation or organization, does not regularly~~  
9133 ~~take part in the day-to-day operational decisions of the~~  
9134 ~~corporation or organization, receives no remuneration for his or~~  
9135 ~~her services on the corporation's or organization's board of~~  
9136 ~~directors, and has no financial interest and has no family~~  
9137 ~~members with a financial interest in the corporation or~~  
9138 ~~organization, provided that the director and the not-for-profit~~  
9139 ~~corporation or organization include in the application a~~

9140 ~~statement affirming that the director's relationship to the~~  
 9141 ~~corporation satisfies the requirements of this provision.~~

9142 ~~(f) A license may not be granted to any potential licensee~~  
 9143 ~~if any applicant, administrator, or financial officer has been~~  
 9144 ~~found guilty of, regardless of adjudication, or has entered a~~  
 9145 ~~plea of nolo contendere or guilty to, any offense prohibited~~  
 9146 ~~under the level 2 standards for screening set forth in chapter~~  
 9147 ~~435, unless an exemption from disqualification has been granted~~  
 9148 ~~by the agency as set forth in chapter 435.~~

9149 ~~(g) The agency may deny or revoke licensure to any~~  
 9150 ~~potential licensee if any applicant:~~

9151 ~~1. Has falsely represented a material fact in the~~  
 9152 ~~application required by paragraphs (d) and (e), or has omitted~~  
 9153 ~~any material fact from the application required by paragraphs~~  
 9154 ~~(d) and (e); or~~

9155 ~~2. Has had prior Medicaid or Medicare action taken against~~  
 9156 ~~the applicant as set forth in paragraph (d).~~

9157 ~~(h) Upon licensure renewal, each applicant must submit to~~  
 9158 ~~the agency, under penalty of perjury, an affidavit of compliance~~  
 9159 ~~with the background screening provisions of this section.~~

9160 ~~(3)(6)~~ As specified in part II of chapter 408, the home  
 9161 medical equipment provider must also obtain and maintain  
 9162 professional and commercial liability insurance. Proof of  
 9163 liability insurance, as defined in s. 624.605, must be submitted  
 9164 with the application. The agency shall set the required amounts  
 9165 of liability insurance by rule, but the required amount must not  
 9166 be less than \$250,000 per claim. In the case of contracted

9167 services, it is required that the contractor have liability  
 9168 insurance not less than \$250,000 per claim.

9169 ~~(7) A provisional license shall be issued to an approved~~  
 9170 ~~applicant for initial licensure for a period of 90 days, during~~  
 9171 ~~which time a survey must be conducted demonstrating substantial~~  
 9172 ~~compliance with this section. A provisional license shall also~~  
 9173 ~~be issued pending the results of an applicant's Federal Bureau~~  
 9174 ~~of Investigation report of background screening confirming that~~  
 9175 ~~all standards have been met. If substantial compliance is~~  
 9176 ~~demonstrated, a standard license shall be issued to expire 2~~  
 9177 ~~years after the effective date of the provisional license.~~

9178 ~~(8) Ninety days before the expiration date, an application~~  
 9179 ~~for license renewal must be submitted to the agency under oath~~  
 9180 ~~on forms furnished by the agency, and a license shall be renewed~~  
 9181 ~~if the applicant has met the requirements established under this~~  
 9182 ~~part and applicable rules. The home medical equipment provider~~  
 9183 ~~must file with the application satisfactory proof that it is in~~  
 9184 ~~compliance with this part and applicable rules. The home medical~~  
 9185 ~~equipment provider must submit satisfactory proof of its~~  
 9186 ~~financial ability to comply with the requirements of this part.~~

9187 ~~(9) When a change of ownership of a home medical equipment~~  
 9188 ~~provider occurs, the prospective owner must submit an initial~~  
 9189 ~~application for a license at least 15 days before the effective~~  
 9190 ~~date of the change of ownership. An application for change of~~  
 9191 ~~ownership of a license is required when ownership, a majority of~~  
 9192 ~~the ownership, or controlling interest of a licensed home~~  
 9193 ~~medical equipment provider is transferred or assigned and when a~~  
 9194 ~~licensee agrees to undertake or provide services to the extent~~

9195 ~~that legal liability for operation of the home medical equipment~~  
 9196 ~~provider rests with the licensee. A provisional license shall be~~  
 9197 ~~issued to the new owner for a period of 90 days, during which~~  
 9198 ~~time all required documentation must be submitted and a survey~~  
 9199 ~~must be conducted demonstrating substantial compliance with this~~  
 9200 ~~section. If substantial compliance is demonstrated, a standard~~  
 9201 ~~license shall be issued to expire 2 years after the issuance of~~  
 9202 ~~the provisional license.~~

9203 (4)~~(10)~~ When a change of the general manager of a home  
 9204 medical equipment provider occurs, the licensee must notify the  
 9205 agency of the change within 45 days thereof ~~and must provide~~  
 9206 ~~evidence of compliance with the background screening~~  
 9207 ~~requirements in subsection (5); except that a general manager~~  
 9208 ~~who has met the standards for the Department of Law Enforcement~~  
 9209 ~~background check, but for whom background screening results from~~  
 9210 ~~the Federal Bureau of Investigation have not yet been received,~~  
 9211 ~~may be employed pending receipt of the Federal Bureau of~~  
 9212 ~~Investigation background screening report. An individual may not~~  
 9213 ~~continue to serve as general manager if the Federal Bureau of~~  
 9214 ~~Investigation background screening report indicates any~~  
 9215 ~~violation of background screening standards.~~

9216 (5)~~(11)~~ In accordance with s. 408.805, an applicant or a  
 9217 licensee shall pay a fee for each license application submitted  
 9218 under this part, part II of chapter 408, and applicable rules.  
 9219 The amount of the fee shall be established by rule and shall not  
 9220 exceed \$300 per biennium. All licensure fees required of a home  
 9221 ~~medical equipment provider are nonrefundable.~~ The agency shall  
 9222 set the fees in an amount that is sufficient to cover its costs

9223 in carrying out its responsibilities under this part. However,  
 9224 state, county, or municipal governments applying for licenses  
 9225 under this part are exempt from the payment of license fees. All  
 9226 ~~fees collected under this part must be deposited in the Health~~  
 9227 ~~Care Trust Fund for the administration of this part.~~

9228 (6)~~(12)~~ An applicant for initial licensure, renewal, or  
 9229 change of ownership shall also pay a license processing fee not  
 9230 ~~to exceed \$300, to be paid by all applicants, and an inspection~~  
 9231 ~~fee not to exceed \$400, which shall~~ to be paid by all applicants  
 9232 except those not subject to licensure inspection by the agency  
 9233 as described in s. 400.933~~(2)~~.

9234 ~~(13) When a change is reported which requires issuance of~~  
 9235 ~~a license, a fee must be assessed. The fee must be based on the~~  
 9236 ~~actual cost of processing and issuing the license.~~

9237 ~~(14) When a duplicate license is issued, a fee must be~~  
 9238 ~~assessed, not to exceed the actual cost of duplicating and~~  
 9239 ~~mailing.~~

9240 ~~(15) When applications are mailed out upon request, a fee~~  
 9241 ~~must be assessed, not to exceed the cost of the printing,~~  
 9242 ~~preparation, and mailing.~~

9243 ~~(16) The license must be displayed in a conspicuous place~~  
 9244 ~~in the administrative office of the home medical equipment~~  
 9245 ~~provider and is valid only while in the possession of the person~~  
 9246 ~~or entity to which it is issued. The license may not be sold,~~  
 9247 ~~assigned, or otherwise transferred, voluntarily or~~  
 9248 ~~involuntarily, and is valid only for the home medical equipment~~  
 9249 ~~provider and location for which originally issued.~~

9250           ~~(17) A home medical equipment provider against whom a~~  
 9251 ~~proceeding for revocation or suspension, or for denial of a~~  
 9252 ~~renewal application, is pending at the time of license renewal~~  
 9253 ~~may be issued a provisional license effective until final~~  
 9254 ~~disposition by the agency of such proceedings. If judicial~~  
 9255 ~~relief is sought from the final disposition, the court that has~~  
 9256 ~~jurisdiction may issue a temporary permit for the duration of~~  
 9257 ~~the judicial proceeding.~~

9258           Section 175. Section 400.932, Florida Statutes, is amended  
 9259 to read:

9260           400.932 Administrative penalties; injunctions; ~~emergency~~  
 9261 ~~orders; moratoriums.--~~

9262           (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
 9263 and ~~or~~ impose an administrative fine not to exceed \$5,000 per  
 9264 violation, per day, or initiate injunctive proceedings under s.  
 9265 408.816 ~~400.956~~.

9266           (2) Any of the following actions by an employee of a home  
 9267 medical equipment provider ~~or any of its employees~~ is grounds  
 9268 for administrative action or penalties by the agency:

9269           (a) Violation of this part or of applicable rules.

9270           (b) An intentional, reckless, or negligent act that  
 9271 materially affects the health or safety of a patient.

9272           (3) The agency may deny and ~~or~~ revoke the license of any  
 9273 applicant that:

9274           ~~(a) Made a false representation or omission of any~~  
 9275 ~~material fact in making the application, including the~~  
 9276 ~~submission of an application that conceals the controlling or~~  
 9277 ~~ownership interest or any officer, director, agent, managing~~

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9278 ~~employee, affiliated person, partner, or shareholder who may not~~  
 9279 ~~be eligible to participate;~~

9280 (a)~~(b)~~ Has been previously found by any professional  
 9281 licensing, certifying, or standards board or agency to have  
 9282 violated the standards or conditions relating to licensure or  
 9283 certification or the quality of services provided. "Professional  
 9284 licensing, certifying, or standards board or agency" shall  
 9285 include, but is not limited to, practitioners, health care  
 9286 facilities, programs, or services, or residential care,  
 9287 treatment programs, or other human services; or

9288 (b)~~(e)~~ Has been or is currently excluded, suspended, or  
 9289 terminated from, or has involuntarily withdrawn from,  
 9290 ~~participation in Florida's Medicaid program or any other state's~~  
 9291 ~~Medicaid program, or participation in the Medicare program or~~  
 9292 ~~any other governmental or private health care or health~~  
 9293 ~~insurance program.~~

9294 ~~(4) The agency may issue an emergency order immediately~~  
 9295 ~~suspending or revoking a license when it determines that any~~  
 9296 ~~condition within the responsibility of the home medical~~  
 9297 ~~equipment provider presents a clear and present danger to public~~  
 9298 ~~health and safety.~~

9299 ~~(5) The agency may impose an immediate moratorium on any~~  
 9300 ~~licensed home medical equipment provider when the agency~~  
 9301 ~~determines that any condition within the responsibility of the~~  
 9302 ~~home medical equipment provider presents a threat to public~~  
 9303 ~~health or safety.~~

9304 Section 176. Section 400.933, Florida Statutes, is amended  
 9305 to read:



9306           400.933 Licensure inspections; alternatives and  
 9307 investigations.--  
 9308           ~~(1) The agency shall make or cause to be made such~~  
 9309 ~~inspections and investigations as it considers necessary,~~  
 9310 ~~including:~~  
 9311           ~~(a) Licensure inspections.~~  
 9312           ~~(b) Inspections directed by the federal Health Care~~  
 9313 ~~Financing Administration.~~  
 9314           ~~(c) Licensure complaint investigations, including full~~  
 9315 ~~licensure investigations with a review of all licensure~~  
 9316 ~~standards as outlined in the administrative rules. Complaints~~  
 9317 ~~received by the agency from individuals, organizations, or other~~  
 9318 ~~sources are subject to review and investigation by the agency.~~  
 9319           (2) The agency shall accept, in lieu of its own periodic  
 9320 inspections for licensure, submission of the following:  
 9321           (1)~~(a)~~ The survey or inspection of an accrediting  
 9322 organization, provided the accreditation of the licensed home  
 9323 medical equipment provider is not provisional and provided the  
 9324 licensed home medical equipment provider authorizes release of,  
 9325 and the agency receives the report of, the accrediting  
 9326 organization; or  
 9327           (2)~~(b)~~ A copy of a valid medical oxygen retail  
 9328 establishment permit issued by the Department of Health,  
 9329 pursuant to chapter 499.  
 9330           Section 177. Section 400.935, Florida Statutes, is amended  
 9331 to read:  
 9332           400.935 Rules establishing minimum standards.--The agency  
 9333 shall adopt, publish, and enforce rules to implement this part

9334 and part II of chapter 408, which must provide reasonable and  
 9335 fair minimum standards relating to:

9336 (1) The qualifications and minimum training requirements  
 9337 of all home medical equipment provider personnel.

9338 ~~(2) License application and renewal.~~

9339 ~~(3) License and inspection fees.~~

9340 (2)~~(4)~~ Financial ability to operate.

9341 (3)~~(5)~~ The administration of the home medical equipment  
 9342 provider.

9343 (4)~~(6)~~ Procedures for maintaining patient records.

9344 (5)~~(7)~~ Ensuring that the home medical equipment and  
 9345 services provided by a home medical equipment provider are in  
 9346 accordance with the plan of treatment established for each  
 9347 patient, when provided as a part of a plan of treatment.

9348 (6)~~(8)~~ Contractual arrangements for the provision of home  
 9349 medical equipment and services by providers not employed by the  
 9350 home medical equipment provider providing for the consumer's  
 9351 needs.

9352 (7)~~(9)~~ Physical location and zoning requirements.

9353 (8)~~(10)~~ Home medical equipment requiring home medical  
 9354 equipment services.

9355 Section 178. Section 400.95, Florida Statutes, is  
 9356 repealed.

9357 Section 179. Subsections (3) through (7) of section  
 9358 400.953, Florida Statutes, are renumbered as subsections (2)  
 9359 through (6), respectively, and present subsection (2) is amended  
 9360 to read:

9361           400.953 Background screening of home medical equipment  
 9362 provider personnel.--The agency shall require employment  
 9363 screening as provided in chapter 435, using the level 1  
 9364 standards for screening set forth in that chapter, for home  
 9365 medical equipment provider personnel.

9366           ~~(2) The general manager of each home medical equipment  
 9367 provider must sign an affidavit annually, under penalty of  
 9368 perjury, stating that all home medical equipment provider  
 9369 personnel hired on or after July 1, 1999, who enter the home of  
 9370 a patient in the capacity of their employment have been screened  
 9371 and that its remaining personnel have worked for the home  
 9372 medical equipment provider continuously since before July 1,  
 9373 1999.~~

9374           Section 180. Subsection (4) of section 400.955, Florida  
 9375 Statutes, is amended to read:

9376           400.955 Procedures for screening of home medical equipment  
 9377 provider personnel.--

9378           ~~(4) The general manager of each home medical equipment  
 9379 provider must sign an affidavit annually, under penalty of  
 9380 perjury, stating that all personnel hired on or after July 1,  
 9381 1999, have been screened and that its remaining personnel have  
 9382 worked for the home medical equipment provider continuously  
 9383 since before July 1, 1999.~~

9384           Section 181. Section 400.956, Florida Statutes, is  
 9385 repealed.

9386           Section 182. Section 400.960, Florida Statutes, is amended  
 9387 to read:

9388           400.960 Definitions.--As used in this part, the term:

9389 (1) "Active treatment" means the provision of services by  
 9390 an interdisciplinary team which are necessary to maximize a  
 9391 resident's ~~client's~~ individual independence or prevent  
 9392 regression or loss of functional status.

9393 (2) "Agency" means the Agency for Health Care  
 9394 Administration.

9395 (3) "Autism" means a pervasive, neurologically based  
 9396 developmental disability of extended duration which causes  
 9397 severe learning, communication, and behavior disorders with age  
 9398 of onset during infancy or childhood. Individuals with autism  
 9399 exhibit impairment in reciprocal social interaction, impairment  
 9400 in verbal and nonverbal communication and imaginative ability,  
 9401 and a markedly restricted repertoire of activities and  
 9402 interests.

9403 (4) "Cerebral palsy" means a group of disabling symptoms  
 9404 of extended duration which results from damage to the developing  
 9405 brain occurring before, during, or after birth and resulting in  
 9406 the loss or impairment of control over voluntary muscles. The  
 9407 term does not include those symptoms or impairments resulting  
 9408 solely from a stroke.

9409 ~~(5) "Client" means any person determined by the department~~  
 9410 ~~to be eligible for developmental services.~~

9411 ~~(6) "Client advocate" means a friend or relative of the~~  
 9412 ~~client, or of the client's immediate family, who advocates for~~  
 9413 ~~the best interests of the client in any proceedings under this~~  
 9414 ~~part in which the client or his or her family has the right or~~  
 9415 ~~duty to participate.~~

9416        (5)~~(7)~~ "Department" means the Department of Children and  
 9417 Family Services.

9418        (6)~~(8)~~ "Developmental disability" means a disorder or  
 9419 syndrome that is attributable to retardation, cerebral palsy,  
 9420 autism, spina bifida, or Prader-Willi syndrome and that  
 9421 constitutes a substantial handicap that can reasonably be  
 9422 expected to continue indefinitely.

9423        (7)~~(9)~~ "Direct service provider" means a person 18 years  
 9424 of age or older who has direct contact with individuals with  
 9425 developmental disabilities and who is unrelated to the  
 9426 individuals with developmental disabilities.

9427        (8)~~(10)~~ "Epilepsy" means a chronic brain disorder of  
 9428 various causes which is characterized by recurrent seizures due  
 9429 to excessive discharge of cerebral neurons. When found  
 9430 concurrently with retardation, autism, or cerebral palsy,  
 9431 epilepsy is considered a secondary disability for which the  
 9432 resident ~~elient~~ is eligible to receive services to ameliorate  
 9433 this condition according to the provisions of this part.

9434        (9)~~(11)~~ "Guardian advocate" means a person appointed by  
 9435 the circuit court to represent a person with developmental  
 9436 disabilities in any proceedings brought pursuant to s. 393.12,  
 9437 and is distinct from a guardian advocate for mentally ill  
 9438 persons under chapter 394.

9439        (10)~~(12)~~ "Intermediate care facility for the  
 9440 developmentally disabled" means a ~~residential~~ facility licensed  
 9441 and certified in accordance with state law, and certified by the  
 9442 Federal Government, pursuant to the Social Security Act, as a

9443 provider of Medicaid services to persons who are developmentally  
 9444 disabled.

9445 (11)~~(13)~~ "Prader-Willi syndrome" means an inherited  
 9446 condition typified by neonatal hypotonia with failure to thrive,  
 9447 hyperphagia, or an excessive drive to eat which leads to  
 9448 obesity, usually at 18 to 36 months of age, mild to moderate  
 9449 retardation, hypogonadism, short stature, mild facial  
 9450 dysmorphism, and a characteristic neurobehavior.

9451 (12) "Resident" means any person receiving services in an  
 9452 intermediate care facility.

9453 (13) "Resident advocate" means a friend or relative of the  
 9454 resident, or of the resident's immediate family, who advocates  
 9455 for the best interests of the resident in any proceedings under  
 9456 this part in which the resident or his or her family has the  
 9457 right or duty to participate.

9458 (14) "Retardation" means significantly subaverage general  
 9459 intellectual functioning existing concurrently with deficits in  
 9460 adaptive behavior and manifested during the period from  
 9461 conception to age 18. "Significantly subaverage general  
 9462 intellectual functioning," for the purpose of this definition,  
 9463 means performance that is two or more standard deviations from  
 9464 the mean score on a standardized intelligence test specified in  
 9465 rules of the department. "Deficits in adaptive behavior," for  
 9466 the purpose of this definition, means deficits in the  
 9467 effectiveness or degree with which an individual meets the  
 9468 standards of personal independence and social responsibility  
 9469 expected of his or her age, cultural group, and community.

9470 (15) "Spina bifida" means a medical diagnosis of spina  
 9471 bifida cystica or myelomeningocele.

9472 Section 183. Section 400.962, Florida Statutes, is amended  
 9473 to read:

9474 400.962 License required; license application.--

9475 (1) The requirements of part II of chapter 408 shall apply  
 9476 to the provision of services that require licensure pursuant to  
 9477 this part and part II of chapter 408 and to entities licensed by  
 9478 or applying for such licensure from the Agency for Health Care  
 9479 Administration pursuant to this part. However, each applicant  
 9480 for licensure and each licensee is exempt from s. 408.810(7). ~~It~~  
 9481 is unlawful to operate an intermediate care facility for the  
 9482 developmentally disabled without a license.

9483 (2) Separate licenses are required for facilities  
 9484 maintained on separate premises even if operated under the same  
 9485 management. However, a separate license is not required for  
 9486 separate buildings on the same grounds.

9487 (3) In accordance with s. 408.805, an applicant or  
 9488 licensee shall pay a fee for each license application submitted  
 9489 under this part, part II of chapter 408, and applicable rules.  
 9490 The amount of the fee shall be \$234 per bed unless modified by  
 9491 rule.

9492 ~~(3) The basic license fee collected shall be deposited in~~  
 9493 ~~the Health Care Trust Fund, established for carrying out the~~  
 9494 ~~purposes of this chapter.~~

9495 (4) ~~The license must be conspicuously displayed inside the~~  
 9496 ~~facility.~~

9497           ~~(5) A license is valid only in the hands of the~~  
 9498 ~~individual, firm, partnership, association, or corporation to~~  
 9499 ~~whom it is issued. A license is not valid for any premises other~~  
 9500 ~~than those for which it was originally issued and may not be~~  
 9501 ~~sold, assigned, or otherwise transferred, voluntarily or~~  
 9502 ~~involuntarily.~~

9503           ~~(6) An application for a license shall be made to the~~  
 9504 ~~agency on forms furnished by it and must be accompanied by the~~  
 9505 ~~appropriate license fee.~~

9506           ~~(7) The application must be under oath and must contain~~  
 9507 ~~the following:~~

9508           ~~(a) The name, address, and social security number of the~~  
 9509 ~~applicant if an individual; if the applicant is a firm,~~  
 9510 ~~partnership, or association, its name, address, and employer~~  
 9511 ~~identification number (EIN), and the name and address of every~~  
 9512 ~~member; if the applicant is a corporation, its name, address,~~  
 9513 ~~and employer identification number (EIN), and the name and~~  
 9514 ~~address of its director and officers and of each person having~~  
 9515 ~~at least a 5 percent interest in the corporation; and the name~~  
 9516 ~~by which the facility is to be known.~~

9517           ~~(b) The name of any person whose name is required on the~~  
 9518 ~~application under paragraph (a) and who owns at least a 10~~  
 9519 ~~percent interest in any professional service, firm, association,~~  
 9520 ~~partnership, or corporation providing goods, leases, or services~~  
 9521 ~~to the facility for which the application is made, and the name~~  
 9522 ~~and address of the professional service, firm, association,~~  
 9523 ~~partnership, or corporation in which such interest is held.~~



9524 ~~(c) The location of the facility for which a license is~~  
 9525 ~~sought and an indication that such location conforms to the~~  
 9526 ~~local zoning ordinances.~~

9527 ~~(d) The name of the persons under whose management or~~  
 9528 ~~supervision the facility will be operated.~~

9529 ~~(e) The total number of beds.~~

9530 (4)(8) The applicant must demonstrate that sufficient  
 9531 numbers of staff, qualified by training or experience, will be  
 9532 employed to properly care for the type and number of residents  
 9533 who will reside in the facility.

9534 ~~(9) The applicant must submit evidence that establishes~~  
 9535 ~~the good moral character of the applicant, manager, supervisor,~~  
 9536 ~~and administrator. An applicant who is an individual or a member~~  
 9537 ~~of a board of directors or officer of an applicant that is a~~  
 9538 ~~firm, partnership, association, or corporation must not have~~  
 9539 ~~been convicted, or found guilty, regardless of adjudication, of~~  
 9540 ~~a crime in any jurisdiction which affects or may potentially~~  
 9541 ~~affect residents in the facility.~~

9542 ~~(10)(a) Upon receipt of a completed, signed, and dated~~  
 9543 ~~application, the agency shall require background screening of~~  
 9544 ~~the applicant, in accordance with the level 2 standards for~~  
 9545 ~~screening set forth in chapter 435. As used in this subsection,~~  
 9546 ~~the term "applicant" means the facility administrator, or~~  
 9547 ~~similarly titled individual who is responsible for the day to~~  
 9548 ~~day operation of the licensed facility, and the facility~~  
 9549 ~~financial officer, or similarly titled individual who is~~  
 9550 ~~responsible for the financial operation of the licensed~~  
 9551 ~~facility.~~

9552           ~~(b) The agency may require background screening for a~~  
9553 ~~member of the board of directors of the licensee or an officer~~  
9554 ~~or an individual owning 5 percent or more of the licensee if the~~  
9555 ~~agency has probable cause to believe that such individual has~~  
9556 ~~been convicted of an offense prohibited under the level 2~~  
9557 ~~standards for screening set forth in chapter 435.~~

9558           ~~(c) Proof of compliance with the level 2 background~~  
9559 ~~screening requirements of chapter 435 which has been submitted~~  
9560 ~~within the previous 5 years in compliance with any other~~  
9561 ~~licensure requirements under this chapter satisfies the~~  
9562 ~~requirements of paragraph (a). Proof of compliance with~~  
9563 ~~background screening which has been submitted within the~~  
9564 ~~previous 5 years to fulfill the requirements of the Financial~~  
9565 ~~Services Commission and the Office of Insurance Regulation under~~  
9566 ~~chapter 651 as part of an application for a certificate of~~  
9567 ~~authority to operate a continuing care retirement community~~  
9568 ~~satisfies the requirements for the Department of Law Enforcement~~  
9569 ~~and Federal Bureau of Investigation background checks.~~

9570           ~~(d) A provisional license may be granted to an applicant~~  
9571 ~~when each individual required by this section to undergo~~  
9572 ~~background screening has met the standards for the Department of~~  
9573 ~~Law Enforcement background check, but the agency has not yet~~  
9574 ~~received background screening results from the Federal Bureau of~~  
9575 ~~Investigation, or a request for a disqualification exemption has~~  
9576 ~~been submitted to the agency as set forth in chapter 435, but a~~  
9577 ~~response has not yet been issued. A license may be granted to~~  
9578 ~~the applicant upon the agency's receipt of a report of the~~  
9579 ~~results of the Federal Bureau of Investigation background~~

9580 ~~screening for each individual required by this section to~~  
9581 ~~undergo background screening which confirms that all standards~~  
9582 ~~have been met, or upon the granting of a disqualification~~  
9583 ~~exemption by the agency as set forth in chapter 435. Any other~~  
9584 ~~person who is required to undergo level 2 background screening~~  
9585 ~~may serve in his or her capacity pending the agency's receipt of~~  
9586 ~~the report from the Federal Bureau of Investigation; however,~~  
9587 ~~the person may not continue to serve if the report indicates any~~  
9588 ~~violation of background screening standards and a~~  
9589 ~~disqualification exemption has not been granted by the agency as~~  
9590 ~~set forth in chapter 435.~~

9591 ~~(e) Each applicant must submit to the agency, with its~~  
9592 ~~application, a description and explanation of any exclusions,~~  
9593 ~~permanent suspensions, or terminations of the applicant from the~~  
9594 ~~Medicare or Medicaid programs. Proof of compliance with~~  
9595 ~~disclosure of ownership and control interest requirements of the~~  
9596 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
9597 ~~submission.~~

9598 ~~(f) Each applicant must submit to the agency a description~~  
9599 ~~and explanation of any conviction of an offense prohibited under~~  
9600 ~~the level 2 standards of chapter 435 by a member of the board of~~  
9601 ~~directors of the applicant, its officers, or any individual~~  
9602 ~~owning 5 percent or more of the applicant. This requirement does~~  
9603 ~~not apply to a director of a not-for-profit corporation or~~  
9604 ~~organization if the director serves solely in a voluntary~~  
9605 ~~capacity for the corporation or organization, does not regularly~~  
9606 ~~take part in the day-to-day operational decisions of the~~  
9607 ~~corporation or organization, receives no remuneration for his or~~

9608 ~~her services on the corporation's or organization's board of~~  
 9609 ~~directors, and has no financial interest and has no family~~  
 9610 ~~members with a financial interest in the corporation or~~  
 9611 ~~organization, provided that the director and the not-for-profit~~  
 9612 ~~corporation or organization include in the application a~~  
 9613 ~~statement affirming that the director's relationship to the~~  
 9614 ~~corporation satisfies the requirements of this paragraph.~~

9615 ~~(g) An application for license renewal must contain the~~  
 9616 ~~information required under paragraphs (e) and (f).~~

9617 ~~(11) The applicant must furnish satisfactory proof of~~  
 9618 ~~financial ability to operate and conduct the facility in~~  
 9619 ~~accordance with the requirements of this part and all rules~~  
 9620 ~~adopted under this part, and the agency shall establish~~  
 9621 ~~standards for this purpose.~~

9622 Section 184. Section 400.963, Florida Statutes, is  
 9623 repealed.

9624 Section 185. Section 400.965, Florida Statutes, is  
 9625 repealed.

9626 Section 186. Section 400.967, Florida Statutes, is amended  
 9627 to read:

9628 400.967 Rules and classification of deficiencies.--

9629 (1) It is the intent of the Legislature that rules adopted  
 9630 and enforced under this part and part II of chapter 408 include  
 9631 criteria by which a reasonable and consistent quality of  
 9632 resident care may be ensured, the results of such resident care  
 9633 can be demonstrated, and safe and sanitary facilities can be  
 9634 provided.

9635 (2) Pursuant to the intention of the Legislature, the  
 9636 agency, in consultation with the Agency for Persons with  
 9637 Disabilities ~~Department of Children and Family Services and the~~  
 9638 ~~Department of Elderly Affairs~~, shall adopt and enforce rules to  
 9639 administer this part, which shall include reasonable and fair  
 9640 criteria governing:

9641 (a) The location and construction of the facility;  
 9642 including fire and life safety, plumbing, heating, cooling,  
 9643 lighting, ventilation, and other housing conditions that will  
 9644 ensure the health, safety, and comfort of residents. The agency  
 9645 shall establish standards for facilities and equipment to  
 9646 increase the extent to which new facilities and a new wing or  
 9647 floor added to an existing facility after July 1, 2000, are  
 9648 structurally capable of serving as shelters only for residents,  
 9649 staff, and families of residents and staff, and equipped to be  
 9650 self-supporting during and immediately following disasters. The  
 9651 Agency for Health Care Administration shall work with facilities  
 9652 licensed under this part and report to the Governor and the  
 9653 Legislature by April 1, 2000, its recommendations for cost-  
 9654 effective renovation standards to be applied to existing  
 9655 facilities. In making such rules, the agency shall be guided by  
 9656 criteria recommended by nationally recognized, reputable  
 9657 professional groups and associations having knowledge concerning  
 9658 such subject matters. The agency shall update or revise such  
 9659 criteria as the need arises. All facilities must comply with  
 9660 those lifesafety code requirements and building code standards  
 9661 applicable at the time of approval of their construction plans.  
 9662 The agency may require alterations to a building if it

9663 determines that an existing condition constitutes a distinct  
 9664 hazard to life, health, or safety. The agency shall adopt fair  
 9665 and reasonable rules setting forth conditions under which  
 9666 existing facilities undergoing additions, alterations,  
 9667 conversions, renovations, or repairs are required to comply with  
 9668 the most recent updated or revised standards.

9669 (b) The number and qualifications of all personnel,  
 9670 including management, medical nursing, and other personnel,  
 9671 having responsibility for any part of the care given to  
 9672 residents.

9673 (c) All sanitary conditions within the facility and its  
 9674 surroundings, including water supply, sewage disposal, food  
 9675 handling, and general hygiene, which will ensure the health and  
 9676 comfort of residents.

9677 (d) The equipment essential to the health and welfare of  
 9678 the residents.

9679 (e) A uniform accounting system.

9680 (f) The care, treatment, and maintenance of residents and  
 9681 measurement of the quality and adequacy thereof.

9682 (g) The preparation and annual update of a comprehensive  
 9683 emergency management plan. The agency shall adopt rules  
 9684 establishing minimum criteria for the plan after consultation  
 9685 with the Department of Community Affairs. At a minimum, the  
 9686 rules must provide for plan components that address emergency  
 9687 evacuation transportation; adequate sheltering arrangements;  
 9688 postdisaster activities, including emergency power, food, and  
 9689 water; postdisaster transportation; supplies; staffing;  
 9690 emergency equipment; individual identification of residents and

9691 transfer of records; and responding to family inquiries. The  
 9692 comprehensive emergency management plan is subject to review and  
 9693 approval by the local emergency management agency. During its  
 9694 review, the local emergency management agency shall ensure that  
 9695 the following agencies, at a minimum, are given the opportunity  
 9696 to review the plan: the Department of Elderly Affairs, the  
 9697 Department of Children and Family Services, the Agency for  
 9698 Health Care Administration, and the Department of Community  
 9699 Affairs. Also, appropriate volunteer organizations must be given  
 9700 the opportunity to review the plan. The local emergency  
 9701 management agency shall complete its review within 60 days and  
 9702 either approve the plan or advise the facility of necessary  
 9703 revisions.

9704 ~~(h) Each licensee shall post its license in a prominent~~  
 9705 ~~place that is in clear and unobstructed public view at or near~~  
 9706 ~~the place where residents are being admitted to the facility.~~

9707 (3) In accordance with part II of chapter 408, the agency  
 9708 shall adopt rules to provide that, when the criteria established  
 9709 under this part and part II of chapter 408 ~~subsection (2)~~ are  
 9710 not met, such deficiencies shall be classified according to the  
 9711 nature of the deficiency. The agency shall indicate the  
 9712 classification on the face of the notice of deficiencies as  
 9713 follows:

9714 (a) Class I deficiencies are those which the agency  
 9715 determines present an ~~and~~ imminent danger to the residents or  
 9716 guests of the facility or a substantial probability that death  
 9717 or serious physical harm would result therefrom. The condition  
 9718 or practice constituting a class I violation must be abated or

9719 eliminated immediately, unless a fixed period of time, as  
 9720 determined by the agency, is required for correction.  
 9721 ~~Notwithstanding s. 400.121(2),~~ A class I deficiency is subject  
 9722 to a civil penalty in an amount not less than \$5,000 and not  
 9723 exceeding \$10,000 for each deficiency. A fine may be levied  
 9724 notwithstanding the correction of the deficiency.

9725 (b) Class II deficiencies are those which the agency  
 9726 determines have a direct or immediate relationship to the  
 9727 health, safety, or security of the facility residents, other  
 9728 than class I deficiencies. A class II deficiency is subject to a  
 9729 civil penalty in an amount not less than \$1,000 and not  
 9730 exceeding \$5,000 for each deficiency. A citation for a class II  
 9731 deficiency shall specify the time within which the deficiency  
 9732 must be corrected. If a class II deficiency is corrected within  
 9733 the time specified, no civil penalty shall be imposed, unless it  
 9734 is a repeated offense.

9735 (c) Class III deficiencies are those which the agency  
 9736 determines to have an indirect or potential relationship to the  
 9737 health, safety, or security of the facility residents, other  
 9738 than class I or class II deficiencies. A class III deficiency is  
 9739 subject to a civil penalty of not less than \$500 and not  
 9740 exceeding \$1,000 for each deficiency. A citation for a class III  
 9741 deficiency shall specify the time within which the deficiency  
 9742 must be corrected. If a class III deficiency is corrected within  
 9743 the time specified, no civil penalty shall be imposed, unless it  
 9744 is a repeated offense.



9745           ~~(4) Civil penalties paid by any licensee under subsection~~  
 9746 ~~(3) shall be deposited in the Health Care Trust Fund and~~  
 9747 ~~expended as provided in s. 400.063.~~

9748           (4)~~(5)~~ The agency shall approve or disapprove the plans  
 9749 and specifications within 60 days after receipt of the final  
 9750 plans and specifications. The agency may be granted one 15-day  
 9751 extension for the review period, if the secretary of the agency  
 9752 so approves. If the agency fails to act within the specified  
 9753 time, it is deemed to have approved the plans and  
 9754 specifications. When the agency disapproves plans and  
 9755 specifications, it must set forth in writing the reasons for  
 9756 disapproval. Conferences and consultations may be provided as  
 9757 necessary.

9758           (5)~~(6)~~ The agency may charge an initial fee of \$2,000 for  
 9759 review of plans and construction on all projects, no part of  
 9760 which is refundable. The agency may also collect a fee, not to  
 9761 exceed 1 percent of the estimated construction cost or the  
 9762 actual cost of review, whichever is less, for the portion of the  
 9763 review which encompasses initial review through the initial  
 9764 revised construction document review. The agency may collect its  
 9765 actual costs on all subsequent portions of the review and  
 9766 construction inspections. Initial fee payment must accompany the  
 9767 initial submission of plans and specifications. Any subsequent  
 9768 payment that is due is payable upon receipt of the invoice from  
 9769 the agency. Notwithstanding any other provision of law, all  
 9770 money received by the agency under this section shall be deemed  
 9771 to be trust funds, to be held and applied solely for the  
 9772 operations required under this section.

9773           (6) Each licensee of an intermediate care facility for  
 9774 persons with developmental disabilities shall adhere to all  
 9775 rights specified in s. 393.13, the Bill of Rights of Persons Who  
 9776 are Developmentally Disabled.

9777           Section 187. Section 400.968, Florida Statutes, is amended  
 9778 to read:

9779           400.968 Right of entry; ~~protection of health, safety, and~~  
 9780 ~~welfare.~~--

9781           ~~(1)~~ Any designated officer or employee of the agency, of  
 9782 the state, or of the local fire marshal may enter unannounced  
 9783 the premises of any facility licensed under this part in order  
 9784 to determine the state of compliance with this part and the  
 9785 rules or standards in force under this part. The right of entry  
 9786 and inspection also extends to any premises that the agency has  
 9787 reason to believe are being operated or maintained as a facility  
 9788 without a license; but such an entry or inspection may not be  
 9789 made without the permission of the owner or person in charge of  
 9790 the facility unless a warrant that authorizes the entry is first  
 9791 obtained from the circuit court. The warrant requirement extends  
 9792 only to a facility that the agency has reason to believe is  
 9793 being operated or maintained as a facility without a license. An  
 9794 application for a license or renewal thereof which is made under  
 9795 this section constitutes permission for, and acquiescence in,  
 9796 any entry or inspection of the premises for which the license is  
 9797 sought, in order to facilitate verification of the information  
 9798 submitted in connection with the application; to discover,  
 9799 investigate, and determine the existence of abuse or neglect; or  
 9800 to elicit, receive, respond to, and resolve complaints. A

9801 current valid license constitutes unconditional permission for,  
 9802 and acquiescence in, any entry or inspection of the premises by  
 9803 authorized personnel. The agency retains the right of entry and  
 9804 inspection of facilities that have had a license revoked or  
 9805 suspended within the previous 24 months, to ensure that the  
 9806 facility is not operating unlawfully. However, before the  
 9807 facility is entered, a statement of probable cause must be filed  
 9808 with the director of the agency, who must approve or disapprove  
 9809 the action within 48 hours.

9810 ~~(2) The agency may institute injunctive proceedings in a~~  
 9811 ~~court of competent jurisdiction for temporary or permanent~~  
 9812 ~~relief to:~~

9813 ~~(a) Enforce this section or any minimum standard, rule, or~~  
 9814 ~~order issued pursuant thereto if the agency's effort to correct~~  
 9815 ~~a violation through administrative fines has failed or when the~~  
 9816 ~~violation materially affects the health, safety, or welfare of~~  
 9817 ~~residents; or~~

9818 ~~(b) Terminate the operation of a facility if a violation~~  
 9819 ~~of this section or of any standard or rule adopted pursuant~~  
 9820 ~~thereto exists which materially affects the health, safety, or~~  
 9821 ~~welfare of residents.~~

9822  
 9823 ~~The Legislature recognizes that, in some instances, action is~~  
 9824 ~~necessary to protect residents of facilities from immediately~~  
 9825 ~~life-threatening situations. If it appears by competent evidence~~  
 9826 ~~or a sworn, substantiated affidavit that a temporary injunction~~  
 9827 ~~should issue, the court, pending the determination on final~~  
 9828 ~~hearing, shall enjoin operation of the facility.~~

9829           ~~(3) The agency may impose an immediate moratorium on~~  
 9830 ~~admissions to a facility when the agency determines that any~~  
 9831 ~~condition in the facility presents a threat to the health,~~  
 9832 ~~safety, or welfare of the residents in the facility. If a~~  
 9833 ~~facility's license is denied, revoked, or suspended, the~~  
 9834 ~~facility may be subject to the immediate imposition of a~~  
 9835 ~~moratorium on admissions to run concurrently with licensure~~  
 9836 ~~denial, revocation, or suspension.~~

9837           Section 188. Section 400.9685, Florida Statutes, is  
 9838 amended to read:

9839           400.9685 Administration of medication.--

9840           (1) Notwithstanding the provisions of the Nurse Practice  
 9841 Act, part I of chapter 464, unlicensed direct care services  
 9842 staff who are providing services to residents ~~clients~~ in  
 9843 intermediate care facilities for the developmentally disabled,  
 9844 licensed pursuant to this part, may administer prescribed,  
 9845 prepackaged, premeasured medications under the general  
 9846 supervision of a registered nurse as provided in this section  
 9847 and applicable rules. Training required by this section and  
 9848 applicable rules must be conducted by a registered nurse  
 9849 licensed pursuant to chapter 464 or a physician licensed  
 9850 pursuant to chapter 458 or chapter 459.

9851           (2) Each facility that allows unlicensed direct care  
 9852 service staff to administer medications pursuant to this section  
 9853 must:

9854           (a) Develop and implement policies and procedures that  
 9855 include a plan to ensure the safe handling, storage, and  
 9856 administration of prescription medication.

- 9857 (b) Maintain written evidence of the expressed and  
 9858 informed consent for each resident ~~elient~~.
- 9859 (c) Maintain a copy of the written prescription including  
 9860 the name of the medication, the dosage, and administration  
 9861 schedule.
- 9862 (d) Maintain documentation regarding the prescription  
 9863 including the name, dosage, and administration schedule, reason  
 9864 for prescription, and the termination date.
- 9865 (e) Maintain documentation of compliance with required  
 9866 training.
- 9867 (3) Agency rules shall specify the following as it relates  
 9868 to the administration of medications by unlicensed staff:
- 9869 (a) Medications authorized and packaging required.
- 9870 (b) Acceptable methods of administration.
- 9871 (c) A definition of "general supervision."
- 9872 (d) Minimum educational requirements of staff.
- 9873 (e) Criteria of required training and competency that must  
 9874 be demonstrated prior to the administration of medications by  
 9875 unlicensed staff including inservice training.
- 9876 (f) Requirements for safe handling, storage, and  
 9877 administration of medications.
- 9878 Section 189. Subsection (1) of section 400.969, Florida  
 9879 Statutes, is amended to read:
- 9880 400.969 Violation of part; penalties.--
- 9881 (1) In accordance with part II of chapter 408, and except  
 9882 as provided in s. 400.967(3), a violation of any provision of  
 9883 this part, part II of chapter 408, or applicable rules adopted

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9884 ~~by the agency under this part~~ is punishable by payment of an  
 9885 administrative or civil penalty not to exceed \$5,000.

9886 Section 190. Section 400.980, Florida Statutes, is amended  
 9887 to read:

9888 400.980 Health care services pools.--

9889 (1) As used in this section, the term:

9890 (a) "Agency" means the Agency for Health Care  
 9891 Administration.

9892 (b) "Health care services pool" means any person, firm,  
 9893 corporation, partnership, or association engaged for hire in the  
 9894 business of providing temporary employment in health care  
 9895 facilities, residential facilities, and agencies for licensed,  
 9896 certified, or trained health care personnel including, without  
 9897 limitation, nursing assistants, nurses' aides, and orderlies.  
 9898 However, the term does not include nursing registries, a  
 9899 facility licensed under chapter 400, a health care services pool  
 9900 established within a health care facility to provide services  
 9901 only within the confines of such facility, or any individual  
 9902 contractor directly providing temporary services to a health  
 9903 care facility without use or benefit of a contracting agent.

9904 (2) The requirements of part II of chapter 408 shall apply  
 9905 to the provision of services that require licensure or  
 9906 registration pursuant to this part and part II of chapter 408  
 9907 and to entities registered by or applying for such registration  
 9908 from the agency pursuant to this part. However, each applicant  
 9909 for licensure and each licensee is exempt from ss.

9910 ~~408.806(1)(e)2. and 408.810(6)-(10). Each person who operates a~~  
 9911 ~~health care services pool must register each separate business~~

9912 ~~location with the agency.~~ The agency shall adopt rules and  
 9913 provide forms required for such registration and shall impose a  
 9914 registration fee in an amount sufficient to cover the cost of  
 9915 administering this section. In addition, the registrant must  
 9916 provide the agency with any change of information contained on  
 9917 the original registration application within 14 days prior to  
 9918 the change. ~~The agency may inspect the offices of any health~~  
 9919 ~~care services pool at any reasonable time for the purpose of~~  
 9920 ~~determining compliance with this section or the rules adopted~~  
 9921 ~~under this section.~~

9922 ~~(3) Each application for registration must include:~~

9923 ~~(a) The name and address of any person who has an~~  
 9924 ~~ownership interest in the business, and, in the case of a~~  
 9925 ~~corporate owner, copies of the articles of incorporation,~~  
 9926 ~~bylaws, and names and addresses of all officers and directors of~~  
 9927 ~~the corporation.~~

9928 ~~(b) Any other information required by the agency.~~

9929 ~~(3)(4) Each applicant for registration must comply with~~  
 9930 ~~the following requirements:~~

9931 ~~(a) Upon receipt of a completed, signed, and dated~~  
 9932 ~~application, the agency shall require background screening, in~~  
 9933 ~~accordance with the level 1 standards for screening set forth in~~  
 9934 ~~chapter 435, of every individual who will have contact with~~  
 9935 ~~patients. The agency shall require background screening of the~~  
 9936 ~~managing employee or other similarly titled individual who is~~  
 9937 ~~responsible for the operation of the entity, and of the~~  
 9938 ~~financial officer or other similarly titled individual who is~~  
 9939 ~~responsible for the financial operation of the entity, including~~

9940 ~~billings for services in accordance with the level 2 standards~~  
 9941 ~~for background screening as set forth in chapter 435.~~

9942 ~~(b) The agency may require background screening of any~~  
 9943 ~~other individual who is affiliated with the applicant if the~~  
 9944 ~~agency has a reasonable basis for believing that he or she has~~  
 9945 ~~been convicted of a crime or has committed any other offense~~  
 9946 ~~prohibited under the level 2 standards for screening set forth~~  
 9947 ~~in chapter 435.~~

9948 ~~(c) Proof of compliance with the level 2 background~~  
 9949 ~~screening requirements of chapter 435 which has been submitted~~  
 9950 ~~within the previous 5 years in compliance with any other health~~  
 9951 ~~care or assisted living licensure requirements of this state is~~  
 9952 ~~acceptable in fulfillment of paragraph (a).~~

9953 ~~(d) A provisional registration may be granted to an~~  
 9954 ~~applicant when each individual required by this section to~~  
 9955 ~~undergo background screening has met the standards for the~~  
 9956 ~~Department of Law Enforcement background check but the agency~~  
 9957 ~~has not yet received background screening results from the~~  
 9958 ~~Federal Bureau of Investigation. A standard registration may be~~  
 9959 ~~granted to the applicant upon the agency's receipt of a report~~  
 9960 ~~of the results of the Federal Bureau of Investigation background~~  
 9961 ~~screening for each individual required by this section to~~  
 9962 ~~undergo background screening which confirms that all standards~~  
 9963 ~~have been met, or upon the granting of a disqualification~~  
 9964 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 9965 ~~person who is required to undergo level 2 background screening~~  
 9966 ~~may serve in his or her capacity pending the agency's receipt of~~  
 9967 ~~the report from the Federal Bureau of Investigation. However,~~



9968 ~~the person may not continue to serve if the report indicates any~~  
 9969 ~~violation of background screening standards and if a~~  
 9970 ~~disqualification exemption has not been requested of and granted~~  
 9971 ~~by the agency as set forth in chapter 435.~~

9972 ~~(c) Each applicant must submit to the agency, with its~~  
 9973 ~~application, a description and explanation of any exclusions,~~  
 9974 ~~permanent suspensions, or terminations of the applicant from the~~  
 9975 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 9976 ~~requirements for disclosure of ownership and controlling~~  
 9977 ~~interests under the Medicaid or Medicare programs may be~~  
 9978 ~~accepted in lieu of this submission.~~

9979 ~~(f) Each applicant must submit to the agency a description~~  
 9980 ~~and explanation of any conviction of an offense prohibited under~~  
 9981 ~~the level 2 standards of chapter 435 which was committed by a~~  
 9982 ~~member of the board of directors of the applicant, its officers,~~  
 9983 ~~or any individual owning 5 percent or more of the applicant.~~  
 9984 ~~This requirement does not apply to a director of a not-for-~~  
 9985 ~~profit corporation or organization who serves solely in a~~  
 9986 ~~voluntary capacity for the corporation or organization, does not~~  
 9987 ~~regularly take part in the day-to-day operational decisions of~~  
 9988 ~~the corporation or organization, receives no remuneration for~~  
 9989 ~~his or her services on the corporation's or organization's board~~  
 9990 ~~of directors, and has no financial interest and no family~~  
 9991 ~~members having a financial interest in the corporation or~~  
 9992 ~~organization, if the director and the not-for-profit corporation~~  
 9993 ~~or organization include in the application a statement affirming~~  
 9994 ~~that the director's relationship to the corporation satisfies~~  
 9995 ~~the requirements of this paragraph.~~

9996           ~~(g) A registration may not be granted to an applicant if~~  
 9997 ~~the applicant or managing employee has been found guilty of,~~  
 9998 ~~regardless of adjudication, or has entered a plea of nolo~~  
 9999 ~~contendere or guilty to, any offense prohibited under the level~~  
 10000 ~~2 standards for screening set forth in chapter 435, unless an~~  
 10001 ~~exemption from disqualification has been granted by the agency~~  
 10002 ~~as set forth in chapter 435.~~

10003           ~~(h) Failure to provide all required documentation within~~  
 10004 ~~30 days after a written request from the agency will result in~~  
 10005 ~~denial of the application for registration.~~

10006           ~~(i) The agency must take final action on an application~~  
 10007 ~~for registration within 60 days after receipt of all required~~  
 10008 ~~documentation.~~

10009           ~~(j) The agency may deny, revoke, or suspend the~~  
 10010 ~~registration of any applicant or registrant who:~~

10011           ~~1. Has falsely represented a material fact in the~~  
 10012 ~~application required by paragraph (e) or paragraph (f), or has~~  
 10013 ~~omitted any material fact from the application required by~~  
 10014 ~~paragraph (e) or paragraph (f); or~~

10015           ~~2. Has had prior action taken against the applicant under~~  
 10016 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

10017           ~~3. Fails to comply with this section or applicable rules.~~

10018           ~~4. Commits an intentional, reckless, or negligent act that~~  
 10019 ~~materially affects the health or safety of a person receiving~~  
 10020 ~~services.~~

10021           ~~(4)(5)~~ It is a misdemeanor of the first degree, punishable  
 10022 under s. 775.082 or s. 775.083, for any person willfully,  
 10023 knowingly, or intentionally to:

10024 (a) Fail, by false statement, misrepresentation,  
 10025 impersonation, or other fraudulent means, to disclose in any  
 10026 application for voluntary or paid employment a material fact  
 10027 used in making a determination as to an applicant's  
 10028 qualifications to be a contractor under this section;

10029 (b) Operate or attempt to operate an entity registered  
 10030 under this part with persons who do not meet the minimum  
 10031 standards of chapter 435 as contained in this section; or

10032 (c) Use information from the criminal records obtained  
 10033 under this section for any purpose other than screening an  
 10034 applicant for temporary employment as specified in this section,  
 10035 or release such information to any other person for any purpose  
 10036 other than screening for employment under this section.

10037 (5)~~(6)~~ It is a felony of the third degree, punishable  
 10038 under s. 775.082, s. 775.083, or s. 775.084, for any person  
 10039 willfully, knowingly, or intentionally to use information from  
 10040 the juvenile records of a person obtained under this section for  
 10041 any purpose other than screening for employment under this  
 10042 section.

10043 ~~(7) It is unlawful for a person to offer or advertise~~  
 10044 ~~services, as defined by rule, to the public without obtaining a~~  
 10045 ~~certificate of registration from the Agency for Health Care~~  
 10046 ~~Administration. It is unlawful for any holder of a certificate~~  
 10047 ~~of registration to advertise or hold out to the public that he~~  
 10048 ~~or she holds a certificate of registration for other than that~~  
 10049 ~~for which he or she actually holds a certificate of~~  
 10050 ~~registration. Any person who violates this subsection is subject~~  
 10051 ~~to injunctive proceedings under s. 400.515.~~

10052       ~~(8) Each registration shall be for a period of 2 years.~~  
 10053       ~~The application for renewal must be received by the agency at~~  
 10054       ~~least 30 days before the expiration date of the registration. An~~  
 10055       ~~application for a new registration is required within 30 days~~  
 10056       ~~prior to the sale of a controlling interest in a health care~~  
 10057       ~~services pool.~~

10058       (6)~~(9)~~ A health care services pool may not require an  
 10059       employee to recruit new employees from persons employed at a  
 10060       health care facility to which the health care services pool  
 10061       employee is assigned. Nor shall a health care facility to which  
 10062       employees of a health care services pool are assigned recruit  
 10063       new employees from the health care services pool.

10064       (7)~~(10)~~ A health care services pool shall document that  
 10065       each temporary employee provided to a health care facility has  
 10066       met the licensing, certification, training, or continuing  
 10067       education requirements, as established by the appropriate  
 10068       regulatory agency, for the position in which he or she will be  
 10069       working.

10070       (8)~~(11)~~ When referring persons for temporary employment in  
 10071       health care facilities, a health care services pool shall comply  
 10072       with all pertinent state and federal laws, rules, and  
 10073       regulations relating to health, background screening, and other  
 10074       qualifications required of persons working in a facility of that  
 10075       type.

10076       (9)~~(12)~~(a) As a condition of registration and prior to the  
 10077       issuance or renewal of a certificate of registration, a health  
 10078       care services pool applicant must prove financial responsibility  
 10079       to pay claims, and costs ancillary thereto, arising out of the

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10080 rendering of services or failure to render services by the pool  
 10081 or by its employees in the course of their employment with the  
 10082 pool. The agency shall promulgate rules establishing minimum  
 10083 financial responsibility coverage amounts which shall be  
 10084 adequate to pay potential claims and costs ancillary thereto.

10085 (b) Each health care services pool shall give written  
 10086 notification to the agency within 20 days after any change in  
 10087 the method of assuring financial responsibility or upon  
 10088 cancellation or nonrenewal of professional liability insurance.  
 10089 Unless the pool demonstrates that it is otherwise in compliance  
 10090 with the requirements of this section, the agency shall suspend  
 10091 the registration of the pool pursuant to ss. 120.569 and 120.57.  
 10092 Any suspension under this section shall remain in effect until  
 10093 the pool demonstrates compliance with the requirements of this  
 10094 section.

10095 (c) Proof of financial responsibility must be demonstrated  
 10096 to the satisfaction of the agency, through one of the following  
 10097 methods:

10098 1. Establishing and maintaining an escrow account  
 10099 consisting of cash or assets eligible for deposit in accordance  
 10100 with s. 625.52;

10101 2. Obtaining and maintaining an unexpired irrevocable  
 10102 letter of credit established pursuant to chapter 675. Such  
 10103 letters of credit shall be nontransferable and nonassignable and  
 10104 shall be issued by any bank or savings association organized and  
 10105 existing under the laws of this state or any bank or savings  
 10106 association organized under the laws of the United States that  
 10107 has its principal place of business in this state or has a

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10108 | branch office which is authorized under the laws of this state  
 10109 | or of the United States to receive deposits in this state; or  
 10110 |       3. Obtaining and maintaining professional liability  
 10111 | coverage from one of the following:  
 10112 |       a. An authorized insurer as defined under s. 624.09;  
 10113 |       b. An eligible surplus lines insurer as defined under s.  
 10114 | 626.918(2);  
 10115 |       c. A risk retention group or purchasing group as defined  
 10116 | under s. 627.942; or  
 10117 |       d. A plan of self-insurance as provided in s. 627.357.  
 10118 |       (d) If financial responsibility requirements are met by  
 10119 | maintaining an escrow account or letter of credit, as provided  
 10120 | in this section, upon the entry of an adverse final judgment  
 10121 | arising from a medical malpractice arbitration award from a  
 10122 | claim of medical malpractice either in contract or tort, or from  
 10123 | noncompliance with the terms of a settlement agreement arising  
 10124 | from a claim of medical malpractice either in contract or tort,  
 10125 | the financial institution holding the escrow account or the  
 10126 | letter of credit shall pay directly to the claimant the entire  
 10127 | amount of the judgment together with all accrued interest or the  
 10128 | amount maintained in the escrow account or letter of credit as  
 10129 | required by this section, whichever is less, within 60 days  
 10130 | after the date such judgment became final and subject to  
 10131 | execution, unless otherwise mutually agreed to in writing by the  
 10132 | parties. If timely payment is not made, the agency shall suspend  
 10133 | the registration of the pool pursuant to procedures set forth by  
 10134 | the agency through rule. Nothing in this paragraph shall

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10135 abrogate a judgment debtor's obligation to satisfy the entire  
10136 amount of any judgment.

10137 (e) Each health care services pool carrying claims-made  
10138 coverage must demonstrate proof of extended reporting coverage  
10139 through either tail or nose coverage, in the event the policy is  
10140 canceled, replaced, or not renewed. Such extended coverage shall  
10141 provide coverage for incidents that occurred during the claims-  
10142 made policy period but were reported after the policy period.

10143 (f) The financial responsibility requirements of this  
10144 section shall apply to claims for incidents that occur on or  
10145 after January 1, 1991, or the initial date of registration in  
10146 this state, whichever is later.

10147 (g) Meeting the financial responsibility requirements of  
10148 this section must be established at the time of issuance or  
10149 renewal of a certificate of registration.

10150 ~~(10)(13)~~ The agency shall adopt rules to implement this  
10151 section and part II of chapter 408, including rules providing  
10152 for the establishment of:

10153 (a) Minimum standards for the operation and administration  
10154 of health care personnel pools, including procedures for  
10155 recordkeeping and personnel.

10156 (b) In accordance with part II of chapter 408, fines for  
10157 the violation of this part, part II of chapter 408, or  
10158 applicable rules section in an amount not to exceed \$2,500 ~~and~~  
10159 ~~suspension or revocation of registration.~~

10160 ~~(c) Disciplinary sanctions for failure to comply with this~~  
10161 ~~section or the rules adopted under this section.~~

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10162 Section 191. Section 400.991, Florida Statutes, is amended  
 10163 to read:

10164 400.991 License requirements; background screenings;  
 10165 prohibitions.--

10166 (1)(a) The requirements of part II of chapter 408 shall  
 10167 apply to the provision of services that require licensure  
 10168 pursuant to this part and part II of chapter 408 and to entities  
 10169 licensed by or applying for such licensure from the agency  
 10170 pursuant to this part. However, each applicant for licensure and  
 10171 each licensee is exempt from the provisions of s. 408.810(6),  
 10172 (7), and (10). ~~Each clinic, as defined in s. 400.9905, must be~~  
 10173 ~~licensed and shall at all times maintain a valid license with~~  
 10174 ~~the agency.~~ Each clinic location shall be licensed separately  
 10175 regardless of whether the clinic is operated under the same  
 10176 business name or management as another clinic.

10177 (b) Each mobile clinic must obtain a separate health care  
 10178 clinic license and must provide to the agency, at least  
 10179 quarterly, its projected street location to enable the agency to  
 10180 locate and inspect such clinic. A portable equipment provider  
 10181 must obtain a health care clinic license for a single  
 10182 administrative office and is not required to submit quarterly  
 10183 projected street locations.

10184 (2) The initial clinic license application shall be filed  
 10185 with the agency by all clinics, as defined in s. 400.9905, on or  
 10186 before July 1, 2004. ~~A clinic license must be renewed~~  
 10187 ~~biennially.~~

10188 (3) Applicants that submit an application on or before  
 10189 July 1, 2004, which meets all requirements for initial licensure



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10190 as specified in this section shall receive a temporary license  
 10191 until the completion of an initial inspection verifying that the  
 10192 applicant meets all requirements in rules authorized in s.  
 10193 400.9925. However, a clinic engaged in magnetic resonance  
 10194 imaging services may not receive a temporary license unless it  
 10195 presents evidence satisfactory to the agency that such clinic is  
 10196 making a good faith effort and substantial progress in seeking  
 10197 accreditation required under s. 400.9935.

10198 ~~(4) Application for an initial clinic license or for~~  
 10199 ~~renewal of an existing license shall be notarized on forms~~  
 10200 ~~furnished by the agency and must be accompanied by the~~  
 10201 ~~appropriate license fee as provided in s. 400.9925. The agency~~  
 10202 ~~shall take final action on an initial license application within~~  
 10203 ~~60 days after receipt of all required documentation.~~

10204 (4)~~(5)~~ The application shall contain information that  
 10205 includes, but need not be limited to, information pertaining to  
 10206 the name, residence and business address, phone number, social  
 10207 security number, and license number of the medical or clinic  
 10208 director, of the licensed medical providers employed or under  
 10209 contract with the clinic, ~~and of each person who, directly or~~  
 10210 ~~indirectly, owns or controls 5 percent or more of an interest in~~  
 10211 ~~the clinic, or general partners in limited liability~~  
 10212 ~~partnerships.~~

10213 (5)~~(6)~~ The applicant must file with the application  
 10214 satisfactory proof that the clinic is in compliance with this  
 10215 part and applicable rules, including:

10216 (a) A listing of services to be provided either directly  
 10217 by the applicant or through contractual arrangements with  
 10218 existing providers;

10219 (b) The number and discipline of each professional staff  
 10220 member to be employed; and

10221 (c) ~~Proof of financial ability to operate. An applicant~~  
 10222 ~~must demonstrate financial ability to operate a clinic by~~  
 10223 ~~submitting a balance sheet and an income and expense statement~~  
 10224 ~~for the first year of operation which provide evidence of the~~  
 10225 ~~applicant's having sufficient assets, credit, and projected~~  
 10226 ~~revenues to cover liabilities and expenses. The applicant shall~~  
 10227 ~~have demonstrated financial ability to operate if the~~  
 10228 ~~applicant's assets, credit, and projected revenues meet or~~  
 10229 ~~exceed projected liabilities and expenses. All documents~~  
 10230 ~~required under this subsection must be prepared in accordance~~  
 10231 ~~with generally accepted accounting principles, may be in a~~  
 10232 ~~compilation form, and the financial statement must be signed by~~  
 10233 ~~a certified public accountant. As an alternative to submitting~~  
 10234 proof of financial ability to operate as required under s.  
 10235 408.810(8) a balance sheet and an income and expense statement  
 10236 ~~for the first year of operation, the applicant may file a surety~~  
 10237 bond of at least \$500,000 which guarantees that the clinic will  
 10238 act in full conformity with all legal requirements for operating  
 10239 a clinic, payable to the agency. The agency may adopt rules to  
 10240 specify related requirements for such surety bond.

10241 (6)(7) Background screening required under s. 408.809  
 10242 shall also apply to licensed medical providers at the clinic.

10243 ~~Each applicant for licensure shall comply with the following~~  
 10244 ~~requirements:~~

10245 ~~(a) As used in this subsection, the term "applicant" means~~  
 10246 ~~individuals owning or controlling, directly or indirectly, 5~~  
 10247 ~~percent or more of an interest in a clinic; the medical or~~  
 10248 ~~elinic director, or a similarly titled person who is responsible~~  
 10249 ~~for the day-to-day operation of the licensed clinic; the~~  
 10250 ~~financial officer or similarly titled individual who is~~  
 10251 ~~responsible for the financial operation of the clinic; and~~  
 10252 ~~licensed health care practitioners at the clinic.~~

10253 ~~(b) Upon receipt of a completed, signed, and dated~~  
 10254 ~~application, the agency shall require background screening of~~  
 10255 ~~the applicant, in accordance with the level 2 standards for~~  
 10256 ~~screening set forth in chapter 435. Proof of compliance with the~~  
 10257 ~~level 2 background screening requirements of chapter 435 which~~  
 10258 ~~has been submitted within the previous 5 years in compliance~~  
 10259 ~~with any other health care licensure requirements of this state~~  
 10260 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
 10261 ~~own less than 10 percent of a health care clinic are not~~  
 10262 ~~required to submit fingerprints under this section.~~

10263 ~~(c) Each applicant must submit to the agency, with the~~  
 10264 ~~application, a description and explanation of any exclusions,~~  
 10265 ~~permanent suspensions, or terminations of an applicant from the~~  
 10266 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 10267 ~~requirements for disclosure of ownership and control interest~~  
 10268 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
 10269 ~~of this submission. The description and explanation may indicate~~

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10270 ~~whether such exclusions, suspensions, or terminations were~~  
 10271 ~~voluntary or not voluntary on the part of the applicant.~~

10272 ~~(d)~~ A license may not be granted to a clinic if the  
 10273 applicant has been found guilty of, regardless of adjudication,  
 10274 or has entered a plea of nolo contendere or guilty to, any  
 10275 offense prohibited under the level 2 standards for screening set  
 10276 forth in chapter 435, or a violation of insurance fraud under s.  
 10277 817.234, within the past 5 years. If the applicant has been  
 10278 convicted of an offense prohibited under the level 2 standards  
 10279 or insurance fraud in any jurisdiction, the applicant must show  
 10280 that his or her civil rights have been restored prior to  
 10281 submitting an application.

10282 ~~(e) The agency may deny or revoke licensure if the~~  
 10283 ~~applicant has falsely represented any material fact or omitted~~  
 10284 ~~any material fact from the application required by this part.~~

10285 ~~(8) Requested information omitted from an application for~~  
 10286 ~~licensure, license renewal, or transfer of ownership must be~~  
 10287 ~~filed with the agency within 21 days after receipt of the~~  
 10288 ~~agency's request for omitted information, or the application~~  
 10289 ~~shall be deemed incomplete and shall be withdrawn from further~~  
 10290 ~~consideration.~~

10291 ~~(9) The failure to file a timely renewal application shall~~  
 10292 ~~result in a late fee charged to the facility in an amount equal~~  
 10293 ~~to 50 percent of the current license fee.~~

10294 Section 192. Section 400.9915, Florida Statutes, is  
 10295 amended to read:

10296 400.9915 ~~Clinic inspections;~~ Emergency suspension;  
 10297 costs.--

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10298           ~~(1) Any authorized officer or employee of the agency shall~~  
 10299 ~~make inspections of the clinic as part of the initial license~~  
 10300 ~~application or renewal application. The application for a clinic~~  
 10301 ~~license issued under this part or for a renewal license~~  
 10302 ~~constitutes permission for an appropriate agency inspection to~~  
 10303 ~~verify the information submitted on or in connection with the~~  
 10304 ~~application or renewal.~~

10305           ~~(2) An authorized officer or employee of the agency may~~  
 10306 ~~make unannounced inspections of clinics licensed pursuant to~~  
 10307 ~~this part as are necessary to determine that the clinic is in~~  
 10308 ~~compliance with this part and with applicable rules. A licensed~~  
 10309 ~~clinic shall allow full and complete access to the premises and~~  
 10310 ~~to billing records or information to any representative of the~~  
 10311 ~~agency who makes an inspection to determine compliance with this~~  
 10312 ~~part and with applicable rules.~~

10313           ~~(1)(3)~~ Failure by a clinic licensed under this part to  
 10314 allow full and complete access to the premises and to billing  
 10315 records or information to any representative of the agency who  
 10316 makes a request to inspect the clinic to determine compliance  
 10317 with this part or failure by a clinic to employ a qualified  
 10318 medical director or clinic director constitutes a ground for  
 10319 emergency suspension of the license by the agency pursuant to s.  
 10320 120.60(6) and part II of chapter 408.

10321           ~~(2)(4)~~ In addition to any administrative fines imposed,  
 10322 the agency may assess a fee equal to the cost of conducting a  
 10323 complaint investigation.

10324           Section 193. Section 400.992, Florida Statutes, is  
 10325 repealed.

10326 Section 194. Section 400.9925, Florida Statutes, is  
 10327 amended to read:

10328 400.9925 Rulemaking authority; license fees.--

10329 (1) The agency shall adopt rules necessary to administer  
 10330 the clinic administration, regulation, and licensure program,  
 10331 including rules pursuant to this part and part II of chapter  
 10332 408, establishing the specific licensure requirements,  
 10333 procedures, forms, and fees. It shall adopt rules establishing a  
 10334 procedure for the biennial renewal of licenses. The agency may  
 10335 issue initial licenses for less than the full 2-year period by  
 10336 charging a prorated licensure fee and specifying a different  
 10337 renewal date than would otherwise be required for biennial  
 10338 licensure. The rules shall specify the expiration dates of  
 10339 licenses, the process of tracking compliance with financial  
 10340 responsibility requirements, and any other conditions of renewal  
 10341 required by law or rule.

10342 (2) The agency shall adopt rules specifying limitations on  
 10343 the number of licensed clinics and licensees for which a medical  
 10344 director or a clinic director may assume responsibility for  
 10345 purposes of this part. In determining the quality of supervision  
 10346 a medical director or a clinic director can provide, the agency  
 10347 shall consider the number of clinic employees, the clinic  
 10348 location, and the health care services provided by the clinic.

10349 (3) In accordance with s. 408.805, an applicant or a  
 10350 licensee shall pay a fee for each license application submitted  
 10351 under this part, part II of chapter 408, and applicable rules.  
 10352 The amount of the fee shall be established by rule and shall not  
 10353 exceed \$2,000 per biennium. ~~License application and renewal fees~~

10354 ~~must be reasonably calculated by the agency to cover its costs~~  
 10355 ~~in carrying out its responsibilities under this part, including~~  
 10356 ~~the cost of licensure, inspection, and regulation of clinics,~~  
 10357 ~~and must be of such amount that the total fees collected do not~~  
 10358 ~~exceed the cost of administering and enforcing compliance with~~  
 10359 ~~this part. Clinic licensure fees are nonrefundable and may not~~  
 10360 ~~exceed \$2,000. The agency shall adjust the license fee annually~~  
 10361 ~~by not more than the change in the Consumer Price Index based on~~  
 10362 ~~the 12 months immediately preceding the increase. All fees~~  
 10363 ~~collected under this part must be deposited in the Health Care~~  
 10364 ~~Trust Fund for the administration of this part.~~

10365 Section 195. Section 400.993, Florida Statutes, is amended  
 10366 to read:

10367 400.993 Unlicensed clinics; reporting penalties; fines;  
 10368 ~~verification of licensure status.--~~

10369 (1) ~~It is unlawful to own, operate, or maintain a clinic~~  
 10370 ~~without obtaining a license under this part.~~

10371 (2) ~~Any person who owns, operates, or maintains an~~  
 10372 ~~unlicensed clinic commits a felony of the third degree,~~  
 10373 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~  
 10374 ~~Each day of continued operation is a separate offense.~~

10375 (3) ~~Any person found guilty of violating subsection (2) a~~  
 10376 ~~second or subsequent time commits a felony of the second degree,~~  
 10377 ~~punishable as provided under s. 775.082, s. 775.083, or s.~~  
 10378 ~~775.084. Each day of continued operation is a separate offense.~~

10379 (4) ~~Any person who owns, operates, or maintains an~~  
 10380 ~~unlicensed clinic due to a change in this part or a modification~~  
 10381 ~~in agency rules within 6 months after the effective date of such~~

10382 ~~change or modification and who, within 10 working days after~~  
 10383 ~~receiving notification from the agency, fails to cease operation~~  
 10384 ~~or apply for a license under this part commits a felony of the~~  
 10385 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~  
 10386 ~~or s. 775.084. Each day of continued operation is a separate~~  
 10387 ~~offense.~~

10388 ~~(5) Any clinic that fails to cease operation after agency~~  
 10389 ~~notification may be fined for each day of noncompliance pursuant~~  
 10390 ~~to this part.~~

10391 ~~(6) When a person has an interest in more than one clinic,~~  
 10392 ~~and fails to obtain a license for any one of these clinics, the~~  
 10393 ~~agency may revoke the license, impose a moratorium, or impose a~~  
 10394 ~~fine pursuant to this part on any or all of the licensed clinics~~  
 10395 ~~until such time as the unlicensed clinic is licensed or ceases~~  
 10396 ~~operation.~~

10397 ~~(7) Any person aware of the operation of an unlicensed~~  
 10398 ~~clinic must report that facility to the agency.~~

10399 ~~(8) In addition to the requirements of part II of chapter~~  
 10400 ~~408, any health care provider who is aware of the operation of~~  
 10401 ~~an unlicensed clinic shall report that facility to the agency.~~  
 10402 ~~Failure to report a clinic that the provider knows or has~~  
 10403 ~~reasonable cause to suspect is unlicensed shall be reported to~~  
 10404 ~~the provider's licensing board.~~

10405 ~~(9) The agency may not issue a license to a clinic that~~  
 10406 ~~has any unpaid fines assessed under this part.~~

10407 Section 196. Section 400.9935, Florida Statutes, is  
 10408 amended to read:

10409 400.9935 Clinic responsibilities.--



10410 (1) Each clinic shall appoint a medical director or clinic  
 10411 director who shall agree in writing to accept legal  
 10412 responsibility for the following activities on behalf of the  
 10413 clinic. The medical director or the clinic director shall:

10414 (a) Have signs identifying the medical director or clinic  
 10415 director posted in a conspicuous location within the clinic  
 10416 readily visible to all patients.

10417 (b) Ensure that all practitioners providing health care  
 10418 services or supplies to patients maintain a current active and  
 10419 unencumbered Florida license.

10420 (c) Review any patient referral contracts or agreements  
 10421 executed by the clinic.

10422 (d) Ensure that all health care practitioners at the  
 10423 clinic have active appropriate certification or licensure for  
 10424 the level of care being provided.

10425 (e) Serve as the clinic records owner as defined in s.  
 10426 456.057.

10427 (f) Ensure compliance with the recordkeeping, office  
 10428 surgery, and adverse incident reporting requirements of chapter  
 10429 456, the respective practice acts, and rules adopted under this  
 10430 part and part II of chapter 408.

10431 (g) Conduct systematic reviews of clinic billings to  
 10432 ensure that the billings are not fraudulent or unlawful. Upon  
 10433 discovery of an unlawful charge, the medical director or clinic  
 10434 director shall take immediate corrective action. If the clinic  
 10435 performs only the technical component of magnetic resonance  
 10436 imaging, static radiographs, computed tomography, or positron  
 10437 emission tomography, and provides the professional

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10438 interpretation of such services, in a fixed facility that is  
 10439 accredited by the Joint Commission on Accreditation of  
 10440 Healthcare Organizations or the Accreditation Association for  
 10441 Ambulatory Health Care, and the American College of Radiology;  
 10442 and if, in the preceding quarter, the percentage of scans  
 10443 performed by that clinic which was billed to all personal injury  
 10444 protection insurance carriers was less than 15 percent, the  
 10445 chief financial officer of the clinic may, in a written  
 10446 acknowledgment provided to the agency, assume the responsibility  
 10447 for the conduct of the systematic reviews of clinic billings to  
 10448 ensure that the billings are not fraudulent or unlawful.

10449 ~~(2) Any business that becomes a clinic after commencing~~  
 10450 ~~operations must, within 5 days after becoming a clinic, file a~~  
 10451 ~~license application under this part and shall be subject to all~~  
 10452 ~~provisions of this part applicable to a clinic.~~

10453 (2)~~(3)~~ Any contract to serve as a medical director or a  
 10454 clinic director entered into or renewed by a physician or a  
 10455 licensed health care practitioner in violation of this part is  
 10456 void as contrary to public policy. This subsection shall apply  
 10457 to contracts entered into or renewed on or after March 1, 2004.

10458 (3)~~(4)~~ All charges or reimbursement claims made by or on  
 10459 behalf of a clinic that is required to be licensed under this  
 10460 part, but that is not so licensed, or that is otherwise  
 10461 operating in violation of this part, are unlawful charges, and  
 10462 therefore are noncompensable and unenforceable.

10463 (4)~~(5)~~ Any person establishing, operating, or managing an  
 10464 unlicensed clinic otherwise required to be licensed under this  
 10465 part, or any person who knowingly files a false or misleading

10466 license application or license renewal application, or false or  
 10467 misleading information related to such application or department  
 10468 rule, commits a felony of the third degree, punishable as  
 10469 provided in s. 775.082, s. 775.083, or s. 775.084.

10470 (5)~~(6)~~ Any licensed health care provider who violates this  
 10471 part is subject to discipline in accordance with this chapter  
 10472 and his or her respective practice act.

10473 ~~(7) The agency may fine, or suspend or revoke the license~~  
 10474 ~~of, any clinic licensed under this part for operating in~~  
 10475 ~~violation of the requirements of this part or the rules adopted~~  
 10476 ~~by the agency.~~

10477 ~~(8) The agency shall investigate allegations of~~  
 10478 ~~noncompliance with this part and the rules adopted under this~~  
 10479 ~~part.~~

10480 (6)~~(9)~~ Any person or entity providing health care services  
 10481 which is not a clinic, as defined under s. 400.9905, may  
 10482 voluntarily apply for a certificate of exemption from licensure  
 10483 under its exempt status with the agency on a form that sets  
 10484 forth its name or names and addresses, a statement of the  
 10485 reasons why it cannot be defined as a clinic, and other  
 10486 information deemed necessary by the agency. An exemption is not  
 10487 transferable. The agency may charge an applicant for a  
 10488 certificate of exemption in an amount equal to \$100 or the  
 10489 actual cost of processing the certificate, whichever is less.

10490 ~~(10) The clinic shall display its license in a conspicuous~~  
 10491 ~~location within the clinic readily visible to all patients.~~

10492 (7)~~(11)~~(a) Each clinic engaged in magnetic resonance  
 10493 imaging services must be accredited by the Joint Commission on

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10494 Accreditation of Healthcare Organizations, the American College  
 10495 of Radiology, or the Accreditation Association for Ambulatory  
 10496 Health Care, within 1 year after licensure. However, a clinic  
 10497 may request a single, 6-month extension if it provides evidence  
 10498 to the agency establishing that, for good cause shown, such  
 10499 clinic can not be accredited within 1 year after licensure, and  
 10500 that such accreditation will be completed within the 6-month  
 10501 extension. After obtaining accreditation as required by this  
 10502 subsection, each such clinic must maintain accreditation as a  
 10503 condition of renewal of its license.

10504 (b) The agency may deny the application or revoke the  
 10505 license of any entity formed for the purpose of avoiding  
 10506 compliance with the accreditation provisions of this subsection  
 10507 and whose principals were previously principals of an entity  
 10508 that was unable to meet the accreditation requirements within  
 10509 the specified timeframes. The agency may adopt rules as to the  
 10510 accreditation of magnetic resonance imaging clinics.

10511 ~~(8)(12)~~ The agency shall give full faith and credit  
 10512 pertaining to any past variance and waiver granted to a magnetic  
 10513 resonance imaging clinic from rule 64-2002, Florida  
 10514 Administrative Code, by the Department of Health, until  
 10515 September 2004. After that date, such clinic must request a  
 10516 variance and waiver from the agency under s. 120.542.

10517 Section 197. Section 400.994, Florida Statutes, is  
 10518 repealed.

10519 Section 198. Section 400.9945, Florida Statutes, is  
 10520 repealed.

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10521 Section 199. Section 400.995, Florida Statutes, is amended  
 10522 to read:

10523 400.995 Agency administrative penalties.--

10524 (1) The agency may deny the application for a license  
 10525 renewal, revoke or suspend the license, and impose  
 10526 administrative fines of up to \$5,000 per violation for  
 10527 violations of the requirements of this part or rules of the  
 10528 agency. In determining if a penalty is to be imposed and in  
 10529 fixing the amount of the fine, the agency shall consider the  
 10530 following factors:

10531 (a) The gravity of the violation, including the  
 10532 probability that death or serious physical or emotional harm to  
 10533 a patient will result or has resulted, the severity of the  
 10534 action or potential harm, and the extent to which the provisions  
 10535 of the applicable laws or rules were violated.

10536 (b) Actions taken by the owner, medical director, or  
 10537 clinic director to correct violations.

10538 (c) Any previous violations.

10539 (d) The financial benefit to the clinic of committing or  
 10540 continuing the violation.

10541 ~~(2) Each day of continuing violation after the date fixed~~  
 10542 ~~for termination of the violation, as ordered by the agency,~~  
 10543 ~~constitutes an additional, separate, and distinct violation.~~

10544 (2)~~(3)~~ Any action taken to correct a violation shall be  
 10545 documented in writing by the owner, medical director, or clinic  
 10546 director of the clinic and verified through followup visits by  
 10547 agency personnel. The agency may impose a fine and, in the case  
 10548 of an owner-operated clinic, revoke and ~~or~~ deny a clinic's

10549 license when a clinic medical director or clinic director  
 10550 knowingly misrepresents actions taken to correct a violation.

10551 ~~(4) For fines that are upheld following administrative or~~  
 10552 ~~judicial review, the violator shall pay the fine, plus interest~~  
 10553 ~~at the rate as specified in s. 55.03, for each day beyond the~~  
 10554 ~~date set by the agency for payment of the fine.~~

10555 ~~(5) Any unlicensed clinic that continues to operate after~~  
 10556 ~~agency notification is subject to a \$1,000 fine per day.~~

10557 (3)~~(6)~~ Any licensed clinic whose owner, medical director,  
 10558 or clinic director concurrently operates an unlicensed clinic  
 10559 shall be subject to an administrative fine of \$5,000 per day.

10560 ~~(7) Any clinic whose owner fails to apply for a change of~~  
 10561 ~~ownership license in accordance with s. 400.992 and operates the~~  
 10562 ~~clinic under the new ownership is subject to a fine of \$5,000.~~

10563 (4)~~(8)~~ The agency, as an alternative to or in conjunction  
 10564 with an administrative action against a clinic for violations of  
 10565 this part, part II of chapter 408, and adopted rules, shall make  
 10566 a reasonable attempt to discuss each violation and recommended  
 10567 corrective action with the owner, medical director, or clinic  
 10568 director of the clinic, prior to written notification. The  
 10569 agency, instead of fixing a period within which the clinic shall  
 10570 enter into compliance with standards, may request a plan of  
 10571 corrective action from the clinic which demonstrates a good  
 10572 faith effort to remedy each violation by a specific date,  
 10573 subject to the approval of the agency.

10574 ~~(9) Administrative fines paid by any clinic under this~~  
 10575 ~~section shall be deposited into the Health Care Trust Fund.~~

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10576            ~~(5)(10)~~ If the agency issues a notice of intent to deny a  
 10577 license application after a temporary license has been issued  
 10578 pursuant to s. 400.991(3), the temporary license shall expire on  
 10579 the date of the notice and may not be extended during any  
 10580 proceeding for administrative or judicial review pursuant to  
 10581 chapter 120.

10582            Section 200. Subsection (2) of section 401.265, Florida  
 10583 Statutes, is amended to read:

10584            401.265 Medical directors.--

10585            (2) Each licensee ~~medical director~~ shall establish a  
 10586 quality assurance committee to provide for quality assurance  
 10587 review of all emergency medical technicians and paramedics  
 10588 providing basic life support or advanced life support services  
 10589 for that licensee. The medical director employed by the licensee  
 10590 or with whom the licensee has a contract shall provide medical  
 10591 direction and oversight of the licensee's quality assurance  
 10592 committee ~~operating under his or her supervision~~. If the medical  
 10593 director has reasonable belief that conduct by an emergency  
 10594 medical technician or paramedic may constitute one or more  
 10595 grounds for discipline as provided by this part, he or she shall  
 10596 document facts and other information related to the alleged  
 10597 violation. The medical director shall report to the department  
 10598 any emergency medical technician or paramedic whom the medical  
 10599 director reasonably believes to have acted in a manner which  
 10600 might constitute grounds for disciplinary action. Such a report  
 10601 of disciplinary concern must include a statement and  
 10602 documentation of the specific acts of the disciplinary concern.  
 10603 Within 7 days after receipt of such a report, the department

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10604 shall provide the emergency medical technician or paramedic a  
 10605 copy of the report of the disciplinary concern and documentation  
 10606 of the specific acts related to the disciplinary concern. If the  
 10607 department determines that the report is insufficient for  
 10608 disciplinary action against the emergency medical technician or  
 10609 paramedic pursuant to s. 401.411, the report shall be expunged  
 10610 from the record of the emergency medical technician or  
 10611 paramedic.

10612 Section 201. Paragraph (b) of subsection (2) of section  
 10613 402.164, Florida Statutes, is amended to read:

10614 402.164 Legislative intent; definitions.--

10615 (2) As used in ss. 402.164-402.167, the term:

10616 (b) "Client" means a client as defined in s. 393.063, s.  
 10617 394.67, or s. 397.311, ~~or s. 400.960~~, a forensic client or  
 10618 client as defined in s. 916.106, a child or youth as defined in  
 10619 s. 39.01, a child as defined in s. 827.01, a family as defined  
 10620 in s. 414.0252, a participant as defined in s. 400.551, a  
 10621 resident as defined in s. 400.402 or s. 400.960, a Medicaid  
 10622 recipient or recipient as defined in s. 409.901, a child  
 10623 receiving child care as defined in s. 402.302, a disabled adult  
 10624 as defined in s. 410.032 or s. 410.603, or a victim as defined  
 10625 in s. 39.01 or s. 415.102 as each definition applies within its  
 10626 respective chapter.

10627 Section 202. Section 408.831, Florida Statutes, is amended  
 10628 to read:

10629 408.831 Denial, suspension, or revocation of a license,  
 10630 registration, certificate, or application.--



10631 (1) In addition to any other remedies provided by law, the  
 10632 agency may deny each application or suspend or revoke each  
 10633 license, registration, or certificate of entities regulated or  
 10634 licensed by it:

10635 (a) If the applicant, licensee, registrant, or  
 10636 certificateholder, or, in the case of a corporation,  
 10637 partnership, or other business entity, if any affiliated  
 10638 business entity, officer, director, agent, or managing employee  
 10639 of that business entity or any affiliated person, partner, or  
 10640 shareholder having an ownership interest equal to 5 percent or  
 10641 greater in that business entity, has failed to pay all  
 10642 outstanding fines, liens, or overpayments assessed by final  
 10643 order of the agency or final order of the Centers for Medicare  
 10644 and Medicaid Services, not subject to further appeal, unless a  
 10645 repayment plan is approved by the agency; or

10646 (b) For failure to comply with any repayment plan.

10647 (2) In reviewing any application requesting a change of  
 10648 ownership or change of the licensee, registrant, or  
 10649 certificateholder, the transferor shall, prior to agency  
 10650 approval of the change, repay or make arrangements to repay any  
 10651 amounts owed to the agency. Should the transferor fail to repay  
 10652 or make arrangements to repay the amounts owed to the agency,  
 10653 the issuance of a license, registration, or certificate to the  
 10654 transferee shall be delayed until repayment or until  
 10655 arrangements for repayment are made.

10656 (3) This section provides standards of enforcement  
 10657 applicable to all entities licensed or regulated by the Agency  
 10658 for Health Care Administration. This section controls over any

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10659 conflicting provisions of chapters 39, ~~381~~, 383, 390, 391, 393,  
 10660 394, 395, 400, 408, 468, 483, ~~and 641~~, and 765 or rules adopted  
 10661 pursuant to those chapters.

10662 Section 203. Paragraph (g) of subsection (2) of section  
 10663 409.815, Florida Statutes, is amended to read:

10664 409.815 Health benefits coverage; limitations.--

10665 (2) BENCHMARK BENEFITS.--In order for health benefits  
 10666 coverage to qualify for premium assistance payments for an  
 10667 eligible child under ss. 409.810-409.820, the health benefits  
 10668 coverage, except for coverage under Medicaid and Medikids, must  
 10669 include the following minimum benefits, as medically necessary.

10670 (g) Behavioral health services.--

10671 1. Mental health benefits include:

10672 a. Inpatient services, limited to not more than 30  
 10673 inpatient days per contract year for psychiatric admissions, or  
 10674 residential services in facilities licensed under s.

10675 394.875~~(6)~~~~(8)~~ or s. 395.003 in lieu of inpatient psychiatric  
 10676 admissions; however, a minimum of 10 of the 30 days shall be  
 10677 available only for inpatient psychiatric services when  
 10678 authorized by a physician; and

10679 b. Outpatient services, including outpatient visits for  
 10680 psychological or psychiatric evaluation, diagnosis, and  
 10681 treatment by a licensed mental health professional, limited to a  
 10682 maximum of 40 outpatient visits each contract year.

10683 2. Substance abuse services include:

10684 a. Inpatient services, limited to not more than 7  
 10685 inpatient days per contract year for medical detoxification only  
 10686 and 30 days of residential services; and

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10687           b. Outpatient services, including evaluation, diagnosis,  
10688 and treatment by a licensed practitioner, limited to a maximum  
10689 of 40 outpatient visits per contract year.

10690           Section 204. Subsection (8) of section 409.905, Florida  
10691 Statutes, is amended to read:

10692           409.905 Mandatory Medicaid services.--The agency may make  
10693 payments for the following services, which are required of the  
10694 state by Title XIX of the Social Security Act, furnished by  
10695 Medicaid providers to recipients who are determined to be  
10696 eligible on the dates on which the services were provided. Any  
10697 service under this section shall be provided only when medically  
10698 necessary and in accordance with state and federal law.  
10699 Mandatory services rendered by providers in mobile units to  
10700 Medicaid recipients may be restricted by the agency. Nothing in  
10701 this section shall be construed to prevent or limit the agency  
10702 from adjusting fees, reimbursement rates, lengths of stay,  
10703 number of visits, number of services, or any other adjustments  
10704 necessary to comply with the availability of moneys and any  
10705 limitations or directions provided for in the General  
10706 Appropriations Act or chapter 216.

10707           (8) NURSING FACILITY SERVICES.--The agency shall pay for  
10708 24-hour-a-day nursing and rehabilitative services for a  
10709 recipient in a nursing facility licensed under part II of  
10710 chapter 400 or in a rural hospital, as defined in s. 395.602, or  
10711 in a Medicare certified skilled nursing facility operated by a  
10712 hospital, as defined by s. 395.002(10)(~~11~~), that is licensed  
10713 under part I of chapter 395, and in accordance with provisions  
10714 set forth in s. 409.908(2)(a), which services are ordered by and

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10715 provided under the direction of a licensed physician. However,  
 10716 if a nursing facility has been destroyed or otherwise made  
 10717 uninhabitable by natural disaster or other emergency and another  
 10718 nursing facility is not available, the agency must pay for  
 10719 similar services temporarily in a hospital licensed under part I  
 10720 of chapter 395 provided federal funding is approved and  
 10721 available. The agency shall pay only for bed-hold days if the  
 10722 facility has an occupancy rate of 95 percent or greater. The  
 10723 agency is authorized to seek any federal waivers to implement  
 10724 this policy.

10725 Section 205. Subsection (7) of section 409.907, Florida  
 10726 Statutes, is amended to read:

10727 409.907 Medicaid provider agreements.--The agency may make  
 10728 payments for medical assistance and related services rendered to  
 10729 Medicaid recipients only to an individual or entity who has a  
 10730 provider agreement in effect with the agency, who is performing  
 10731 services or supplying goods in accordance with federal, state,  
 10732 and local law, and who agrees that no person shall, on the  
 10733 grounds of handicap, race, color, or national origin, or for any  
 10734 other reason, be subjected to discrimination under any program  
 10735 or activity for which the provider receives payment from the  
 10736 agency.

10737 (7) The agency may require, as a condition of  
 10738 participating in the Medicaid program and before entering into  
 10739 the provider agreement, that the provider submit information, in  
 10740 an initial and any required renewal applications, concerning the  
 10741 professional, business, and personal background of the provider  
 10742 and permit an onsite inspection of the provider's service

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10743 location by agency staff or other personnel designated by the  
10744 agency to perform this function. The agency shall perform a  
10745 random onsite inspection, within 60 days after receipt of a  
10746 fully complete new provider's application, of the provider's  
10747 service location prior to making its first payment to the  
10748 provider for Medicaid services to determine the applicant's  
10749 ability to provide the services that the applicant is proposing  
10750 to provide for Medicaid reimbursement. The agency is not  
10751 required to perform an onsite inspection of a provider or  
10752 program that is licensed by the agency, that provides services  
10753 under waiver programs for home and community-based services, or  
10754 that is licensed as a medical foster home by the Department of  
10755 Children and Family Services. As a continuing condition of  
10756 participation in the Medicaid program, a provider shall  
10757 immediately notify the agency of any current or pending  
10758 bankruptcy filing. Before entering into the provider agreement,  
10759 or as a condition of continuing participation in the Medicaid  
10760 program, the agency may also require that Medicaid providers  
10761 reimbursed on a fee-for-services basis or fee schedule basis  
10762 which is not cost-based, post a surety bond not to exceed  
10763 \$50,000 or the total amount billed by the provider to the  
10764 program during the current or most recent calendar year,  
10765 whichever is greater. For new providers, the amount of the  
10766 surety bond shall be determined by the agency based on the  
10767 provider's estimate of its first year's billing. If the  
10768 provider's billing during the first year exceeds the bond  
10769 amount, the agency may require the provider to acquire an  
10770 additional bond equal to the actual billing level of the

10771 provider. A provider's bond shall not exceed \$50,000 if a  
 10772 physician or group of physicians licensed under chapter 458,  
 10773 chapter 459, or chapter 460 has a 50 percent or greater  
 10774 ownership interest in the provider or if the provider is an  
 10775 assisted living facility licensed under part III of chapter 400.  
 10776 The bonds permitted by this section are in addition to the bonds  
 10777 referenced in s. 400.179(2)(2)~~(4)~~(d). If the provider is a  
 10778 corporation, partnership, association, or other entity, the  
 10779 agency may require the provider to submit information concerning  
 10780 the background of that entity and of any principal of the  
 10781 entity, including any partner or shareholder having an ownership  
 10782 interest in the entity equal to 5 percent or greater, and any  
 10783 treating provider who participates in or intends to participate  
 10784 in Medicaid through the entity. The information must include:  
 10785       (a) Proof of holding a valid license or operating  
 10786 certificate, as applicable, if required by the state or local  
 10787 jurisdiction in which the provider is located or if required by  
 10788 the Federal Government.  
 10789       (b) Information concerning any prior violation, fine,  
 10790 suspension, termination, or other administrative action taken  
 10791 under the Medicaid laws, rules, or regulations of this state or  
 10792 of any other state or the Federal Government; any prior  
 10793 violation of the laws, rules, or regulations relating to the  
 10794 Medicare program; any prior violation of the rules or  
 10795 regulations of any other public or private insurer; and any  
 10796 prior violation of the laws, rules, or regulations of any  
 10797 regulatory body of this or any other state.

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10798 (c) Full and accurate disclosure of any financial or  
 10799 ownership interest that the provider, or any principal, partner,  
 10800 or major shareholder thereof, may hold in any other Medicaid  
 10801 provider or health care related entity or any other entity that  
 10802 is licensed by the state to provide health or residential care  
 10803 and treatment to persons.

10804 (d) If a group provider, identification of all members of  
 10805 the group and attestation that all members of the group are  
 10806 enrolled in or have applied to enroll in the Medicaid program.

10807 Section 206. Subsections (9) and (10) of section 440.102,  
 10808 Florida Statutes, are amended to read:

10809 440.102 Drug-free workplace program requirements.--The  
 10810 following provisions apply to a drug-free workplace program  
 10811 implemented pursuant to law or to rules adopted by the Agency  
 10812 for Health Care Administration:

10813 (9) DRUG-TESTING STANDARDS FOR LABORATORIES.--

10814 (a) The requirements of part II of chapter 408 shall apply  
 10815 to the provision of services that require licensure pursuant to  
 10816 this section and part II of chapter 408 and to entities licensed  
 10817 by or applying for such licensure from the agency pursuant to  
 10818 this section.

10819 (b)(a) A laboratory may analyze initial or confirmation  
 10820 test specimens only if:

10821 1. The laboratory obtains a license under part II of  
 10822 chapter 408 and s. 112.0455(17). Each applicant for licensure  
 10823 and each licensee must comply with all requirements of this  
 10824 section, part II of chapter 408, and applicable rules, except s.  
 10825 408.810(5)-(10). ~~is licensed and approved by the Agency for~~

10826 ~~Health Care Administration using criteria established by the~~  
 10827 ~~United States Department of Health and Human Services as general~~  
 10828 ~~guidelines for modeling the state drug testing program pursuant~~  
 10829 ~~to this section or the laboratory is certified by the United~~  
 10830 ~~States Department of Health and Human Services.~~

10831 2. The laboratory has written procedures to ensure the  
 10832 chain of custody.

10833 3. The laboratory follows proper quality control  
 10834 procedures, including, but not limited to:

10835 a. The use of internal quality controls, including the use  
 10836 of samples of known concentrations which are used to check the  
 10837 performance and calibration of testing equipment, and periodic  
 10838 use of blind samples for overall accuracy.

10839 b. An internal review and certification process for drug  
 10840 test results, conducted by a person qualified to perform that  
 10841 function in the testing laboratory.

10842 c. Security measures implemented by the testing laboratory  
 10843 to preclude adulteration of specimens and drug test results.

10844 d. Other necessary and proper actions taken to ensure  
 10845 reliable and accurate drug test results.

10846 (c)~~(b)~~ A laboratory shall disclose to the medical review  
 10847 officer a written positive confirmed test result report within 7  
 10848 working days after receipt of the sample. All laboratory reports  
 10849 of a drug test result must, at a minimum, state:

10850 1. The name and address of the laboratory that performed  
 10851 the test and the positive identification of the person tested.

10852 2. Positive results on confirmation tests only, or  
 10853 negative results, as applicable.



10854 3. A list of the drugs for which the drug analyses were  
10855 conducted.

10856 4. The type of tests conducted for both initial tests and  
10857 confirmation tests and the minimum cutoff levels of the tests.

10858 5. Any correlation between medication reported by the  
10859 employee or job applicant pursuant to subparagraph (5)(b)2. and  
10860 a positive confirmed drug test result.

10861  
10862 A report must not disclose the presence or absence of any drug  
10863 other than a specific drug and its metabolites listed pursuant  
10864 to this section.

10865 (d)~~(e)~~ The laboratory shall submit to the Agency for  
10866 Health Care Administration a monthly report with statistical  
10867 information regarding the testing of employees and job  
10868 applicants. The report must include information on the methods  
10869 of analysis conducted, the drugs tested for, the number of  
10870 positive and negative results for both initial tests and  
10871 confirmation tests, and any other information deemed appropriate  
10872 by the Agency for Health Care Administration. A monthly report  
10873 must not identify specific employees or job applicants.

10874 (10) RULES.--The Agency for Health Care Administration  
10875 shall adopt rules pursuant to s. 112.0455, part II of chapter  
10876 408, and criteria established by the United States Department of  
10877 Health and Human Services as general guidelines for modeling  
10878 drug-free workplace laboratories ~~the state drug testing program~~,  
10879 concerning, but not limited to:

10880 (a) Standards for licensing drug-testing laboratories and  
10881 suspension and revocation of such licenses.

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10882 (b) Urine, hair, blood, and other body specimens and  
 10883 minimum specimen amounts that are appropriate for drug testing.

10884 (c) Methods of analysis and procedures to ensure reliable  
 10885 drug-testing results, including standards for initial tests and  
 10886 confirmation tests.

10887 (d) Minimum cutoff detection levels for each drug or  
 10888 metabolites of such drug for the purposes of determining a  
 10889 positive test result.

10890 (e) Chain-of-custody procedures to ensure proper  
 10891 identification, labeling, and handling of specimens tested.

10892 (f) Retention, storage, and transportation procedures to  
 10893 ensure reliable results on confirmation tests and retests.

10894 Section 207. Subsections (5), (6), and (7) of section  
 10895 464.015, Florida Statutes, are renumbered as subsections (6),  
 10896 (7), and (8), respectively, present subsection (6) is amended,  
 10897 and a new subsection (5) is added to said section, to read:

10898 464.015 Titles and abbreviations; restrictions; penalty.--

10899 (5) Only persons who hold valid certificates to practice  
 10900 as certified registered nurse anesthetists in this state shall  
 10901 have the right to use the title "Certified Registered Nurse  
 10902 Anesthetist," the term "anesthetist," and the abbreviation  
 10903 "C.R.N.A."

10904 ~~(7)(6)~~ No person shall practice or advertise as, or assume  
 10905 the title of, "Registered nurse," "Licensed Practical Nurse,"  
 10906 "Certified Registered Nurse Anesthetist," "anesthetist," or  
 10907 "Advanced Registered Nurse Practitioner" or use the abbreviation  
 10908 "R.N.," "L.P.N.," "C.R.N.A.," or "A.R.N.P." or take any other  
 10909 action that would lead the public to believe that person was

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10910 certified as such or is performing nursing services pursuant to  
 10911 the exception set forth in s. 464.022(8), unless that person is  
 10912 licensed or certified to practice as such.

10913 Section 208. Paragraph (a) of subsection (2) of section  
 10914 464.016, Florida Statutes, is amended to read:

10915 464.016 Violations and penalties.--

10916 (2) Each of the following acts constitutes a misdemeanor  
 10917 of the first degree, punishable as provided in s. 775.082 or s.  
 10918 775.083:

10919 (a) Using the name or title "Nurse," "Registered Nurse,"  
 10920 "Licensed Practical Nurse," "Certified Registered Nurse  
 10921 Anesthetist," "Advanced Registered Nurse Practitioner," or any  
 10922 other name or title which implies that a person was licensed or  
 10923 certified as same, unless such person is duly licensed or  
 10924 certified.

10925 Section 209. Paragraph (1) of subsection (1) of section  
 10926 468.505, Florida Statutes, is amended to read:

10927 468.505 Exemptions; exceptions.--

10928 (1) Nothing in this part may be construed as prohibiting  
 10929 or restricting the practice, services, or activities of:

10930 (1) A person employed by a nursing facility exempt from  
 10931 licensing under s. 395.002(12)(~~13~~), or a person exempt from  
 10932 licensing under s. 464.022.

10933 Section 210. Subsection (3) is added to section 483.035,  
 10934 Florida Statutes, to read:

10935 483.035 Clinical laboratories operated by practitioners  
 10936 for exclusive use; licensure and regulation.--

10937           (3) The requirements of part II of chapter 408 shall apply  
 10938 to the provision of services that require licensure pursuant to  
 10939 this part and part II of chapter 408 and to entities licensed by  
 10940 or applying for such licensure from the agency pursuant to this  
 10941 part. However, each applicant for licensure and each licensee is  
 10942 exempt from s. 408.810(5)-(10).

10943           Section 211. Subsection (1) of section 483.051, Florida  
 10944 Statutes, is amended to read:

10945           483.051 Powers and duties of the agency.--The agency shall  
 10946 adopt rules to implement this part, which rules must include,  
 10947 but are not limited to, the following:

10948           (1) LICENSING; QUALIFICATIONS.--The agency shall provide  
 10949 for biennial licensure of all clinical laboratories meeting the  
 10950 requirements of this part and shall prescribe the qualifications  
 10951 necessary for such licensure. ~~A license issued for operating a~~  
 10952 ~~clinical laboratory, unless sooner suspended or revoked, expires~~  
 10953 ~~on the date set forth by the agency on the face of the license.~~

10954           Section 212. Section 483.061, Florida Statutes, is amended  
 10955 to read:

10956           483.061 Inspection of clinical laboratories.--

10957           (1) The agency shall ensure that each clinical laboratory  
 10958 subject to this part is inspected either onsite or offsite when  
 10959 deemed necessary by the agency, but at least every 2 years, for  
 10960 the purpose of evaluating the operation, supervision, and  
 10961 procedures of the facility to ensure compliance with this part.  
 10962 Collection stations and branch offices may be inspected either  
 10963 onsite or offsite, when deemed necessary by the agency. The

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10964 agency may conduct or cause to be conducted ~~the following~~  
 10965 ~~announced or unannounced inspections at any reasonable time:~~

10966 ~~(a) An inspection conducted at the direction of the~~  
 10967 ~~federal Health Care Financing Administration.~~

10968 ~~(b) A licensure inspection.~~

10969 ~~(c) A validation inspection.~~

10970 ~~(d)~~ a complaint investigation, including a full licensure  
 10971 investigation with a review of all licensure standards as  
 10972 outlined in rule. Complaints received by the agency from  
 10973 individuals, organizations, or other sources are subject to  
 10974 review and investigation by the agency. If a complaint has been  
 10975 filed against a laboratory or if a laboratory has a substantial  
 10976 licensure deficiency, the agency may inspect the laboratory  
 10977 annually or as the agency considers necessary.

10978 (2) ~~However,~~ For laboratories operated under s. 483.035,  
 10979 biennial licensure inspections shall be scheduled so as to cause  
 10980 the least disruption to the practitioner's scheduled patients.

10981 ~~(2) The right of entry and inspection is extended to any~~  
 10982 ~~premises that is maintained as a laboratory without a license,~~  
 10983 ~~but such entry or inspection may not be made without the~~  
 10984 ~~permission of the owner or person in charge of the laboratory,~~  
 10985 ~~unless an inspection warrant as defined in s. 933.20 is first~~  
 10986 ~~obtained.~~

10987 (3) The agency may ~~shall~~ inspect an out-of-state clinical  
 10988 laboratory under this section at the expense of the out-of-state  
 10989 clinical laboratory to determine whether the laboratory meets  
 10990 the requirements of this part and part II of chapter 408.

10991 (4) The agency shall accept, in lieu of its own periodic  
 10992 inspections for licensure, the survey of or inspection by  
 10993 private accrediting organizations that perform inspections of  
 10994 clinical laboratories accredited by such organizations,  
 10995 including postinspection activities required by the agency.

10996 (a) The agency shall accept inspections performed by such  
 10997 organizations if the accreditation is not provisional, if such  
 10998 organizations perform postinspection activities required by the  
 10999 agency and provide the agency with all necessary inspection and  
 11000 postinspection reports and information necessary for  
 11001 enforcement, if such organizations apply standards equal to or  
 11002 exceeding standards established and approved by the agency, and  
 11003 if such accrediting organizations are approved by the federal  
 11004 Health Care Financing Administration to perform such  
 11005 inspections.

11006 (b) The agency may conduct complaint investigations made  
 11007 against laboratories inspected by accrediting organizations.

11008 (c) The agency may conduct sample validation inspections  
 11009 of laboratories inspected by accrediting organizations to  
 11010 evaluate the accreditation process used by an accrediting  
 11011 organization.

11012 (d) The agency may conduct a full inspection if an  
 11013 accrediting survey has not been conducted within the previous 24  
 11014 months, and the laboratory must pay the appropriate inspection  
 11015 fee under s. 483.172.

11016 (e) The agency shall develop, and adopt, by rule, criteria  
 11017 for accepting inspection and postinspection reports of

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11018 accrediting organizations in lieu of conducting a state  
 11019 licensure inspection.

11020 Section 213. Section 483.091, Florida Statutes, is amended  
 11021 to read:

11022 483.091 Clinical laboratory license.--~~A person may not~~  
 11023 ~~conduct, maintain, or operate a clinical laboratory in this~~  
 11024 ~~state, except a laboratory that is exempt under s. 483.031,~~  
 11025 ~~unless the clinical laboratory has obtained a license from the~~  
 11026 ~~agency.~~ A clinical laboratory may not send a specimen drawn  
 11027 within this state to any clinical laboratory outside the state  
 11028 for examination unless the out-of-state laboratory has obtained  
 11029 a license from the agency. ~~A license is valid only for the~~  
 11030 ~~person or persons to whom it is issued and may not be sold,~~  
 11031 ~~assigned, or transferred, voluntarily or involuntarily, and is~~  
 11032 ~~not valid for any premises other than those for which the~~  
 11033 ~~license is issued.~~ However, A new license may be secured for the  
 11034 new location before the actual change, if the contemplated  
 11035 change complies with this part, part II of chapter 408, and the  
 11036 applicable rules adopted under this part. ~~Application for a new~~  
 11037 ~~clinical laboratory license must be made 60 days before a change~~  
 11038 ~~in the ownership of the clinical laboratory.~~

11039 Section 214. Section 483.101, Florida Statutes, is amended  
 11040 to read:

11041 483.101 ~~Application for~~ Clinical laboratory license.--  
 11042 ~~(1) An application for a clinical laboratory license must~~  
 11043 ~~be made under oath by the owner or director of the clinical~~  
 11044 ~~laboratory or by the public official responsible for operating a~~  
 11045 ~~state, municipal, or county clinical laboratory or institution~~

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11046 ~~that contains a clinical laboratory, upon forms provided by the~~  
11047 ~~agency.~~

11048 ~~(2) Each applicant for licensure must comply with the~~  
11049 ~~following requirements:~~

11050 ~~(a) Upon receipt of a completed, signed, and dated~~  
11051 ~~application, the agency shall require background screening, in~~  
11052 ~~accordance with the level 2 standards for screening set forth in~~  
11053 ~~chapter 435, of the managing director or other similarly titled~~  
11054 ~~individual who is responsible for the daily operation of the~~  
11055 ~~laboratory and of the financial officer, or other similarly~~  
11056 ~~titled individual who is responsible for the financial operation~~  
11057 ~~of the laboratory, including billings for patient services. The~~  
11058 ~~applicant must comply with the procedures for level 2 background~~  
11059 ~~screening as set forth in chapter 435, as well as the~~  
11060 ~~requirements of s. 435.03(3).~~

11061 ~~(b) The agency may require background screening of any~~  
11062 ~~other individual who is an applicant if the agency has probable~~  
11063 ~~cause to believe that he or she has been convicted of a crime or~~  
11064 ~~has committed any other offense prohibited under the level 2~~  
11065 ~~standards for screening set forth in chapter 435.~~

11066 ~~(c) Proof of compliance with the level 2 background~~  
11067 ~~screening requirements of chapter 435 which has been submitted~~  
11068 ~~within the previous 5 years in compliance with any other health~~  
11069 ~~care licensure requirements of this state is acceptable in~~  
11070 ~~fulfillment of the requirements of paragraph (a).~~

11071 ~~(d) A provisional license may be granted to an applicant~~  
11072 ~~when each individual required by this section to undergo~~  
11073 ~~background screening has met the standards for the Department of~~



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11074 ~~Law Enforcement background check but the agency has not yet~~  
11075 ~~received background screening results from the Federal Bureau of~~  
11076 ~~Investigation, or a request for a disqualification exemption has~~  
11077 ~~been submitted to the agency as set forth in chapter 435 but a~~  
11078 ~~response has not yet been issued. A license may be granted to~~  
11079 ~~the applicant upon the agency's receipt of a report of the~~  
11080 ~~results of the Federal Bureau of Investigation background~~  
11081 ~~screening for each individual required by this section to~~  
11082 ~~undergo background screening which confirms that all standards~~  
11083 ~~have been met, or upon the granting of a disqualification~~  
11084 ~~exemption by the agency as set forth in chapter 435. Any other~~  
11085 ~~person who is required to undergo level 2 background screening~~  
11086 ~~may serve in his or her capacity pending the agency's receipt of~~  
11087 ~~the report from the Federal Bureau of Investigation. However,~~  
11088 ~~the person may not continue to serve if the report indicates any~~  
11089 ~~violation of background screening standards and a~~  
11090 ~~disqualification exemption has not been requested of and granted~~  
11091 ~~by the agency as set forth in chapter 435.~~

11092 ~~(e) Each applicant must submit to the agency, with its~~  
11093 ~~application, a description and explanation of any exclusions,~~  
11094 ~~permanent suspensions, or terminations of the applicant from the~~  
11095 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
11096 ~~requirements for disclosure of ownership and control interests~~  
11097 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
11098 ~~of this submission.~~

11099 ~~(f) Each applicant must submit to the agency a description~~  
11100 ~~and explanation of any conviction of an offense prohibited under~~  
11101 ~~the level 2 standards of chapter 435 by a member of the board of~~

11102 ~~directors of the applicant, its officers, or any individual~~  
 11103 ~~owning 5 percent or more of the applicant. This requirement does~~  
 11104 ~~not apply to a director of a not-for-profit corporation or~~  
 11105 ~~organization if the director serves solely in a voluntary~~  
 11106 ~~capacity for the corporation or organization, does not regularly~~  
 11107 ~~take part in the day-to-day operational decisions of the~~  
 11108 ~~corporation or organization, receives no remuneration for his or~~  
 11109 ~~her services on the corporation or organization's board of~~  
 11110 ~~directors, and has no financial interest and has no family~~  
 11111 ~~members with a financial interest in the corporation or~~  
 11112 ~~organization, provided that the director and the not-for-profit~~  
 11113 ~~corporation or organization include in the application a~~  
 11114 ~~statement affirming that the director's relationship to the~~  
 11115 ~~corporation satisfies the requirements of this paragraph.~~

11116 ~~(g) A license may not be granted to an applicant if the~~  
 11117 ~~applicant or managing employee has been found guilty of,~~  
 11118 ~~regardless of adjudication, or has entered a plea of nolo~~  
 11119 ~~contendere or guilty to, any offense prohibited under the level~~  
 11120 ~~2 standards for screening set forth in chapter 435, unless an~~  
 11121 ~~exemption from disqualification has been granted by the agency~~  
 11122 ~~as set forth in chapter 435.~~

11123 ~~(h) The agency may deny or revoke licensure if the~~  
 11124 ~~applicant:~~

11125 ~~1. Has falsely represented a material fact in the~~  
 11126 ~~application required by paragraph (e) or paragraph (f), or has~~  
 11127 ~~omitted any material fact from the application required by~~  
 11128 ~~paragraph (e) or paragraph (f); or~~

11129           ~~2. Has had prior action taken against the applicant under~~  
 11130 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

11131           ~~(i) An application for license renewal must contain the~~  
 11132 ~~information required under paragraphs (e) and (f).~~

11133           (3) A license must be issued authorizing the performance  
 11134 of one or more clinical laboratory procedures or one or more  
 11135 tests on each specialty or subspecialty. A separate license is  
 11136 required of all laboratories maintained on separate premises  
 11137 even if the laboratories are operated under the same management.  
 11138 ~~Upon receipt of a request for an application for a clinical~~  
 11139 ~~laboratory license, the agency shall provide to the applicant a~~  
 11140 ~~copy of the rules relating to licensure and operations~~  
 11141 ~~applicable to the laboratory for which licensure is sought.~~

11142           Section 215. Section 483.106, Florida Statutes, is amended  
 11143 to read:

11144           483.106 Application for a certificate of exemption.--An  
 11145 application for a certificate of exemption must be made under  
 11146 oath by the owner or director of a clinical laboratory that  
 11147 performs only waived tests as defined in s. 483.041. A  
 11148 certificate of exemption authorizes a clinical laboratory to  
 11149 perform waived tests. Laboratories maintained on separate  
 11150 premises and operated under the same management may apply for a  
 11151 single certificate of exemption or multiple certificates of  
 11152 exemption. The agency shall, by rule, specify the process for  
 11153 biennially issuing certificates of exemption. Sections 483.011,  
 11154 483.021, 483.031, 483.041, 483.172, and 483.23, ~~and 483.25~~ apply  
 11155 to a clinical laboratory that obtains a certificate of exemption  
 11156 under this section.

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11157 Section 216. Section 483.111, Florida Statutes, is amended  
 11158 to read:

11159 483.111 Limitations on licensure.--A license may be issued  
 11160 to a clinical laboratory to perform only those clinical  
 11161 laboratory procedures and tests that are within the specialties  
 11162 or subspecialties in which the clinical laboratory personnel are  
 11163 qualified. A license may not be issued unless the agency  
 11164 determines that the clinical laboratory is adequately staffed  
 11165 and equipped to operate in conformity with the requirements of  
 11166 this part, part II of chapter 408, and applicable ~~the~~ rules  
 11167 ~~adopted under this part.~~

11168 Section 217. Section 483.131, Florida Statutes, is  
 11169 repealed.

11170 Section 218. Subsections (1) and (2) of section 483.172,  
 11171 Florida Statutes, are amended to read:

11172 483.172 License fees.--

11173 (1) In accordance with s. 408.805, an applicant or a  
 11174 licensee shall pay a fee for each license application submitted  
 11175 under this part, part II of chapter 408, and applicable rules.  
 11176 ~~The agency shall collect fees for all licenses issued under this~~  
 11177 ~~part. Each fee is due at the time of application and must be~~  
 11178 ~~payable to the agency to be deposited in the Health Care Trust~~  
 11179 ~~Fund administered by the agency.~~

11180 (2) The biennial license fee schedule is as follows,  
 11181 unless modified by rule:

11182 (a) If a laboratory performs not more than 2,000 tests  
 11183 annually, the fee is \$400.

11184 (b) If a laboratory performs not more than 3 categories of  
 11185 procedures with a total annual volume of more than 2,000 but no  
 11186 more than 10,000 tests, the license fee is \$965.

11187 (c) If a laboratory performs at least 4 categories of  
 11188 procedures with a total annual volume of not more than 10,000  
 11189 tests, the license fee is \$1,294.

11190 (d) If a laboratory performs not more than 3 categories of  
 11191 procedures with a total annual volume of more than 10,000 but  
 11192 not more than 25,000 tests, the license fee is \$1,592.

11193 (e) If a laboratory performs at least 4 categories of  
 11194 procedures with a total annual volume of more than 10,000 but  
 11195 not more than 25,000 tests, the license fee is \$2,103.

11196 (f) If a laboratory performs a total of more than 25,000  
 11197 but not more than 50,000 tests annually, the license fee is  
 11198 \$2,364.

11199 (g) If a laboratory performs a total of more than 50,000  
 11200 but not more than 75,000 tests annually, the license fee is  
 11201 \$2,625.

11202 (h) If a laboratory performs a total of more than 75,000  
 11203 but not more than 100,000 tests annually, the license fee is  
 11204 \$2,886.

11205 (i) If a laboratory performs a total of more than 100,000  
 11206 but not more than 500,000 tests annually, the license fee is  
 11207 \$3,397.

11208 (j) If a laboratory performs a total of more than 500,000  
 11209 but not more than 1 million tests annually, the license fee is  
 11210 \$3,658.

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11211 (k) If a laboratory performs a total of more than 1  
 11212 million tests annually, the license fee is \$3,919.

11213 Section 219. Section 483.201, Florida Statutes, is amended  
 11214 to read:

11215 483.201 Grounds for disciplinary action against clinical  
 11216 laboratories.--In addition to the requirements of part II of  
 11217 chapter 408, the following acts constitute grounds for which a  
 11218 disciplinary action specified in s. 483.221 may be taken against  
 11219 a clinical laboratory:

11220 ~~(1) Making a fraudulent statement on an application for a~~  
 11221 ~~clinical laboratory license or any other document required by~~  
 11222 ~~the agency.~~

11223 (1)~~(2)~~ Permitting unauthorized persons to perform  
 11224 technical procedures or to issue reports.

11225 (2)~~(3)~~ Demonstrating incompetence or making consistent  
 11226 errors in the performance of clinical laboratory examinations  
 11227 and procedures or erroneous reporting.

11228 (3)~~(4)~~ Performing a test and rendering a report thereon to  
 11229 a person not authorized by law to receive such services.

11230 (4)~~(5)~~ Knowingly having professional connection with or  
 11231 knowingly lending the use of the name of the licensed clinical  
 11232 laboratory or its director to an unlicensed clinical laboratory.

11233 (5)~~(6)~~ Violating or aiding and abetting in the violation  
 11234 of any provision of this part or the rules adopted under this  
 11235 part.

11236 (6)~~(7)~~ Failing to file any report required by the  
 11237 provisions of this part or the rules adopted under this part.

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11238        (7)~~(8)~~ Reporting a test result for a clinical specimen if  
 11239 the test was not performed on the clinical specimen.

11240        (8)~~(9)~~ Performing and reporting tests in a specialty or  
 11241 subspecialty in which the laboratory is not licensed.

11242        (9)~~(10)~~ Knowingly advertising false services or  
 11243 credentials.

11244        (10)~~(11)~~ Failing to correct deficiencies within the time  
 11245 required by the agency.

11246        Section 220. Section 483.221, Florida Statutes, is amended  
 11247 to read:

11248        483.221 Administrative fines ~~penalties~~.--

11249        (1)~~(a)~~ In accordance with part II of chapter 408, the  
 11250 agency may ~~deny, suspend, revoke, annul, limit, or deny renewal~~  
 11251 ~~of a license or~~ impose an administrative fine, not to exceed  
 11252 \$1,000 per violation, for the violation of any provision of this  
 11253 part or rules adopted under this part. ~~Each day of violation~~  
 11254 ~~constitutes a separate violation and is subject to a separate~~  
 11255 ~~fine.~~

11256        (2)~~(b)~~ In determining the penalty to be imposed for a  
 11257 violation, as provided in subsection (1) ~~paragraph (a)~~, the  
 11258 following factors must be considered:

11259        (a)~~1-~~ The severity of the violation, including the  
 11260 probability that death or serious harm to the health or safety  
 11261 of any person will result or has resulted; the severity of the  
 11262 actual or potential harm; and the extent to which the provisions  
 11263 of this part were violated.

11264        (b)~~2-~~ Actions taken by the licensee to correct the  
 11265 violation or to remedy complaints.

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11266            (c)~~3~~. Any previous violation by the licensee.  
 11267            (d)~~4~~. The financial benefit to the licensee of committing  
 11268 or continuing the violation.  
 11269            ~~(e) All amounts collected under this section must be~~  
 11270 ~~deposited into the Health Care Trust Fund administered by the~~  
 11271 ~~agency.~~  
 11272            ~~(2) The agency may issue an emergency order immediately~~  
 11273 ~~suspending, revoking, annulling, or limiting a license if it~~  
 11274 ~~determines that any condition in the licensed facility presents~~  
 11275 ~~a clear and present danger to public health or safety.~~  
 11276            Section 221. Section 483.23, Florida Statutes, is amended  
 11277 to read:  
 11278            483.23 Offenses; criminal penalties.--  
 11279            (1)(a) It is unlawful for any person to:  
 11280            1. ~~Operate, maintain, direct, or engage in the business of~~  
 11281 ~~operating a clinical laboratory unless she or he has obtained a~~  
 11282 ~~clinical laboratory license from the agency or is exempt under~~  
 11283 ~~s. 483.031.~~  
 11284            1.2~~.~~ Conduct, maintain, or operate a clinical laboratory,  
 11285 other than an exempt laboratory or a laboratory operated under  
 11286 s. 483.035, unless the clinical laboratory is under the direct  
 11287 and responsible supervision and direction of a person licensed  
 11288 under part III of this chapter.  
 11289            2.3~~.~~ Allow any person other than an individual licensed  
 11290 under part III of this chapter to perform clinical laboratory  
 11291 procedures, except in the operation of a laboratory exempt under  
 11292 s. 483.031 or a laboratory operated under s. 483.035.



11293 3.4. Violate or aid and abet in the violation of any  
 11294 provision of this part or the rules adopted under this part.

11295 (b) The performance of any act specified in paragraph (a)  
 11296 constitutes a misdemeanor of the second degree, punishable as  
 11297 provided in s. 775.082 or s. 775.083.

11298 (2) Any use or attempted use of a forged license under  
 11299 this part or part IV ~~III~~ of this chapter constitutes the crime  
 11300 of forgery.

11301 Section 222. Section 483.25, Florida Statutes, is  
 11302 repealed.

11303 Section 223. Section 483.291, Florida Statutes, is amended  
 11304 to read:

11305 483.291 Powers and duties of the agency; rules.--The  
 11306 agency shall adopt rules to implement this part and part II of  
 11307 chapter 408, which rules must include the following:

11308 (1) LICENSING STANDARDS.--The agency ~~shall license all~~  
 11309 ~~multiphasic health testing centers meeting the requirements of~~  
 11310 ~~this part and shall prescribe standards necessary for licensure.~~

11311 (2) FEES.-- In accordance with s. 408.805, an applicant or  
 11312 a licensee shall pay a fee for each license application  
 11313 submitted under this part, part II of chapter 408, and  
 11314 applicable rules. ~~The agency shall establish annual fees, which~~  
 11315 ~~shall be reasonable in amount, for licensing of centers. The~~  
 11316 ~~fees must be sufficient in amount to cover the cost of licensing~~  
 11317 ~~and inspecting centers.~~

11318 (a) ~~The annual licensure fee is due at the time of~~  
 11319 ~~application and is payable to the agency to be deposited in the~~  
 11320 ~~Health Care Trust Fund administered by the agency. The license~~

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11321 fee must be not less than \$600 ~~\$300~~ or more than \$2,000 per  
 11322 biennium ~~\$1,000~~.

11323 ~~(b) The fee for late filing of an application for license~~  
 11324 ~~renewal is \$200 and is in addition to the licensure fee due for~~  
 11325 ~~renewing the license.~~

11326 ~~(3) ANNUAL LICENSING.--The agency shall provide for annual~~  
 11327 ~~licensing of centers. Any center that fails to pay the proper~~  
 11328 ~~fee or otherwise fails to qualify by the date of expiration of~~  
 11329 ~~its license is delinquent, and its license is automatically~~  
 11330 ~~canceled without notice or further proceeding. Upon cancellation~~  
 11331 ~~of its license under this subsection, a center may have its~~  
 11332 ~~license reinstated only upon application and qualification as~~  
 11333 ~~provided for initial applicants and upon payment of all~~  
 11334 ~~delinquent fees.~~

11335 ~~(3)(4)~~ STANDARDS OF PERFORMANCE.--The agency shall  
 11336 prescribe standards for the performance of health testing  
 11337 procedures.

11338 ~~(4)(5)~~ CONSTRUCTION OF CENTERS.--The agency may adopt  
 11339 rules to ensure that centers comply with all local, county,  
 11340 state, and federal standards for the construction, renovation,  
 11341 maintenance, or repair of centers, which standards must ensure  
 11342 the conduct and operation of the centers in a manner that will  
 11343 protect the public health.

11344 ~~(5)(6)~~ SAFETY AND SANITARY CONDITIONS WITHIN THE CENTER  
 11345 AND ITS SURROUNDINGS.--The agency shall establish standards  
 11346 relating to safety and sanitary conditions within the center and  
 11347 its surroundings, including water supply; sewage; the handling  
 11348 of specimens; identification, segregation, and separation of

11349 biohazardous waste as required by s. 381.0098; storage of  
 11350 chemicals; workspace; firesafety; and general measures, which  
 11351 standards must ensure the protection of the public health. The  
 11352 agency shall determine compliance by a multiphasic health  
 11353 testing center with the requirements of s. 381.0098 by verifying  
 11354 that the center has obtained all required permits.

11355 (6)~~(7)~~ EQUIPMENT.--The agency shall establish minimum  
 11356 standards for center equipment essential to the proper conduct  
 11357 and operation of the center.

11358 (7)~~(8)~~ PERSONNEL.--The agency shall prescribe minimum  
 11359 qualifications for center personnel. A center may employ as a  
 11360 medical assistant a person who has at least one of the following  
 11361 qualifications:

11362 (a) Prior experience of not less than 6 months as a  
 11363 medical assistant in the office of a licensed medical doctor or  
 11364 osteopathic physician or in a hospital, an ambulatory surgical  
 11365 center, a home health agency, or a health maintenance  
 11366 organization.

11367 (b) Certification and registration by the American Medical  
 11368 Technologists Association or other similar professional  
 11369 association approved by the agency.

11370 (c) Prior employment as a medical assistant in a licensed  
 11371 center for at least 6 consecutive months at some time during the  
 11372 preceding 2 years.

11373 Section 224. Section 483.294, Florida Statutes, is amended  
 11374 to read:

11375 483.294 Inspection of centers.--The agency shall, at least  
 11376 once annually, inspect the premises and operations of all

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11377 centers subject to licensure under this part, ~~without prior~~  
 11378 ~~notice to the centers, for the purpose of studying and~~  
 11379 ~~evaluating the operation, supervision, and procedures of such~~  
 11380 ~~facilities, to determine their compliance with agency standards~~  
 11381 ~~and to determine their effect upon the health and safety of the~~  
 11382 ~~people of this state.~~

11383 Section 225. Section 483.30, Florida Statutes, is amended  
 11384 to read:

11385 483.30 Licensing of centers.--The requirements of part II  
 11386 of chapter 408 shall apply to the provision of services that  
 11387 require licensure pursuant to this part and part II of chapter  
 11388 408 and to entities licensed by or applying for such licensure  
 11389 from the agency pursuant to this part. However, each applicant  
 11390 for licensure and each licensee is exempt from s. 408.810(5)-  
 11391 (10).

11392 ~~(1) A person may not conduct, maintain, or operate a~~  
 11393 ~~multiphasic health testing center in this state without~~  
 11394 ~~obtaining a multiphasic health testing center license from the~~  
 11395 ~~agency. The license is valid only for the person or persons to~~  
 11396 ~~whom it is issued and may not be sold, assigned, or transferred,~~  
 11397 ~~voluntarily or involuntarily. A license is not valid for any~~  
 11398 ~~premises other than the center for which it is issued. However,~~  
 11399 ~~a new license may be secured for the new location for a fixed~~  
 11400 ~~center before the actual change, if the contemplated change is~~  
 11401 ~~in compliance with this part and the rules adopted under this~~  
 11402 ~~part. A center must be relicensed if a change of ownership~~  
 11403 ~~occurs. Application for relicensure must be made 60 days before~~  
 11404 ~~the change of ownership.~~

11405       ~~(2) Each applicant for licensure must comply with the~~  
11406 ~~following requirements:~~

11407       ~~(a) Upon receipt of a completed, signed, and dated~~  
11408 ~~application, the agency shall require background screening, in~~  
11409 ~~accordance with the level 2 standards for screening set forth in~~  
11410 ~~chapter 435, of the managing employee, or other similarly titled~~  
11411 ~~individual who is responsible for the daily operation of the~~  
11412 ~~center, and of the financial officer, or other similarly titled~~  
11413 ~~individual who is responsible for the financial operation of the~~  
11414 ~~center, including billings for patient services. The applicant~~  
11415 ~~must comply with the procedures for level 2 background screening~~  
11416 ~~as set forth in chapter 435, as well as the requirements of s.~~  
11417 ~~435.03(3).~~

11418       ~~(b) The agency may require background screening of any~~  
11419 ~~other individual who is an applicant if the agency has probable~~  
11420 ~~cause to believe that he or she has been convicted of a crime or~~  
11421 ~~has committed any other offense prohibited under the level 2~~  
11422 ~~standards for screening set forth in chapter 435.~~

11423       ~~(c) Proof of compliance with the level 2 background~~  
11424 ~~screening requirements of chapter 435 which has been submitted~~  
11425 ~~within the previous 5 years in compliance with any other health~~  
11426 ~~care licensure requirements of this state is acceptable in~~  
11427 ~~fulfillment of the requirements of paragraph (a).~~

11428       ~~(d) A provisional license may be granted to an applicant~~  
11429 ~~when each individual required by this section to undergo~~  
11430 ~~background screening has met the standards for the Department of~~  
11431 ~~Law Enforcement background check, but the agency has not yet~~  
11432 ~~received background screening results from the Federal Bureau of~~

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11433 ~~Investigation, or a request for a disqualification exemption has~~  
11434 ~~been submitted to the agency as set forth in chapter 435 but a~~  
11435 ~~response has not yet been issued. A license may be granted to~~  
11436 ~~the applicant upon the agency's receipt of a report of the~~  
11437 ~~results of the Federal Bureau of Investigation background~~  
11438 ~~screening for each individual required by this section to~~  
11439 ~~undergo background screening which confirms that all standards~~  
11440 ~~have been met, or upon the granting of a disqualification~~  
11441 ~~exemption by the agency as set forth in chapter 435. Any other~~  
11442 ~~person who is required to undergo level 2 background screening~~  
11443 ~~may serve in his or her capacity pending the agency's receipt of~~  
11444 ~~the report from the Federal Bureau of Investigation. However,~~  
11445 ~~the person may not continue to serve if the report indicates any~~  
11446 ~~violation of background screening standards and a~~  
11447 ~~disqualification exemption has not been requested of and granted~~  
11448 ~~by the agency as set forth in chapter 435.~~

11449 ~~(e) Each applicant must submit to the agency, with its~~  
11450 ~~application, a description and explanation of any exclusions,~~  
11451 ~~permanent suspensions, or terminations of the applicant from the~~  
11452 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
11453 ~~requirements for disclosure of ownership and control interests~~  
11454 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
11455 ~~of this submission.~~

11456 ~~(f) Each applicant must submit to the agency a description~~  
11457 ~~and explanation of any conviction of an offense prohibited under~~  
11458 ~~the level 2 standards of chapter 435 by a member of the board of~~  
11459 ~~directors of the applicant, its officers, or any individual~~  
11460 ~~owning 5 percent or more of the applicant. This requirement does~~

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11461 ~~not apply to a director of a not-for-profit corporation or~~  
11462 ~~organization if the director serves solely in a voluntary~~  
11463 ~~capacity for the corporation or organization, does not regularly~~  
11464 ~~take part in the day-to-day operational decisions of the~~  
11465 ~~corporation or organization, receives no remuneration for his or~~  
11466 ~~her services on the corporation or organization's board of~~  
11467 ~~directors, and has no financial interest and has no family~~  
11468 ~~members with a financial interest in the corporation or~~  
11469 ~~organization, provided that the director and the not-for-profit~~  
11470 ~~corporation or organization include in the application a~~  
11471 ~~statement affirming that the director's relationship to the~~  
11472 ~~corporation satisfies the requirements of this paragraph.~~

11473 ~~(g) A license may not be granted to an applicant if the~~  
11474 ~~applicant or managing employee has been found guilty of,~~  
11475 ~~regardless of adjudication, or has entered a plea of nolo~~  
11476 ~~contendere or guilty to, any offense prohibited under the level~~  
11477 ~~2 standards for screening set forth in chapter 435, unless an~~  
11478 ~~exemption from disqualification has been granted by the agency~~  
11479 ~~as set forth in chapter 435.~~

11480 ~~(h) The agency may deny or revoke licensure if the~~  
11481 ~~applicant:~~

11482 ~~1. Has falsely represented a material fact in the~~  
11483 ~~application required by paragraph (e) or paragraph (f), or has~~  
11484 ~~omitted any material fact from the application required by~~  
11485 ~~paragraph (e) or paragraph (f); or~~

11486 ~~2. Has had prior action taken against the applicant under~~  
11487 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

11488 ~~(i) An application for license renewal must contain the~~  
 11489 ~~information required under paragraphs (e) and (f).~~

11490 Section 226. Section 483.302, Florida Statutes, is amended  
 11491 to read:

11492 483.302 Application for license.--

11493 ~~(1) Application for a license as required by s. 483.30~~  
 11494 ~~must be made to the agency on forms furnished by it and must be~~  
 11495 ~~accompanied by the appropriate license fee.~~

11496 ~~(2) The application for a license must shall contain:~~

11497 ~~(1)(a) A determination as to whether the facility will be~~  
 11498 ~~fixed or mobile and the location for a fixed facility.~~

11499 ~~(b) The name and address of the owner if an individual; if~~  
 11500 ~~the owner is a firm, partnership, or association, the name and~~  
 11501 ~~address of every member thereof; if the owner is a corporation,~~  
 11502 ~~its name and address and the name and address of its medical~~  
 11503 ~~director and officers and of each person having at least a 10~~  
 11504 ~~percent interest in the corporation.~~

11505 ~~(2)(c) The name of any person whose name is required on~~  
 11506 ~~the application under the provisions of paragraph (b) and who~~  
 11507 ~~owns at least a 10 percent interest in any professional service,~~  
 11508 ~~firm, association, partnership, or corporation providing goods,~~  
 11509 ~~leases, or services to the center for which the application is~~  
 11510 ~~made, and the name and address of the professional service,~~  
 11511 ~~firm, association, partnership, or corporation in which such~~  
 11512 ~~interest is held.~~

11513 ~~(d) The name by which the facility is to be known.~~

11514 ~~(3)(e) The name, address, and Florida physician's license~~  
 11515 ~~number of the medical director.~~



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11516 Section 227. Section 483.311, Florida Statutes, is  
 11517 repealed.

11518 Section 228. Subsections (2) through (8) of section  
 11519 483.317, Florida Statutes, are renumbered as subsections (1)  
 11520 through (7), respectively, and present subsection (1) is amended  
 11521 to read:

11522 483.317 Grounds for disciplinary action against  
 11523 centers.--The following acts constitute grounds for which a  
 11524 disciplinary action specified in s. 483.32 may be taken against  
 11525 a center:

11526 ~~(1) Making a fraudulent statement on an application for a~~  
 11527 ~~license or on any other document required by the agency pursuant~~  
 11528 ~~to this part.~~

11529 Section 229. Section 483.32, Florida Statutes, is amended  
 11530 to read:

11531 483.32 Administrative fines ~~penalties~~.--

11532 (1)(a) The agency may ~~deny, suspend, revoke, annul, limit,~~  
 11533 ~~or deny renewal of a license or~~ impose an administrative fine,  
 11534 not to exceed \$500 per violation, for the violation of any  
 11535 provision of this part, part II of chapter 408, or applicable  
 11536 ~~rules adopted under this part. Each day of violation constitutes~~  
 11537 ~~a separate violation and is subject to a separate fine.~~

11538 (2)(b) In determining the amount of the fine to be levied  
 11539 for a violation, as provided in subsection (1) ~~paragraph (a),~~  
 11540 the following factors shall be considered:

11541 (a)1. The severity of the violation, including the  
 11542 probability that death or serious harm to the health or safety  
 11543 of any person will result or has resulted; the severity of the

11544 actual or potential harm; and the extent to which the provisions  
 11545 of this part were violated.

11546 (b)2. Actions taken by the licensee to correct the  
 11547 violation or to remedy complaints.

11548 (c)3. Any previous violation by the licensee.

11549 (d)4. The financial benefit to the licensee of committing  
 11550 or continuing the violation.

11551 ~~(c) All amounts collected under this section must be~~  
 11552 ~~deposited into the Health Care Trust Fund administered by the~~  
 11553 ~~agency.~~

11554 ~~(2) The agency may issue an emergency order immediately~~  
 11555 ~~suspending, revoking, annulling, or limiting a license when it~~  
 11556 ~~determines that any condition in the licensed facility presents~~  
 11557 ~~a clear and present danger to public health and safety.~~

11558 Section 230. Subsections (2) and (3) of section 483.322,  
 11559 Florida Statutes, are renumbered as subsections (1) and (2),  
 11560 respectively, and present subsection (1) of said section is  
 11561 amended to read:

11562 483.322 Offenses.--It is unlawful for any person to:

11563 ~~(1) Operate, maintain, direct, or engage in the business~~  
 11564 ~~of operating a multiphasic health testing center unless the~~  
 11565 ~~person has obtained a license for the center.~~

11566 Section 231. Section 483.328, Florida Statutes, is  
 11567 repealed.

11568 Section 232. Subsection (2) of section 765.541, Florida  
 11569 Statutes, is amended to read:

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11570           765.541 Certification of organizations engaged in the  
 11571 practice of cadaveric organ and tissue procurement.--The Agency  
 11572 for Health Care Administration shall:

11573           (2) Adopt rules that set forth appropriate standards and  
 11574 guidelines for the program in accordance with ss. 765.541-  
 11575 765.546 and part II of chapter 408. These standards and  
 11576 guidelines must be substantially based on the existing laws of  
 11577 the Federal Government and this state and the existing standards  
 11578 and guidelines of the United Network for Organ Sharing (UNOS),  
 11579 the American Association of Tissue Banks (AATB), the South-  
 11580 Eastern Organ Procurement Foundation (SEOPF), the North American  
 11581 Transplant Coordinators Organization (NATCO), and the Eye Bank  
 11582 Association of America (EBAA). In addition, the Agency for  
 11583 Health Care Administration shall, before adopting these  
 11584 standards and guidelines, seek input from all organ procurement  
 11585 organizations, tissue banks, and eye banks based in this state;

11586           Section 233. Subsection (1) of section 765.542, Florida  
 11587 Statutes, is amended to read:

11588           765.542 Certification of organ procurement organizations,  
 11589 tissue banks, and eye banks.--

11590           (1) The requirements of part II of chapter 408 shall apply  
 11591 to the provision of services that require licensure pursuant to  
 11592 ss. 765.541-765.546 and part II of chapter 408 and to entities  
 11593 licensed or certified by or applying for such licensure or  
 11594 certification from the Agency for Health Care Administration  
 11595 pursuant to ss. 765.541-765.546. However, each applicant for  
 11596 licensure or certification and each certificateholder is exempt  
 11597 from s. 408.810(5)-(10). An organization, agency, or other

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11598 | entity may not engage in the practice of organ procurement in  
 11599 | this state without being designated as an organ procurement  
 11600 | organization by the secretary of the United States Department of  
 11601 | Health and Human Services and being appropriately certified by  
 11602 | the Agency for Health Care Administration. As used in this  
 11603 | subsection, the term "procurement" includes the retrieval,  
 11604 | processing, or distribution of human organs. A physician or  
 11605 | organ procurement organization based outside this state is  
 11606 | exempt from these certification requirements if:

11607 |       (a) The organs are procured for an out-of-state patient  
 11608 | who is listed on, or referred through, the United Network for  
 11609 | Organ Sharing System; and

11610 |       (b) The organs are procured through an agreement of an  
 11611 | organ procurement organization certified by the state.

11612 |       Section 234. Section 765.544, Florida Statutes, is amended  
 11613 | to read:

11614 |       765.544 Fees; Florida Organ and Tissue Donor Education and  
 11615 | Procurement Trust Fund.--

11616 |       (1) In accordance with s. 408.805, an applicant or a  
 11617 | certificateholder shall pay a fee for each application submitted  
 11618 | under this part, part II of chapter 408, and applicable rules.  
 11619 | The amount of the fee shall be as follows unless modified by  
 11620 | rule: ~~The Agency for Health Care Administration shall collect~~

11621 |       (a) An initial application fee of \$1,000 from organ  
 11622 | procurement organizations and tissue banks and \$500 from eye  
 11623 | banks. ~~The fee must be submitted with each application for~~  
 11624 | ~~initial certification and is nonrefundable.~~

11625           ~~(b)(2)~~ ~~The Agency for Health Care Administration shall~~  
 11626 ~~assess~~ Annual fees to be used, in the following order of  
 11627 priority, for the certification program, the advisory board,  
 11628 maintenance of the organ and tissue donor registry, and the  
 11629 organ and tissue donor education program in the following  
 11630 amounts, which may not exceed \$35,000 per organization:

11631           1.(a) Each general organ procurement organization shall  
 11632 pay the greater of \$1,000 or 0.25 percent of its total revenues  
 11633 produced from procurement activity in this state by the  
 11634 certificateholder during its most recently completed fiscal year  
 11635 or operational year.

11636           ~~2.(b)~~ Each bone and tissue procurement agency or bone and  
 11637 tissue bank shall pay the greater of \$1,000 or 0.25 percent of  
 11638 its total revenues from procurement and processing activity in  
 11639 this state by the certificateholder during its most recently  
 11640 completed fiscal year or operational year.

11641           3.(e) Each eye bank shall pay the greater of \$500 or 0.25  
 11642 percent of its total revenues produced from procurement activity  
 11643 in this state by the certificateholder during its most recently  
 11644 completed fiscal year or operational year.

11645           ~~(2)(3)~~ The Agency for Health Care Administration shall  
 11646 specify ~~provide~~ by rule the ~~for~~ administrative penalties for the  
 11647 purpose of ensuring adherence to the standards of quality and  
 11648 practice required by this chapter, part II of chapter 408, and  
 11649 applicable rules of the agency for continued certification.

11650           ~~(3)(4)~~(a) Proceeds from fees, administrative penalties,  
 11651 and surcharges collected pursuant to this section ~~subsections~~  
 11652 ~~(2) and (3)~~ must be deposited into the Florida Organ and Tissue

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11653 Donor Education and Procurement Trust Fund created by s.  
 11654 765.52155.

11655 (b) Moneys deposited in the trust fund pursuant to this  
 11656 section must be used exclusively for the implementation,  
 11657 administration, and operation of the certification program and  
 11658 the advisory board, for maintaining the organ and tissue donor  
 11659 registry, and for organ and tissue donor education.

11660 (4)~~(5)~~ As used in this section, the term "procurement  
 11661 activity in this state" includes the bringing into this state  
 11662 for processing, storage, distribution, or transplantation of  
 11663 organs or tissues that are initially procured in another state  
 11664 or country.

11665 Section 235. Subsection (4) of section 766.118, Florida  
 11666 Statutes, is amended to read:

11667 766.118 Determination of noneconomic damages.--

11668 (4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF  
 11669 PRACTITIONERS PROVIDING EMERGENCY SERVICES AND  
 11670 CARE.--Notwithstanding subsections (2) and (3), with respect to  
 11671 a cause of action for personal injury or wrongful death arising  
 11672 from medical negligence of practitioners providing emergency  
 11673 services and care, as defined in s. 395.002(9)~~(10)~~, or providing  
 11674 services as provided in s. 401.265, or providing services  
 11675 pursuant to obligations imposed by 42 U.S.C. s. 1395dd to  
 11676 persons with whom the practitioner does not have a then-existing  
 11677 health care patient-practitioner relationship for that medical  
 11678 condition:

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11679 (a) Regardless of the number of such practitioner  
 11680 defendants, noneconomic damages shall not exceed \$150,000 per  
 11681 claimant.

11682 (b) Notwithstanding paragraph (a), the total noneconomic  
 11683 damages recoverable by all claimants from all such practitioners  
 11684 shall not exceed \$300,000.

11685  
 11686 The limitation provided by this subsection applies only to  
 11687 noneconomic damages awarded as a result of any act or omission  
 11688 of providing medical care or treatment, including diagnosis that  
 11689 occurs prior to the time the patient is stabilized and is  
 11690 capable of receiving medical treatment as a nonemergency  
 11691 patient, unless surgery is required as a result of the emergency  
 11692 within a reasonable time after the patient is stabilized, in  
 11693 which case the limitation provided by this subsection applies to  
 11694 any act or omission of providing medical care or treatment which  
 11695 occurs prior to the stabilization of the patient following the  
 11696 surgery.

11697 Section 236. Section 766.316, Florida Statutes, is amended  
 11698 to read:

11699 766.316 Notice to obstetrical patients of participation in  
 11700 the plan.--Each hospital with a participating physician on its  
 11701 staff and each participating physician, other than residents,  
 11702 assistant residents, and interns deemed to be participating  
 11703 physicians under s. 766.314(4)(c), under the Florida Birth-  
 11704 Related Neurological Injury Compensation Plan shall provide  
 11705 notice to the obstetrical patients as to the limited no-fault  
 11706 alternative for birth-related neurological injuries. Such notice

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11707 shall be provided on forms furnished by the association and  
 11708 shall include a clear and concise explanation of a patient's  
 11709 rights and limitations under the plan. The hospital or the  
 11710 participating physician may elect to have the patient sign a  
 11711 form acknowledging receipt of the notice form. Signature of the  
 11712 patient acknowledging receipt of the notice form raises a  
 11713 rebuttable presumption that the notice requirements of this  
 11714 section have been met. Notice need not be given to a patient  
 11715 when the patient has an emergency medical condition as defined  
 11716 in s. 395.002(8)(9)(b) or when notice is not practicable.

11717 Section 237. Paragraph (b) of subsection (2) of section  
 11718 812.014, Florida Statutes, is amended to read:

11719 812.014 Theft.--

11720 (2)

11721 (b)1. If the property stolen is valued at \$20,000 or more,  
 11722 but less than \$100,000;

11723 2. The property stolen is cargo valued at less than  
 11724 \$50,000 that has entered the stream of interstate or intrastate  
 11725 commerce from the shipper's loading platform to the consignee's  
 11726 receiving dock; or

11727 3. The property stolen is emergency medical equipment,  
 11728 valued at \$300 or more, that is taken from a facility licensed  
 11729 under chapter 395 or from an aircraft or vehicle permitted under  
 11730 chapter 401,

11731  
 11732 the offender commits grand theft in the second degree,  
 11733 punishable as a felony of the second degree, as provided in s.  
 11734 775.082, s. 775.083, or s. 775.084. Emergency medical equipment



11735 means mechanical or electronic apparatus used to provide  
 11736 emergency services and care as defined in s. 395.002~~(9)(10)~~ or  
 11737 to treat medical emergencies.

11738 Section 238. In case of conflict between the provisions of  
 11739 part II of chapter 408, Florida Statutes, and the authorizing  
 11740 statutes governing the licensure of health care providers by the  
 11741 Agency for Health Care Administration found in chapter 112,  
 11742 chapter 383, chapter 390, chapter 394, chapter 395, chapter 400,  
 11743 chapter 440, chapter 483, and chapter 765, Florida Statutes, the  
 11744 provisions of part II of chapter 408, Florida Statutes, shall  
 11745 prevail.

11746 Section 239. Rules adopted by the Department of Elderly  
 11747 Affairs under parts III, V, VI, and VII of chapter 400, Florida  
 11748 Statutes, shall be transferred by a type two transfer, as  
 11749 defined in s. 20.06, Florida Statutes, to the Agency for Health  
 11750 Care Administration.

11751 Section 240. Between October 1, 2005, and September 30,  
 11752 2006, inclusive, the Agency for Health Care Administration may  
 11753 issue any license for less than a 2-year period by charging a  
 11754 prorated licensure fee and specifying a different renewal date  
 11755 than would otherwise be required for biennial licensure.

11756 Section 241. This act shall take effect October 1, 2005.